

Making Room for Elephants

An Attempt to Re-explore Democracy
in the European Union

Therese Nordén
theresenorden@hotmail.com

Therese Nordén has two master degrees from the University of Lund; the first in German Studies and the second in Political Science. In addition she has studied at the Universität Rostock (Germany), University of Cincinnati (USA) and Université de Montréal (Canada). During spring 2003 she did a traineeship in the Media Monitoring and Analysis Unit of the European Parliament. She is currently working as consultant for DG Enterprise (European Commission) in Brussels.

CFE Working paper series is published by
Centre for European Studies at Lund University

© 2004 Therese Nordén, and CFE
Editor: Magnus Jerneck
Layout: Mikael Sundström
ISSN: 1403-6754

This paper is also available in pdf-format at CFE's web site: www.cfe.lu.se

CENTRE FOR EUROPEAN STUDIES AT LUND UNIVERSITY:

Box 52
SE-221 00 LUND
Sweden

Phone: +46 (0)46-222 88 99
Fax: +46 (0)46-222 40 06
Email: cfe@cfe.lu.se

Abstract

This study attempts to advance the understanding of democracy beyond the state, which to this date remains an underdeveloped field of research. It uses the EU as an empirical example in order to illustrate why democracy beyond the territorial borders of the state must be considered and provides an example of how this could be done. It is assumed that the EU is not a state, but rather a polity of multi-level governance including EU-institutions, as well as member states, subnational levels and networks.

It is argued that the state no longer can be seen as a container of democracy wherefore new aspects of democracy have to be taken into consideration. These aspects are introduced as a model of democracy and includes 1) the increased importance of the individual; 2) the transcending of frontiers; and 3) the relations between levels and actors in the EU. The model is implicitly used as the basis for an analysis of democracy in the EU, where communication is chosen as the primary requirement in order to achieve democracy.

Key words: The European Union, democracy beyond the state, multi-level governance, enlightened understanding, communication.

1 Introduction

A wide range of literature on the European Union (EU) concerns democracy and the so called “democratic deficit” in the EU. Questions posed in this context ask how democratic is the EU today, can the EU become more democratic in the future, and how. The different studies within this field of research approach the issues in different ways and come to different conclusions, but they are united by their use of a concept of democracy which was developed in the context of the territorial and sovereign nation state. They consider, for example, the lack of a common identity, political culture, public sphere or well-organized and well-functioning party system.

After the Cold War and the disintegration of the Soviet Union, research within state theory has in the context of the progressing globalization come to question the importance of the state. Parallel to this development, a few scholars within democratic theory have cautiously begun to question democracy as a concept belonging to the state. Is democracy a concept exclusively tied to the state or is democracy possible beyond the state as well? If it is, how should democracy be considered beyond the state? These questions are of vital importance today and affect several fields of research.

Since democracy originally was applied to the notion of the state, there is obviously a problem when trying to apply it to other units than the state. This fact becomes obvious within the research on democracy in the EU. When asking how democratic the EU is and whether and how it can become more democratic, it is not enough to use democracy as a concept of the state, since the EU is something other than a state. Using the state concept of democracy invariably sheds a distorted light on the EU and over and over again risks leading to a dead end within research on democracy in the EU. That is the reason why this study calls for new tools of research in order to analyze democracy in the EU. It is astonishing that so little attention has so far been given to democracy beyond the state. It is an extremely important issue in times when the borders of the traditional nation state are dissolved as a result of the globalization.

1.1 Objectives

In this study I intend to take a few steps to re-explore democracy in the EU beyond the nation state. Reexploring democracy requires that one not only redefine the traditional concept of democracy, but also reach a better understanding of why this is necessary and how it can be done. Since the world is changing in ways that have eroded the strong and sovereign role of the territorial state (see ch. 1.2.3), I think it is highly relevant to reconsider the state concept of democracy.

The study should be regarded as a tentative effort to develop democratic theory in an underdeveloped field of research. How can democracy in the EU be regarded from a new perspective – or how do we make room for supranational systems in democratic theory?

1.2 Points of Departure

Before starting a discussion about how democracy in the EU can be regarded from a new perspective it has to be clear for the reader how this is supposed to be done and within which frames it will be done. The purpose of the following sections is to provide for this kind of setting.

1.2.1 Methodological Approach and Literature Used for the Study

My point of departure is the EU as it is today. I intend to discuss problems and possibilities of regarding democracy in the EU in a new way. In the study I make a case for why it is necessary to re-explore democracy and then illustrate how this could possibly be done by building up a tentative model of democracy beyond the state, which is used as a basis for an analysis of democracy in the EU. A few attempts to reconsider democracy in the EU beyond the state have been made (see for example Abromeit 1998 and Höreth 1999), but in general this field of research is relatively unexplored. Consequently it is difficult to find relevant literature to use as a base for the study. Literature within democratic theory is insufficient to cover a redefinition of democracy in the EU. To be able to re-explore democracy in the EU beyond the state it has been necessary to use literature developed within other bodies of theoretical work. Elements, for instance, have been drawn

from the European integration theory on multi-level governance (see chapter 1.2.2), deliberative democracy (Eriksen and Fossum 2000), network theory (for example Börzel 1997) and bargaining democracy (Stenelo 2000). The integration of different theoretical perspectives can be a risky project if the author becomes too influenced by the different approaches. If the author adopts the theoretical perspectives just as they are without adjusting them to his or her study, the result will be a sprawling analysis. I have carefully considered how concepts within different theoretical frameworks have been originally used within their respective contexts in order to avoid misunderstandings. At the same time, however, I have used specific aspects of concepts for my own purposes to avoid including entire theoretical frameworks. By doing so, the use of literature within different theoretical perspectives should not cause any major problems.

Uniting specific aspects of different theoretical traditions has been necessary in order to be able to re-explore democracy. These first struggling steps provide the basis for a new theoretical framework. My original starting point was the European Union, but during the process of developing this work it has become apparent that there are broader applications. Developing democracy in the EU is certainly a challenge, but it does not mean that it is a problem limited to the EU. Simply put, I intend to discuss democracy beyond the state from a theoretical perspective with help of the EU as an empirical example. The study can accordingly be regarded as a theory-generating study with general applicability. It is a development of theory in an underdeveloped field of research, which includes both deductive as well as inductive method¹. On the one hand it starts in other theories when building up a new theoretical framework (even if this does not include theory-testing). On the other hand it builds up a theory with the assistance of an empirical example.

This study is not supposed to provide *proof* of the fact that we need to reexamine democracy when we analyze the EU. Nor is it to be considered as a suggestion of how to democratize the EU. It should rather be regarded as an example of how we can picture democratic aspects in the context of the EU in a different way without the state as framework and ideal type. This study intends to provide a starting point for discussion. Before this project can take shape, a theoretical framework has to be introduced in order to distinguish which base the analysis starts out from.

1.2.2 *The Union of Multiple Levels*

The EU is in this study regarded as a system of multi-level governance (MLG). Governance is used as a concept of the total pattern of activities related to the act of governing and control (Jönsson 1999, 216). When it is used in the context of the EU the prefix “multi-level” (or a similar prefix) is usually added. MLG implies that the authority is scattered amongst several different levels: subnational, national, supranational and networks. Thus, power derives not from one single centre, but from multiple centres.

The concept of MLG was developed in the early 1990s after the Cold War and the disintegration of the Soviet Union. The main characteristics of multi-level governance were established by a 1996 article written by Gary Marks, Liesbet Hooghe and Kermit Black (Marks et al 1998). Other proponents of the concept of MLG are Fritz Scharpf and Beate Kohler-Koch. MLG is accordingly a relatively new concept and has become a buzzword to describe a whole range of aspects in several different contexts connected to the EU. As a result MLG has taken on a very wide and unclear meaning. *First*, MLG can be used to describe a school of theory linked with European integration theory. MLG as a school is usually put in contrast to other integration theories as federalism and intergovernmentalism. It is often considered as being an intermediary link between neo-functionalism and neo-federalism (see for example Scharpf 1997). Sometimes it is assumed that MLG as an intermediary link has taken its “nutriment” from the two theories mentioned, but just as often it is described as a totally new area of research with its own ideas. It is probable that MLG is a melange of the two opinions: on the one hand it is influenced by other integration theories and has adopted some aspects here and there, and on the other hand it has developed ideas of its own.

Second, MLG can be used as a tool of analysis. It is a particularly useful tool of analysis in times of change and process, since it is very flexible. It can easily be adapted to the new organizational forms of society in different political systems at different periods of time. *Third*, MLG can illustrate a phenomenon. As a phenomenon MLG is either characterized as the act of governing or as a specific system of governance. In sum MLG can be seen as a school of thought, as a tool for analysis and as a phenomenon to study. In this study MLG is more or less used in all three senses. The point of departure of the analysis is the theoretical school MLG, MLG as a tool of analysis is used to understand the discussion and the subject of study is a

MLG-system. The concentration of the study lies on MLG as a system. What distinguishes the MLG-system from other political systems is that it is not tied to a specific territory. The MLG-system is characterized by a power-sharing between levels of government with no centre of accumulated authority (cf. Marks and Hooghe 2001). The peculiarity is the mutual interdependence between these levels, which are characterized as flexible and overlapping. In this study MLG refers not only to relations between territorial levels of governance, but includes relations between private and public spheres in policy networks (governance without government). It is therefore a system including both hierarchical and non-hierarchical relations. When the analysis makes reference to *levels* in the MLG-system, the networks are to be seen as one of these “levels”.

The MLG-system is here interpreted not as a rigid system defined once and for all, but rather as a system in a state of constant movement and change. Some scholars are of the view that the levels in the MLG-system are competing with each other regarding, for example, economic resources, power and different interests (see Scharpf 1994, 219 ff.; Marks 1996, 45; Schmitter 1996b, 146 f., Scharpf 1997, 520 f.; Marks et al 1998 and Benz and Eberlein 1998, 13). This perspective does not represent my point of view. In this study the levels are not regarded as competing with each other, but rather complement each other, since they have a complex relation of interdependence (see further section 4.1).

In previous research MLG has been used only when considering the EU. Therefore the question might arise whether MLG can be used to describe political systems other than the EU. The EU has been made synonymous with MLG. It is a misconception, however, to believe that the EU *is* MLG. The EU is only one case of MLG. As a matter of fact, MLG can be applied to the whole international system (see for example Kohler-Koch 1999). The state is another case of MLG with a diversity of levels including both municipal/ local, regional, national and supranational levels as well as networks. MLG can easily be applied to the German federal system (see for example Benz and Eberlein 1998) as well as to the Swedish unitary system (see Nilsson 2000 and Elofsson and Rindfjäll 1998). It is not even an exclusively European phenomenon, but can also be used to describe the character of the political system in the USA and other areas (see Peterson and O’Toole 2001, 301). Even the region can be considered an example of MLG (see Benz and Eberlein 1999, 334).

In this analysis, however, MLG will be considered in the EU context. The concept of MLG might not always be explicitly referred to below, but it is important to note that this link is implied throughout the analysis – the EU is seen as a MLG-system.

1.2.3 *Democracy beyond the State*

This study should be regarded as a tentative effort to consider democracy in the EU beyond the territorial boundaries of the nation state. I think it is highly relevant to reconsider the state concept of democracy, since the world has changed with the process of globalization. The process of globalization can be defined as “the strengthening and deepening of “social relations and institutions across space and time such that, on the one hand, day-to-day activities are increasingly influenced by events happening on the other side of the globe, and on the other, practices and decisions of local groups or communities can have significant global reverberations” (Held 1996, 20). Globalization in this study also implies that social, political and economic activities have become world-wide in scope and that levels of interaction have become more intensified and interconnected (cf. Held 1996, 21). This process includes the fact that nation states are losing their capacity for independent action, which makes it more difficult to realize democracy only within the state.

My concern has been to define democracy without falling into the territorial trap of the nation state (Agnew 1994)². In order to avoid the territorial trap, it is necessary to find democratic values which are universal and not specifically attached to the nation state or exclusively realizable within it. It should not be challenged on the basis that it is problematic to consider democracy beyond the state. One of the key problems is that the concept of modern democracy was developed in the nation state context. The question that automatically arises is thus whether it is really *possible* to regard democracy beyond the state. In this study it is not taken for granted that democracy beyond the state *is* possible, but an *attempt* is made to explore the *possibilities* of doing so, since it is considered a *necessity*.

Since a survey of the different perspectives on traditional democratic theory could easily form the basis of another thesis, other approaches will not be considered here. Most definitions are based on the fundamental idea of democracy as rule by the people. In this study this idea will be kept. A

well known and widely accepted theorist, who devoted his entire life to democratic theory, is Robert Dahl. Dahl's strategy is to use a minimum definition of democracy, which is very general in its character. He illustrates his definition by putting up four criteria of democracy, which I discuss here in a slightly different order and slightly modified form:

- *Effective participation* includes the fact that all individuals should have the equal right and opportunity to express their preferences, put questions on the agenda and approve decisions throughout the whole decision-making process and until the end.
- *Voting equality at the decisive stage* implies that all individuals are equal and all have the right to make choices. As political equals they should be able to decide whether their interests are given equal consideration. All individuals should in other words have an equal opportunity to make choices, which should be of the same value as other individual's choices. The final decision should reflect these choices.
- *Control of the agenda* means that all individuals should have the right and the opportunity to control and influence the political agenda. This does not mean that they should be able to decide every question which requires a binding decision. Instead it supposes that the individuals should decide which decisions should be binding and which not, which decisions the people should decide and which ones should be delegated to an authority. This criterion implies the acceptance of the fact that every person is his or her best judge of his or her competencies and limits.
- *Enlightened understanding* presumes that all individuals should have the equal right and possibility to acquire information and knowledge in order to discover and evaluate the most desirable outcome on the matter to be decided (Dahl 1989).

Dahl's democracy criteria are appropriate for this study not only because they go beyond the borders of the state, but also because they are easy to adapt and to understand. Furthermore, they are widely accepted within academic and political circles. The criteria are close to the basic idea of rule by the people. This study is concentrated on the criterion *enlightened under-*

standing, since it is here considered to be the most important criterion. Without enlightened understanding the other three criteria cannot be fulfilled and consequently democracy can never be realized.

The criterion of enlightened understanding has in some contexts been used as a way to point out that some individuals are more qualified than others to make necessary decisions. It is, in turn, argued that an elite should determine what is best for the (rest of the) people. This is definitely not an acceptable use of the concept for the purposes of this study. I believe that each individual would know what they want as long as they understand what they can get, i.e. which choices they have. Enlightened understanding is much more about preference-formation than anything else. I believe that enlightened understanding is a prerequisite for democracy because, as Dahl points out, “to know what it wants, or what is best, the people must be enlightened, at least to some degree” (Dahl 1989, 111). From my point of view, this does not mean that individuals have to be wise and intelligent, but simply that they understand what they should decide about.

It must be stressed that in letting enlightened understanding serve as a definition of democracy for this analysis, it does not mean that the fulfillment of this criterion alone in a political system will make it democratic. The other criteria have to be fulfilled as well, but I concentrate on enlightened understanding here since I see it as to the gateway to fulfilling the other criteria. Worth mentioning also is that these criteria are ideal standards, and as such, in their perfect form, might not exist in actuality (see Dahl 1989, 108-109).

1.3 Disposition

The purpose of the first part of the study (ch. 2-3) is to show that a new conception of democracy in the EU beyond the territorial state is needed and to suggest a model of democracy beyond the state. The second part (ch. 4) illustrates the effort of analyzing democracy in the EU from a new perspective implicitly using the model as a guide. More specifically, chapter 2 focuses on the nature of the EU. It provides an important basis for understanding why it is necessary to reconsider democracy, which is discussed in chapter 3. In chapter 4 an example of analysis is provided, where

it is argued that democracy in the EU requires communication between the levels within the EU. Here, problems and possibilities of communication in the EU are discussed. Finally, the observations are summarized in a conclusion about what this study can contribute to the reconsideration of democracy beyond state borders.

2 The EU: Understanding the Nature of the Beast³

One of the most challenging tasks in the history of European integration theory has been to capture the nature of the EU. This chapter does not provide an exhaustive overview of the discussions on the nature of the EU, but instead attempts to show why the EU has been conceptualized in different ways and touches on some of the difficulties encountered when trying to define the EU. The chapter is important since it further develops the points of departure of the analysis. Moreover, it provides a basis for the next chapter (3) which attempts to explain why the concept of democracy should be reconsidered.

2.1 *The Misconceived Statement of the EU*

The concept of the state can be traced back to Europe. In fact, for a long time the legitimacy and the recognition of states did not extend beyond Europe. The Treaty of Westphalia 1648 is often used to mark and define the conventional view of the sovereign state (Jönsson et al 2000, 65). From the 19th century and onwards the nation state has been considered as the “normal” political unit and modern political theory has mainly dealt with life and political relations within the state (Hjorth 2001, 25). The state has been taken to be the primary ordering principle and the world has thereupon been divided into sovereign exclusive states with mutually exclusive borders – this has been a fundamental premise of social, economic and political life. The state has thus for a long time had a very privileged position in historical research and social science theories. The boundaries of the state have come to symbolize the intellectual boundaries as well (Jönsson et al 2000, 11; Hjorth 2001, 27; for a further discussion on the state see ch. 3).

This common conception of the state as ideal type has influenced research and analysis in the field of European integration theory. The European Union has often been regarded as an inflated and unfinished model of the nation state. The principal dissent has related to the question what kind of state the EU is. Should the EU be considered as a unitary state, is it an uncompleted or emerging federal state, or rather a confederation? None of these approaches have been able to come up with a satisfying solution to the problem. Obviously there are traits of these forms of states that can be

compared with traits of the European Union, but there are at the same time just as many differences between, for example, a traditional federation and the EU as there are similarities. Therefore the relevance of regarding the EU as “state-like” can be put in question. The EU is not a state, nor is it on its way to become one.

2.2 *Is the EU Unique?*

Scholars analyzing democracy in the EU are aware of the fact that the EU has to be defined at least to some extent in order to be able to analyze it. To compare it with different forms of the state has been one way to define the EU. Other scholars have chosen to compare the EU with an international organization. However, any “object of comparison” has been problematic since the EU is neither fish nor fowl. In the search for a fitting definition, a significant number of authors have chosen to characterize the EU as a political system *sui generis*, as being something unique without equivalent in history. Much of the debate between proponents of certain theoretical approaches has come down to a conflict over whether the EU is state-like, or whether it is *sui generis*. This two-sided perspective, however, might not tell the whole truth. In order to regard the EU from another angle and still be able to pay regard to its *sui generis* character it might be useful to take a step back into history and regard the EU as a polity.

2.3 *Forwarding the Past: the EU as a Polity*

A polity is a general concept which can be used in all times throughout history. It can be defined as an entity “with a significant measure of institutionalization and hierarchy, identity, and capacity to mobilize persons for value satisfaction (or relief from value deprivation)” (Ferguson and Mansbach 1997, 22). Widely separated historical examples of polities in different times are the first great civilization in Mesopotamia, the Greek world, Mesoamerica, China, the Islamic world and Italy (Ferguson and Mansbach 1997). The sovereign territorial state which is associated with the Westphalian settlement of 1648 is another kind of polity. The EU can be regarded as a polity as well and is thus not unique in history. Even if polities include some kind of territory, the territories do not have to be clearly distinguished from each other. A polity does not necessarily have a centre, nor is

it limited to one centre (Ferguson and Mansbach 1997). These aspects apply perfectly to the character of the European Union.

In this study the EU is regarded as a multidimensional system of different overlapping levels with multiple centres. This view achieves a form of balance in the conflict over how the EU should be defined, since it expresses the idea that the EU includes both features of the state (since states are part of the EU) and other non-state characters (for example, networks). The complex multi-level character of the EU, including both hierarchical and non-hierarchical relations, is at the same time what makes the EU different from other polities. Another difference is that the formation of a polity is closely linked to a common identity, but in the case of the “European polity”, the common identity remains weakly defined. It is important to point out that each polity reflects its own history and the histories of other polity types nested within it. The EU is certainly a polity, but a polity with its own unique character. In conclusion, this chapter consists of two assumptions about the EU which are of major importance for the further analysis: 1) the EU is not a state and will not become one; and 2) the EU is a polity of multi-level governance with unique traits.

The polity concept, however, has implications not only for the way the EU is or should be regarded, but also for the way the state is understood. Considering that the state is just a polity among others, how come it is apprehended as ideal type and ordering principle? This issue will be further developed in the beginning of the next chapter.

3 Democracy without Borders

The purpose of this chapter is to discuss why it has become necessary to consider democracy without borders. It seems as though human beings need some kind of boundaries to be able to organize their thoughts, conceptions and operations. As mentioned in chapter 2.1, one of the most important organizational units in our times has been the state. John Agnew summarizes the model of the “state as ideal type” through the use of three assumptions, which he describes as “the territorial trap”: first, state territories are seen as fixed units of sovereign space; second, the domestic and the foreign, national and international, are interpreted as opposites; and third, the territorial state is seen as existing prior to societies – society becomes a national phenomenon (Agnew 1994). One of the reasons for this is that the state has been conceptualized as a “container”, with an inside, boundaries and an outside. This metaphor of the state has colored our conception of the inside and the outside and has made the state a container of specific values. The container-metaphor has gradually become “reality” and seems natural. The metaphor of the state as a container and ideal type has in this sense simplified and limited our vision of reality (for a further discussion on the state as a metaphor see Jönsson et al 2000, 13-15).

In the new era of globalization and change, scholars within state theory have come to realize that the state cannot be regarded in this way any more. The state has lost its role as a creator of identity, since politics and governance today transcend frontiers. The state, thus, cannot be seen as a fixed unit and consequently cannot be regarded as a container of democratic values. What this perspective of change implies for democracy will be explained with the help of the third transformation below.

3.1 The Third Transformation and Increased Individualism

Even if old democratic values tied to the state are still important, today they are not sufficient to define democracy beyond the state, and of limited use in considering the state itself. The world has changed with the impact of globalization (see ch. 1.2.3).

Robert Dahl has described the development of democracy as having three key transformations. The *first* transformation involved non-demo-

cratic city-states becoming democracies, and the *second* took place when the idea of democracy was transferred from the city-state to the nation state. The second shift illustrates the transformation from direct to indirect, or representative, democracy. The theory of representative democracy shifted the terms of reference of democratic thought. The people who should be included in the decisions became more numerous and heterogeneous, something which until then had been sharply criticized. In turn it became accepted. The *third* transformation is taking place right now and is influenced by, or perhaps even taking place as a result of, globalization. The third transformation represents a shift from national to transnational levels of decision-making. Just as the first transformation changed the ideas of democracy from the small-scale of the city-states to the scale of the nation state, we might thus now have to consider a new democratic paradigm which moves democracy to a transnational venue (Dahl 1994, 25-27).

Putting forward a new concept of democracy is, of course, not an unproblematic task. Even if the state in the way we know it today is only 350 years old, it is in the state that modern democracy was developed. Since democratic values related to the state are inherent in our education, it might even be risky to try to change them. Agné argues that a reconsideration of the concept of democracy might lead one to neglect the criticism of politics in the EU and the structure of the current institutions, which might come to be classified as irrelevant if the criticism is based on the old democratic concepts (Agné 1998, 29). It is an important issue to keep in mind. On the other hand a new way of considering democracy will hopefully not hide the problems that exist, but rather provide new solutions for overcoming them. Reconsidering democracy from this point of view is more a way to create opportunities or “room” for democracy than anything else.

Why is a third transformation taking place at this time? One explanation, which has already been mentioned, is that it is a result of globalization processes. With globalization, politics and governance have become matters which cross territorial borders. A result of this is increased individualism. Since the role of the state has changed, the individual does not identify with it to the same extent as before. The result of that is that the individual becomes “rootless” and tries to find alternative identities across state borders. In a way this movement signifies a potential for the liberation and development of the individual. It enables the individual to choose between

different ways of creating influence and exercising loyalties in a political system. Besides, the individual can to an increasing extent decide about his or her own development and career (cf. Jerneck and Gidlund 2001, 23). The increased individualism poses a problem for the traditional view of democracy, which will be shown in the next section.

3.2 *The European Demoi*

As mentioned above, the nation state has come to be seen as the primary “container” of democratic politics. The modern *demos* (the people) is understood in terms of a nation within a delimited territory. “What is good for the nation is good for the people” has been a common conception. With increased individualism, however, the definition of *demos* has become problematic since the people to an increasing extent have alternative identities which cross the boundaries of the nation state. The EU illustrates a good example of how difficulties in the context of a territorial *demos* can arise. Democracy obviously means rule by the people, but who exactly qualifies as “the people”. A common opinion is that the EU can never become democratic because it lacks a territorial *demos*. If this is the case then the state faces exactly the same problem considering the fact that it can not be seen as a fixed unit with a fixed set of concerns – political issues cross territorial frontiers. There are no simple, obvious or pertinent criteria for belonging. The *demos* is not only difficult to determine, but it is not fixed once and for all.

With the multi-level character of the EU, this problem has become even more complex and multidimensional. Instead of talking about one European *demos*, it is more relevant to talk about several transnational *demoi*. Beyond the territorial public realm, sectoral and pluralized ‘public spheres’ emerge around specific issues. Within these, participation is actualized on a case-to-case basis. The transnational and sectoral *demoi* could thus be defined as “the sum of all the widely accepted perspectives within one communicative sphere relating to a certain topical core” (Abromeit and Schmidt 2000, 15).

3.3 Modelling New Perspectives

In sum it can be established that the effects of globalization have made the state's role as a container of democratic values as well as its role as provider of identity problematic. Transnational *demoi* have developed. When considering a new model of democracy beyond the state, it is of vital importance to keep these observations in mind. Since the European *demoi* are transnational and issue-specific, a new model of democracy in the EU would have to consider the *individual* to a larger extent than the traditional concept of democracy. Moreover, a new model of democracy cannot be fixed to one single level of the EU, since the individuals *transcend borders*. Instead of basing democratic values on specific levels of the EU, it might be more relevant to concentrate on the *relations* between the levels and the actors. These three elements are, at least for the purpose of this study, sufficient to establish what here will be called a model of the new perspectives of democracy. An analysis of democracy in the EU would accordingly have to take these three elements into account:

- the importance of the individual
- the transcending of territorial borders
- the relations between levels and actors

In the following pages, this model of democracy will be used in order to provide an example of how democracy in the EU beyond state borders can be analyzed.

4 The Art of Communication

What kind of object for analysis could, in an adequate way, expose the elements presented above in the model? Proceeding from the basic idea brought forward in chapter 1.2.3 that democracy is realized through enlightened understanding, the object of analysis has to form a requirement to fulfill this criterion. At the same time it has to pay regard to the importance of the individual, the relation between levels and actors, and the transcending of frontiers. It could consequently not be a “territorial requirement”. It is hard to find a more suitable requirement than communication⁴.

The EU is a polity with multiple, interlocked arenas, where policy making is shared among a variety of actors at European, national and subnational levels (Sutcliffe 2000, 291 f.). This system also includes overlapping networks, where private and public mix and merge. When regarding the EU, one ought to take all these levels, structures and actors into consideration. By doing this it becomes clear that it no longer makes sense to separate the levels from each other, since they are all connected. Genuine communication is a prerequisite for this complex pattern of governance to become democratic. Without communication there is little hope that enlightened understanding can be reached and that radical choices about the matter to be decided can be made. For that reason communication will serve as an example of how democracy beyond the state (expressed through the model in ch. 3.3) can be analyzed.

In a general sense communication involves an exchange of information and ideas (i.e. opinions). It includes listening as well as dialogue. Communication in this study consists of three aspects, which have to be fulfilled to attain a complete process of communication. The first is that there is an *interaction between levels*, which is needed to spread knowledge and understanding across the whole system of multi-level governance and not only at one specific level. The second aspect is *access to information*, in which the individual can take part in order to reach enlightened understanding. However, enlightened understanding cannot be reached simply by access to information. The people also need to be exposed to conflicting values in order to make up their minds (cf. Karlsson 2001, 63). The second requirement for genuine communication is an *open exchange of opinions*.

In sum, with help of the requirement of communication, democracy will here be analyzed from a non-state perspective in the shadow of the model presented in chapter 3.3. Communication consists of the three aspects 1) interaction between levels; 2) access to information; and 3) possibility to evaluate different opinions, which have to be fulfilled in order to reach enlightened understanding in the EU. In the next section (4.1) the first aspect, interaction between levels in the EU, will be considered.

4.1 Interdependence and Co-operation between Levels

The EU is a complex system of multiple integrated and overlapping arenas. This might be perceived as a weakness, but it is also a strength. Because of the interlocking processes and structures, the political levels in the EU become dependent on actions taking place beyond their boundaries. As a result the single levels have a reduced capacity to solve problems and keep control at one single level. The levels of governance are characterized by profound and complex relations of interdependence (i.e. mutual dependence). Since the consequences of isolation would be too costly (cf. Karlsson 2001, 19), levels of governance usually chose to co-operate. In this chapter it will be argued that the two phenomena of interdependence and co-operation automatically trigger an interaction between different levels in the EU. The communicational interaction developed from the patterns of interdependence and co-operation in turn includes an exchange of ideas and information within and between levels. In this chapter these aspects will be discussed in the context of four different levels: First the state will be discussed followed by the region, the networks and finally the individual. It is important to point out though, that these levels in reality are hard to separate since they overlap.

4.1.1 The State

A significant part of the globalization debate has concerned the future existence or diminishing role of the state. In between these extremes a more moderate discussion has recently emerged regarding the changing role of the state. It is the changing role of the state that is interesting for the purposes of this study since it illustrates the growing importance of communicational interaction. If the old role of the state was characterized

in terms of dominating and regulating, there is a strong tendency in recent literature to describe the state in terms of negotiator, mediator, partner, broker or activator (see for example Kohler-Koch 1996a, 190, 197; Kohler-Koch 1999, 18; Jönsson et al 2000, 80-98; Jönsson et al 2001, 18).

The state is illustrated as a mediator between, for example, political and economical spheres or between international and domestic interests, i.e. between different levels of interaction. Mediating between these levels includes an attempt to come to terms with competing interests. As an activator, the state pushes for designing common policies. The most important task consists in bringing together relevant actors of society (Kohler-Koch 1996a; Kohler-Koch 1999; Jönsson et al 2000). In these patterns of interaction multiple actors from different levels in the EU are involved in negotiations. This development illustrates an increased co-operation not only between states, but also between states and other kinds of actors.

In the new co-operating role of the state, interdependence and flexibility are major triggers of interaction. For example, in order to be able to influence national policy, states must also serve as external actors to mobilize internal support. Governments are forced to stay flexible, to adopt instruments and strategies, and to shift their goals and issues in a constant exchange with other levels and actors since they all depend on each other (cf. Kohler-Koch 1996a, 180). It hardly needs to be mentioned that communicational interaction is the major prerequisite for these relations to work out and develop.

4.1.2 The Region

In the “era of the state” the subnational level was not of great significance. Instead it was the representatives of the state who enunciated the demands in the European decision-making process. Today, around eighty per cent of all passed laws and regulations within the EU influence the regional and local levels (Jerneck and Gidlund 2001, 53). With that in mind it is not surprising that regions can no longer be nested exclusively within the state. Their interests cross territorial borders. Both regions, communities and localities are influenced by the actions in the European Union and the European level has become extremely important for subnational problem solving. To be able to exchange information and to find out what is coming down the policy-pipeline, subnational governments have established

almost 150 independent offices in Brussels which lobby, gather information, and network with other subnational governments and with EU actors (Hooghe and Marks 2001, 86). Subnational offices do however not only receive, but also provide information. In this sense interdependence between the actors develops and co-operation becomes necessary. This is a good illustration how communication between levels has taken on an increased importance for the regions and other subnational levels.

Increased co-operation, however, does not only take place between regions, or between regions and the EU-level, but also between the region and the state. Some argue that the region has taken over the state's role as a broker between domestic and international politics as a result of the region's increased role in the EU. Even if the relations between the state and the region in the beginning were characterized by scepticism and perhaps even competition, the advantages of co-operation were soon recognized. A concrete example of co-operation between the region and the state is found in questions concerning the use of structural funds for social and economic development. The state usually lobbies for the region in these kinds of questions. It is thus of utmost importance that the regions have a well-functioning, regular and trusting relationship with the state (Jerneck and Gidlund 2001). Instead of competing with each other, the state and the region today concentrate on complementing each other and co-operating. They have developed an interdependent relationship with each other. This intensifies communication and stimulates learning (cf. Benz and Eberlein 1999, 333).

4.1.3 *Networks*

Networks are based on specific issues or sectors and unite actors with a specific interest. They could be defined as "a set of relatively stable relationships which are of a non-hierarchical and interdependent nature linking a variety of actors, who share common interests with regard to a policy and who exchange resources to pursue these shared interests acknowledging that co-operation is the best way to achieve goals" (Börzel 1997,1). Actors in European networks might be, for example, interest groups, enterprises, regions or research institutes. Instead of being objects of governance they become partners in joint problem-solving (Jönsson et al 1998, 324).

Networks are based on knowledge and ideas. Interorganizational relations within networks are based on an exchange of information. Since the actors within networks are “in possession” of the knowledge and information about specific points at issue, the government has become dependent on the network actors to be able to solve their problems. Networks exist at and between all levels of the EU. The actors involved in networks have an interdependent relationship to each other, whereby they are part of a significant consensus-building enterprise. Networks, however, are also naturally dependent on other actors in the political system to get access to information and influence. As a result, co-operation is usual not only within networks, but also between networks and between networks and political governments as mentioned above. The relations established by the networks are probably one of the most obvious ways to illustrate how communicational interaction takes place between different levels of governance in the EU.

4.1.4 Individual Interaction

So far the communicational interaction between levels of governance in the EU has mainly been discussed proceeding from the levels as such. This is a simplified picture of reality, since interaction certainly occurs between levels, but it is of course not provided by the levels themselves. Instead communicational interaction is provided by the actors, such as individuals, and the relations between them. Not only the state, but also the region and especially the networks are made up of social relations between single persons (cf. for example Jerneck and Gidlund 2001, 23). A significant part of the communicational interaction is thus provided by and developed between individuals. Since the individual is present and influenced transnationally, for example in and by different kinds of networks, he or she is not, and cannot be, tied to one single level of governance. That might be why such a complex pattern between levels develops. The evolving patterns of governance have very much been influenced by the choices made by different individuals in the EU. Some authors claim that the development of multi-level governance is a result of a choice made by authoritative actors in the state, wanting to shift authority out of their hands (Marks 1996; Hooghe and Marks 2001, 71; Marks et al 1998). It is however, questionable whether it is relevant to talk about a choice in any real

sense. It is more probable that MLG is an unavoidable effect of increased interdependence and individualism. The increased individualism can in turn be regarded as a sign of increased knowledge among people in general, which hopefully can develop further with an increased interchange between levels.

4.1.5 Communication Barriers

This chapter has so far shown the opportunities for interaction between levels in the EU which might intensify the chances for enlightened understanding to spread across the EU-system. Even if it could be argued that communicational interaction is an automatic outcome of interdependence and co-operation, it does not guarantee that conflicting elements are thereby excluded. Barriers of communicational interaction between levels and actors can, for example, include conflicting interests and values. Depending on how a specific issue is “framed”, for instance, if it is seen from a political, economic, ecological, ethnic or technical point of view, conflicts of relevance, adequacy or acceptability of certain issues easily appear (cf. Abromeit and Schmidt 2000, 14 ff.). Conflicts of communication can also arise because of ideological disagreement (cf. Scharpf 1999, 77 ff.). The most commonly discussed barrier of interaction between levels in the EU is probably the multiplicity of languages. Some people believe that the lack of a common language causes a considerable problem for communication, whereas others consider the “language problem” in the EU to be overestimated. Here it is enough to point out that language in some cases might cause a problem for communicational interaction. These are only a few general examples of different barriers of interaction which are mentioned in order to point out that a perfect communication process between levels in the EU cannot be taken for granted. Lack of communication or deficit of communication is often considered as one of the main problems of politics. This is also the case in the context of the EU.

According to the observations made in this section (4.1), one can argue that a genuine interaction between levels and actors takes place in the EU. What cannot be said is, however, whether the patterns of interaction are spread equally in the system of governance or not since the observations made here are of a very general character. It has also been shown that the

interaction between levels is not always unproblematic. In the next section (4.2) the second aspect of communication, access to information, will be discussed.

4.2 *The Access to Information in Tangled Labyrinths*

Globalization leads to a deepened integration in Europe, but also to an increased fragmentation. The people become less “persons of the mass” and national governments have only a fragmentary control of their citizens. This includes an expansion of the individual’s freedom, but also of the individual’s responsibility. The individual in this context can be the private person as well as the politician, as will be shown further in this chapter, where the conditions for achieving access to information will be discussed.

At first sight the structure of the EU is extremely complex and not exactly made for interchange and the provision of information. The EU is often regarded as an enormous “technocracy” and “expertocracy” (Höreth 1999, 42-45), which includes elites dealing with a never-ending overload of information growing in quantity every day.

One way to examine the possibilities of accessing information in the EU is to concentrate on the formal institutions. There are no rules in the EU forcing the institutions of the Union to keep public registers of different documents, which make the access to information in the EU rather limited. On 6 December 1993 the Council and the Commission approved a joint code of conduct concerning access to Commission and Council documents. The general principle of the code of conduct is that “[t]he public will have the widest possible access to documents held by the Commission and the Council” (*Code of Conduct*). The problematic issue of the code of conduct is, however, that it contains a list of exceptions, among others the clause that both institutions “may also refuse access in order to protect the institution’s interest in the confidentiality of its proceedings” (*Code of Conduct*). This clause obviously gives the institutions considerable freedom to determine whether they will confer access to a specific document or not (cf. Karlsson 2001, 65). This example reveals that while steps have been taken to guarantee increased access to information in the institutions of the Union, several serious obstacles still remain.

The limited access to information within the EU’s formal institutions

and the problems illustrated in the example above are important and serious issues, on which there is hope of progress and reform in the not too distant future. Nevertheless, they do not represent *all* the alternatives for achieving enlightened understanding in the EU.

The problem of accessing information in the EU's institutions is of course in no way irrelevant. On the other hand, it leaves one to focus mainly on one single level in the political system of the EU, namely the EU-level itself. This observation implies several things, but what should be stressed here is the importance of considering all the levels and not only blindly concentrating on one single level, making it a "unit" independent of the others. In the long run such a perspective will give a distorted picture of possibilities and difficulties with regard to democracy, and certainly other aspects of the EU. What is suggested here is instead an attempt, for the moment, to consider the aspects of communication in bodies which are more flexible and at least in some way are active at or connected to all levels. In order to do so it is necessary to turn to more informal bodies which transcend territorial borders. The most obvious, but not unproblematic, examples are policy networks. Policy networks are characterized by "predominantly informal interactions between public and private actors with distinctive, but interdependent interests, who strive to solve problems of collective action on a central, non-hierarchical level" (Börzel 1997, 4). Communication and trust distinguish policy networks from other forms of non-hierarchical co-ordination. The policy networks are, however, not an unproblematic example when it comes to the possibilities of accessing information. They are not only informal, but many times also hidden from the wider public. Only the people within the network might know about its existence and what is decided within it. Networks consist of experts who might be the only people that really understand what is decided on and what is on the agenda. Even if the networks are not secret, they are inherently protected from public control because of their complexity.

The informality, complexity and inaccessibility of the networks in the EU is one of the major obstacles to reaching enlightened understanding in the EU through access to information. Still, the networks are a prerequisite for the functioning of political governance in the EU. They serve as a cement to bridge the gaps between institutions and levels in that they cross territorial frontiers (cf. Kohler-Koch 1999). What makes networks so spe-

cial is that they provide an arena for non-strategic, communicative action. After all, networks are certainly characterized by complexity, but also by flexibility and openness (cf. Jönsson 1999, 218–221).

4.2.1 Administrative Transparency

An important part of discussing access to information in the EU involves considering not only the problems and difficulties involved in reaching the goal, but also discussing the range of possibilities that exist. If the criterion of enlightened understanding⁵ is to be fulfilled, experts as well as non-experts should be able to gather knowledge within the networks. As pointed out above, the complexity of networks renders the access to information needed to reach enlightened understanding more difficult. On the other hand, it was also observed that networks are characterized by flexibility and openness. In the case of networks, there are no specific regulations dealing with secrecy. In the ideal situation, the public should be able to find and use information as they need it. The point made here is that even if the path towards access to information is tangled, at least the opportunity exists. It might for obvious reasons not be possible to obtain information contained in telephone calls, e-mail correspondence, or decision-making “in corridors” (see Jönsson 1999, 223 ff.), but there is a *possibility* to capture and disseminate written information. In that sense, networks in the EU at least can enable some form of “administrative transparency”. Administrative transparency means that the public, in the ideal case, have the opportunity to access information documents that exist (for instance, through internet). The administrative aspect of democracy has similarities with the principles of transparency and openness described elsewhere, except for the fact that it only refers to the openness of paper work. Administrative transparency provides the individual with an opportunity, which at the same time requires that he or she take responsibility for realizing his or her goals of becoming enlightened.

Provided that an individual gets the benefit of administrative transparency and is willing to take responsibility for exploiting this opportunity, the negative aspect of his or her freedom to gain access to information is fulfilled⁶. The positive aspect of this freedom, however, requires that the individual has the means *in fact* to be able to access the information re-

quired to reach enlightened understanding. This will be discussed further in the next section.

4.2.2 *Money, Time and Knowledge*

The possibility of access to information can be realized by taking advantage of administrative transparency in the policy networks of the EU. Administrative transparency, however, does not guarantee that people can automatically use the possibility of accessing information. To reach the source of information requires not only patience in overcoming the obstacles in complex networks, but also material resources. Money is an example. In the ideal case money should not be necessary when seeking information. The information should always be free. In reality, however, it can cost enormous amounts for a private person to reach a source of information (for example internet, traveling or copy-costs). It is not just anyone who can enjoy the benefits of administrative transparency. Another obstacle is time. Time should, in the ideal case, only be a question about the preferences of the person asking for the information. If the interest exists, the person should have access to the material. Consequently it would be up to each individual if he or she wants to take the time to search for information. Unfortunately it might not be so easy in actual fact. Even if administrative transparency exists within the system, time is needed in order to reach the source, find the information and understand it. In the worst case the process of achieving enlightened understanding might mean that people either lose patience or that the enlightened understanding reaches them too late (for example, in situations where a certain decision has already been taken).

Another important problem when it comes to accessing information is knowledge. It is not always apparent which route to take when looking for a specific type of information. How do you get access to the information you need and by what means? In the ideal case a person would be able to find the source he or she is looking for if he or she really has an interest in reaching enlightened understanding. This, of course, is not necessarily an easy or obvious task for anyone. Further, if the person succeed in obtaining the information needed, it is also important that he or she can understand what is written. If the person does not understand the information he or

she asked for in order to attain knowledge, the requirement of communication in the sense of access to information makes no sense. This is a classical problem of communication. How do you make sure that the message reaches the receiver and that the receiver understands it in the same way it was originally meant to be understood? In everyday life, misunderstandings in the process of communication arise all the time. It is an unavoidable phenomenon. This is why it is important to express oneself in such a way that it is readily and clearly understood, an element which in fact constitutes a key part of the concept of communication. In the context of the EU, it is perhaps even more important because of the extreme overload of information and lack of attention. The message has to be simple without becoming too vague or losing important aspects. This is not an easy task.

Finally, it can be concluded that access to information in the policy networks of the EU certainly exists, but it is only in the ideal case that it can really be used equally by everyone. Such a conclusion, however, is not surprising. All democracies face the same problem. To be able to attain knowledge, one must provide access to information. The access to information, in turn, is accompanied by a responsibility to use it, but also the patience to find a path to it. Moreover, other resources such as time, money and knowledge are needed in order to reach enlightened understanding. These considerations exist not only in the EU context, but anywhere. The difference might be that the private person has a greater responsibility for accessing information in the EU than he or she had for example in the traditional state. In the traditional state the national government could control, regulate and assure the access to information in a completely different way than is the case with the EU where information of all kinds floats between levels in a never ending stream. In that sense, the responsibility nowadays lies more in the hands of individuals. This refers to not only private persons, but also politicians, as will be shown in the following section (4.3).

4.3 Exchange of Opinions and the Battle between Speech and Silence

The third aspect of communication required in order to reach enlightened understanding in the EU is that the public should have the possibility to evaluate an exchange of conflicting values and opinions. Usually an open exchange of opinions in the EU is regarded as problematic, since a public sphere, in the sense we know it, does not exist. While there are certainly a small number of European news channels and newspapers, their number is not sufficient to warrant being characterized as a well-developed European mass media. The political parties established in the EU do not have a platform to carry out the politics of their leadership and there are only a few public interest organizations. In this study these aspects are considered as important, but they will not be discussed, since at the moment they do not constitute a plausible alternative in the EU of today.

The need for an exchange of opinions will have to be satisfied in a different way. Not only should the mass media bring up different issues for discussion, but the politicians also have a duty to do so. Communication may also take the form of negotiation. Negotiations in the EU usually concern transnational issues, which means that in most cases they cannot take place on one single level in the EU, but rather cross borders. Genuine negotiations require that two parties bring different opinions to the table in order to convince the other of the value of a specific position. Negotiations provide an important opportunity for an exchange of opinions. If the public, at least to a certain extent, were able to evaluate the different opinions, it would help them in their struggle to form an opinion of their own. The problem is that most negotiations take place behind locked doors or hidden in the networks of the EU. As a result, only specific experts and the negotiators themselves are able to take part in the discussions. Ordinary people might not even know that negotiations are going on.

Negotiations are central to governance in the EU. Some authors have even characterized the EU as a “multi-tier negotiating system” (Kohler-Koch 1996b, 360). As such, negotiations are necessary for a democracy to function and thus not undesirable. Negotiations cannot be entirely open to the public, since they must reach a conclusion and the negotiators sooner or later have to come to a decision. On the other hand, the negotiations must, at least to some extent, be open for debate in order to create an arena for expressing opinions in the EU. This presents a dilemma as both nego-

tiation and discussion are necessary in a well functioning democracy. The debate brings out popular opinion and can lead to a new basis for decision, whereas negotiation is necessary to establish the breadth of support required to achieve sustainable solutions. The problem is that debate requires openness whereas negotiation requires closed doors (Jerneck 1994, 221).

Politicians, in their efforts to carry on an open communication with the public, may play a key role in helping citizens evaluate various policy positions. Generating communication between levels in all situations is, of course, utopian. Constant communication is not a realistic expectation in any democracy. Administration might be a dominant activity within the EU, and negotiations might be more common than open debate. Still, it can be possible to combine the two elements of negotiation and debate. Certain parts of the negotiations, for example, could be conducted in public.

4.3.1 The Bargaining Democrat

Bargaining can be defined as “a form of joint decision-making that includes elements of both peaceful conflict and co-operation” (Stenelo 2000, 67). Bargaining can be viewed as an important link between elite-democratic and participatory-democratic principles, that is, between bargaining and opinion-forming. From the perspective of effective and ideal bargaining, negotiations can be reconciled with open debate and criticism under the condition that the negotiator plays an opinion-forming role at the same time. Stenelo calls a negotiator in this ideal role a bargaining democrat. Bargaining democrats concentrate on process as well as on result, which implies that they seek consensus. Reaching consensus is desirable, but the bargaining democrats are at the same time aware of the public interest and want the public to rely on them. They are also aware of the fact that criticism and conflict in the long run can engender better ideas and results. Therefore bargaining democrats are willing to bargain to reach consensus, whereby they can count on support from their own political environment (Stenelo 2000, 64). In this sense bargaining democrats are concerned about establishing a link between speech and silence, between opinion-forming and bargaining.

Discussion and conflict are of course always obstacles to progress in negotiation in the sense that they lead to delay. Still, they are a part of it.

Without an element of conflict negotiations are not necessary. Negotiations are based on debate, argument, compromise and consensus. The negotiations should of course not be conducted in public from beginning to end. No decisions could ever be made if that was the case. Stenelo claims that “bargaining as a successful procedure requires skilful negotiators, and skilful negotiators accept their counterpart’s possible need for political silence and anonymization” (Stenelo 2000, 71). These moments might be needed because the internal negotiations with partners often take much more time than the negotiations with adversaries. From that perspective negotiation can progress and come to a conclusion.

Since negotiation processes are central to governance in the EU, the politicians and officials have an even greater responsibility to provide for the link between speech and silence and become good bargaining democrats. Gunnar Heckscher claims that, as a minimum, negotiators must show the aim, motives and result of the negotiations even if political silence is necessary in the negotiations as such (Heckscher in Stenelo 1999, 253). This requirement is justified, but not always easy to meet. For example, in many negotiations it is hard to point to a beginning and an end since they are often continuous (cf. Jönsson et al. 1998, 323). Even the bargainers might not know when negotiations really started and when they ended, not to mention the public. In practice, however, it should always be possible to disclose the objectives and motives of the negotiations even if a clear starting point might be hard to identify. The same thing applies to being able to show the result of the negotiations even if no clear end can be defined. In that sense it would be possible to observe the principle laid down by Heckscher above. According to Heckscher, the public would have the possibility of debate and opinion-forming when the agreement is concluded, and both negotiating parties would have at least received a part of what they wanted. Whether this provides a sufficient opportunity for public debate is disputable, but it is reasonably certain that the negotiations would never end if the public were to be given this opportunity earlier. It might also make the negotiations less efficient and the trusting “bargaining atmosphere” between the parties might be lost.

One might argue that negotiations tend to be informal and only rarely take place within formal institutions which means that one cannot ensure that negotiators are doing “their duty” as good bargaining democrats. However, the concept of the bargaining democrat, as it is interpreted here,

supposes that no control is needed as the negotiators willingly take their responsibility, for the reasons stated above. Supposing that politicians assume this responsibility and act in the spirit of a bargaining democrat, the public has an opportunity to evaluate different opinions. Still, a significant part of the responsibility lies in the hands of the individual when it comes to realizing the requirements involved in forming an opinion. In order to reach the point where one actively engages in the evaluation of different opinions, one must first recognize his or her interest in the issue being discussed.

4.3.2 Public Interest

People might have the *opportunity* to evaluate different opinions as they relate to EU matters, but unfortunately there will always be people who do not care. This problematic aspect concerns all democracies. Democracy can never be based on compelling anyone to reach enlightened understanding. If an element of compulsion were included in order to satisfy democratic values, it could no longer be considered as a democracy. In the ideal case the “uninterested people” can satisfy at least parts of the opinion-forming requirement passively through family, friends, work and schools. Enlightened understanding would lead to an increasing interest. However, part of the responsibility for generating interest lies in the hands of institutions such as schools and universities, but also interest groups, transnational organizations and political parties, as well as perhaps most importantly the mass media. The national mass media and party groups would have to work more with EU-specific questions than is the case today. The EU-level is nowadays a part of the nation state in the same way as the nation state is a part of the EU. Although arenas for communication are extremely important, the prior condition for reaching enlightened understanding is in the end an issue for the individual, whoever the individual might be: the private person, the politician, the official, the parent or the school teacher. In the EU the relations between different individuals are extremely important in reaching enlightened understanding, since the efforts of more than one person are necessary if the criterion is to be satisfied. This is really nothing new and actually not even specific for the EU. After all, communication illustrates an interchange between people, which ideally leads to

enlightened understanding. It might thus be useful to see democracy as something which is neither *by*, *for* nor *of* the people, but rather as something possessed *between* the people.

5 A Way to Re-explore Democracy in the EU?

In this study an attempt has been made to consider democracy in the EU from a new perspective. In the model of democracy introduced in this study, certain aspects have been considered which differ from traditional democratic analysis. The following elements have been considered in making room for a new way to regard democracy in the EU:

- The importance of the individual
- The transcending of borders
- The relations between levels and actors

The aim of the analysis was to re-explore democracy in the EU beyond the state by giving an example of how it can be analyzed from a different point of view (with regard to the model). Enlightened understanding was chosen as the primary criterion for democracy. In order to meet that criterion, it was argued that communication is needed. Communication includes 1) interaction between levels; 2) access to information; and 3) the possibility of evaluating different opinions. Interaction between levels is constantly taking place in the EU, since, as it has been shown in chapter 4.1, there is interdependence between different levels in the EU, requiring that different actors and institutions co-operate. Administrative transparency in networks is one possible way to get access to information in order to meet the communication criterion that has been outlined, which ideally would lead to enlightened understanding. It is the individual, however, who carries the responsibility for accessing information where administrative transparency exists. The bargaining democrat has been presented as an example of how a link between elite-democratic principles and opinion-forming principles can be provided in the EU. It is in this case the negotiating politicians who have the responsibility for bringing the issues of the negotiations up for an open debate, giving the public the opportunity to evaluate different options and thereby reach enlightened understanding.

This example of analyzing democracy in the EU from a new perspective would not necessarily put the EU in a more positive position with regards to its democratic capacity. Not even the minimum-criteria outlined in this study could in all cases guarantee that enlightened understand-

ing would be reached in the EU. However, as Dahl puts it: “[e]ven if the criteria can never be perfectly satisfied, they are useful in appraising real world possibilities [...]” (Dahl 1989, 109). It is essential to note that it was the *possibilities* that should be considered when trying to reexamine democracy, i.e. the *possibilities* of reexamining democracy beyond the state. At the very least that aim is reached even if the EU cannot be considered more democratic from a new democratic perspective. This is not necessarily an indication that the model, or the way it was used in the analysis presented here, is distorted, but it can rather be considered “fair” since it would have been a cause for suspicion if the problems of the EU were to vanish with the introduction of a new perspective.

The question remaining is then whether and how this study has contributed to a further development of democratic theory, considering democracy beyond state borders. The model examined here cannot claim to be complete. Certain elements might be missing, but it is hard to say exactly what is missing since there is no developed basis to start from. It is certainly not an easy task to grasp analytical tools in an undeveloped field of research. The major challenge to this study might be found in the fact that democracy is so tied to the nation state that reconsideration becomes problematic. My conclusion is, however, that the necessity of reconsideration democracy outweighs the difficulties in doing so. With continuing globalization, including the appearance of new forms of politics and governance which transcend territorial borders, the state can no longer be expected to serve as a provider of democracy. If democracy is to be maintained in this new global context, it is hard to see any other possibility than trying to realize democracy across frontiers. Democracy beyond the state illustrates a new way of thinking, which no doubt includes certain challenges. Different paths may have to be explored in order to find a stable ground for analysis. Even if it were to become obvious that the model developed here shows some serious deficiencies, it can still be considered a contribution to reexploring democracy beyond the state. The model developed here is an attempt at least to increase the *understanding* of democracy beyond the state. It is only a first step, but one that is supposed to be supplemented by additional studies of this kind. Further research in this new field of study is the only way to overcome the difficulties included in this new view of democracy. It will even in the future be necessary to draw knowledge from different fields of research when reexploring democracy. Co-operation between

different theorists might yield new insights. Other attempts may be made to consider aspects of democracy beyond the state not considered here. While this study has largely been theoretical, it might be appropriate to illustrate new ways of considering democracy in the EU through empirical studies. Only broad discussion about potential new models of democracy will lead to increased understanding of democracy beyond the borders of the state.

References

- Abromeit, Heidrun (1998) *Democracy in Europe. Legitimising Politics in a Non-State Polity*. New York and Oxford: Berghahn Books.
- Abromeit, Heidrun and Thomas Schmidt (2000) *The riddle of borderless democracy: on the search of transnational demoi*. Paper presented to the IPSA World Congress, Research Committee 3: European Unification, Panel 2: Democracy beyond the nation state. August 2000, Quebec.
- Agné, Hans (1998) "Demokrati på europeisk nivå" in SOU 1998:124 *Demokrati på europeisk nivå* pp. 7-44.
- Agnew, John (1994) "The Territorial Trap: the Geographical Assumptions of International Relations Theory" in *Review of International Political Economy* no. 1 pp. 53-80.
- Benz, Arthur and Burkard Eberlein (1998). *Regions in European Governance: The Logic of Multi-Level Interaction*. Working Paper RSC No 98/31. Internet source (March 2002): www.iue.it/RSC/WP-Textes/98_31.html.
- Benz, Arthur and Burkard Eberlein (1999) "The Europeanization of regional policies: patterns of multi-level governance" in *Journal of European Public Policy* 6 no. 2 pp. 329-48.
- Börzel, Tanja A. (1997) "What's So Special About Policy Networks? – An Exploration of the Concept and Its Usefulness in Studying European Governance" in *European Integration online Papers* (EIoP) Vol. 1 no 16. Internet source (May 2002): <http://eiop.or.at/eiop/texte/1997-016.htm>
- Code of conduct concerning public access to commission and council documents*. Internet source (May 2002): http://europa.eu.int/comm/secretariat_general/sgc/citguide/en/citgu28.htm.
- Dahl, Robert A. (1989). *Democracy and its critics*. New Haven och London: Yale University Press.
- Dahl, Robert A. (1994) "A Democratic Dilemma: System Effectiveness versus Citizen Participation" in *Political Science Quarterly* no. 109 pp. 23-34.
- Eising, Rainer and Beate Kohler-Koch (1999) "Introduction: network governance in the European Union" in Beate Kohler-Koch and Rainer Eising (eds.) *The transformation of Governance in the European Union*. London: Routledge pp. 1-13.
- Elfstrom, Gerard (1997) *New Challenges for Political Philosophy*. London: MacMillan Press Ltd.
- Elofsson, Kristina and Teresia Rindefjäll (1998) *Flernivådemokrati: En teoretisk såväl som praktisk utmaning*. Lund: Statsvetenskapliga institutionen.

- Eriksen, Erik Oddvar and John Erik Fossum (eds.) (2000) *Democracy in the European Union. Integration through deliberation?* London: Routledge
- Ferguson, Yale H. and Richard W. Mansbach (1997) "The Past as a Prelude to the Future? Identities and Loyalties in Global Politics" in Yosef Lapid and Friedrich Kratochwil (eds.) *The Return of Culture and Identity in IR Theory*. London: Lynne Rienner Publishers pp. 21-44.
- Held, David (1996) *Democracy and the Global Order. From the Modern State to Cosmopolitan Governance*. London: Polity Press.
- Hjorth, Ronnie (2001) "Statsgränsen som faktum och norm" in *Tidskrift för politisk filosofi* no. 2 pp. 24-49.
- Hooghe, Liesbet and Garry Marks (2001) *Multi-Level Governance and European Integration*. Oxford: Rowman & Littlefield Publishers.
- Höreth, Marcus (1999) *Die Europäische Union im Legitimationstrilemma. Zur Rechtfertigung des Regierens jenseits der Staatlichkeit*. Baden-Baden: Nomos Verlagsgesellschaft.
- Jachtenfuchs, Markus and Beate Kohler-Koch (1996) "Einleitung: Regieren im dynamischen Mehrebenensystem" in Markus Jachtenfuchs and Beate Kohler-Koch (eds.) *Europäische Integration*. Opladen: Leske + Budrich pp. 15-44.
- Jerneck, Magnus (1994) "Demokrati och internationalisering" in Anders Sannerstedt and Magnus Jerneck (eds.) *Den moderna demokratins problem* pp. 215-252. Lund: Studentlitteratur.
- Jerneck, Magnus and Janerik Gidlund (2001) *Komplex flernivådemokrati. Regional lobbying i Bryssel*. Malmö: Liber.
- Jönsson, Christer (1999) "Nätverkens Europa" in SOU 1999: 83: *Globalisering* pp. 203-234.
- Jönsson, Christer – Bo Bjurulf – Ole Engström – Anders Sannerstedt – Maria Strömvik (1998) "Negotiations and Networks in the European Union" in *International Negotiation* vol 3 pp. 319-344.
- Jönsson, Christer – Sven Tägil – Gunnar Törnqvist (2000) *Organizing European Space*. London: SAGE Publications
- Jönsson, Christer – Magnus Jerneck – Lars-Göran Stenelo (eds.) (2001) *Politik i globaliseringens tid*. Lund: Studentlitteratur.
- Karlsson, Christer (2001) *Democracy, Legitimacy and the European Union*. Uppsala: Statsvetenskapliga föreningen i Uppsala.
- Kohler-Koch, Beate (1996a) "The strength of Weakness: The transformation of Governance in the EU" in Sverker Gustavsson and Leif Lewin (eds.) *The future of the Nation-State. Essays on cultural pluralism and political integration*. London: Routledge pp. 169-210.

- Kohler-Koch, Beate (1996b) "Catching up with change: the transformation of governance in the European Union" in *Journal of European Public Policy* Vol. 3, no 3 pp. 359-380.
- Kohler-Koch, Beate (1999) "The evolution and transformation of European governance" in Beate Kohler-Koch and Rainer Eising (eds.) *The transformation of Governance in the European Union*. London: Routledge pp. 14-36.
- Marks, Gary (1996) "An Actor-Centred Approach to Multilevel Governance" in *Regional and Federal Studies* pp. 20-40.
- Marks, Gary - Liesbet Hooghe - Kermit Blank (1998) "European integration from the 1980s: State-centric v. Multi-Level Governance" in Nelsen, Brent F. and Alexander C-G. Stubb (eds.) *The European Union. Readings on the Theory and Practice of European Integration*. Macmillan Press Ltd pp. 273-293.
- Neyer, Jürgen (2002) *Discourse and Order – On the Conditions of Governance in Non-Hierarchical Multi-Level Systems*. ARNEA Working Papers. WP 01/19. Internet source (March 2002): www.arena.uio.no/publications/wp02_9.htm.
- Nilsson Lennart (2000) "Flernivådemokrati i förändring" in Nilsson, Lennart *Flernivådemokrati i förändring* pp. 7-17. SOM-undersökningen Västsverige 2000. SOM-rapport 27.
- Nugent, Neill (1999) *The government and politics of the European Union*. London: The MacMillan Press Ltd.
- Peterson, John and O'Toole, Laurence J. (2001) "Federal Governance in the United States and the European Union: A Policy Network Perspective" in *The federal vision. Legitimacy and Levels of Governance in the United States and the European Union* pp. 300-334.
- Rothstein, Bo - Peter Esaiasson - Jörgen Hermansson - Michele Micheletti - Olof Petersson (1995) *Demokrati som dialog*. Demokratirådets rapport 1995. Stockholm: SNS Förlag.
- Scharpf, Fritz, W. (1994) "Community and Autonomy: Multi-Level Policy Making in the European Union" in *Journal of European Public Policy* 1 no. 2 pp. 219-242.
- Scharpf, Fritz, W. (1997) "Introduction: the problem-solving capacity of multi-level governance" in *Journal of European Public Policy* 4 pp. 520-538.
- Scharpf, Fritz, W. (1999) *Governing in Europe: Effective and Democratic?* Oxford: University Press.
- Scharpf, Fritz, W. (2000) *Notes towards a Theory of Multilevel Governing in Europe*. MPIfG Discussion Paper 00/5. Internet source (March 2002): www.mpi-fg-koeln.mpg.de.
- Schmitter, Philippe, C. (1996a) "Examining the Present Euro-Polity with the help of past theories" in Gary Marks - Fritz W. Scharpf - Philippe C. Schmitter -

- Wolfgang Streeck (eds.) *Governance in the European Union* pp. 1-14. London: SAGE Publications.
- Schmitter, Philippe, C. (1996b) "Imagining the Future of the Euro-Polity with the help of New Concepts" in Gary Marks – Fritz W. Scharpf – Philippe C. Schmitter – Wolfgang Streeck (eds.) *Governance in the European Union* pp. 121-150. London: SAGE Publications.
- Stenelo, Lars-Göran och Magnus Jerneck (eds.) (1996) *The bargaining democracy*. Lund: Lund University Press.
- Stenelo, Lars-Göran (1999) "Samråd och tystnad i förhandlingsdemokratin" in SOU 1999:83: *Globalisering*. Demokratiutredningens forskarvolym IX.
- Stenelo, Lars-Göran (2000) "The Bargaining Democrat" in Lauri Karvonen and Krister Ståhlberg *Festschrift for Dag Anckar on his 60th Birthday on February 12, 2000* pp. 63-79.
- Stoker, Gerry (1995) "Introduction" in David Marsh and Gerry Stoker (eds.) *Theory and Methods in Political Science* pp. 1-18. London: MacMillan Press Ltd.
- Sutcliffe, John, B. (2000) "The 1999 reform of the structural fund regulations: multi-level governance or renationalization?" in *European Public Policy* 7 nr. 2 pp. 190-228.

Notes

- 1 The deductive method starts in theory and draws conclusions through reflection and analysis, whereas the inductive method starts in empirical observations and search for patterns and generalizations (Stoker 1995, 14).
- 2 See chapter 3 for a definition of the territorial trap.
- 3 This title refers to a book by Risse-Kappen (1996) with the title *The Nature of the Beast* concerning the examination of the EU's nature.
- 4 The requirement of communication has certain aspects in common with, and is partly influenced by, a deliberative perspective of democracy (cf. for example Eriksen and Fossum 2001). Deliberative democracy will, however, not be brought up to further discussion here.
- 5 Individuals should have the equal right and possibility to acquire information and knowledge in order to discover and evaluate the most desirable outcome on the matter to be decided (see ch. 1.2.3).
- 6 Negative freedom is here defined as the possibility to be able to act in a desired way without impediment from someone or something else. Positive freedom, on the other hand, requires the means to achieve a goal successfully (cf. Elfstrom 1997, 133-141).