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# **The Democratic Deficit in the European Union**

## **Much Ado about Nothing?**



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### **ABSTRACT**

This paper studies the democratic deficit in the European Union (EU). It examines what constitutes a democratic deficit, analyzes whether there is one in the EU, and offers suggestions for a solution. I focus on the output of the legislative process and study whether policies deviate from those emerging in other political systems. In particular, I present a formal model of policy-making in a bicameral system, apply it to the EU, and compare the EU with the United States. I conclude that the institutional setup of the EU does not lead to policies that are fundamentally undemocratic, and that the composition of its institutions is not inherently less democratic than that of the US political institutions. I also find, however, that a democratic deficit may exist owing to a lack of transparency and an excess of delegation in the legislative process.

### **KEY WORDS**

- democracy
- effectiveness
- enlargement
- European Union

## Introduction

The European Union (EU) is currently organizing a 'Convention on the Future of the European Union.' The convention consists of representatives of the national governments and parliaments of the 15 member countries and the 13 accession countries, and representatives of the European Parliament and the Commission. Its task is to prepare for institutional reform, and it may lead to a fifth round of major changes in the institutional setup of the EU in less than 20 years. According to the Commission (CEC, 2001) '[t]he key questions which the Convention should tackle are: what should Member States do together in the future Union [and] how should democratic legitimacy and effectiveness of the Union be improved?'

These questions are particularly relevant in view of the imminent enlargement of the EU. The Nice Treaty altered the composition of the principal EU institutions to prepare for enlargement, with democratic legitimacy and effectiveness in mind, but, even if it is ratified, the intake of 13 new members may still complicate policy-making. The tightening of the qualified majority requirements in the Council and the increases in the numbers of Commissioners and Members of the European Parliament (MEPs) may reduce effectiveness. The larger relative weight of smaller countries in the Commission may lead to a decline in democratic legitimacy.

The democratic character and the effectiveness of the EU institutions are often questioned. Researchers, politicians, and journalists alike tend to characterize the EU institutions as suffering from a 'democratic deficit,' a lack of democratic accountability. *The Economist* newspaper (2000), for example, states:

[The] theme of a 'democratic deficit', in Brussels jargon, is popular among critics of the Union. . . . The lack of functioning democracy reflects in part the failings of the European Parliament, which is supposed to give Europe's peoples their say in Union affairs.

When Commission President Romano Prodi asked 'three wise men' – Jean-Luc Dehaene, former Belgian prime minister, David Simon, former British trade minister, and Richard von Weizsäcker, former German president – to present a report on the institutional implications of enlargement in September 1999, they offered a dark view on the effectiveness of the EU institutions. In particular, Dehaene et al. (1999) evaluated the functioning of the institutions as follows:

It is a fact that the institutional structure of the Union has, in recent years, shown signs of strain. Everyone acknowledges that the Council is not working well. . . . The efficiency of the institutional process has also clearly been hindered by the

unsatisfactory performance of the Commission. . . . The European Parliament itself has seen its powers increase through successive treaties but is not making commensurate impact, as an elected assembly should, on public opinion.

In this article, I focus on the democratic deficit. Reading the academic literature and listening to the reports in the media and the arguments by politicians, I have been struck by the following three observations. First, many people talk or write about the ‘democratic deficit’ but few clarify what exactly constitutes a ‘democratic deficit’ in their opinion. The concept does not seem to be clearly defined, and it appears to have different meanings for different people. Second, the literature does not provide clear and convincing evidence that there is indeed a democratic deficit in the EU, whether it be based on a theoretical analysis of the legislative process or on an empirical comparison of legislative outcomes and poll data, from Eurobarometer or other sources. Third, Euro-federalists and Euro-skeptics alike use the presumed existence of a democratic deficit as part of their arguments. Federalists consider that the solution to the democratic deficit consists of giving more powers to the Parliament, which is, after all, the only directly elected EU institution. Proponents of a Europe of nation-states, by contrast, are of the opinion that democracy is best served by maintaining the powers of the member states with their well-established democratic traditions. So, politicians on both sides of the debate refer to the democratic deficit to justify their cause.

Based on these observations I will address three rather straightforward questions:

- 1 What is a ‘democratic deficit’?
- 2 Is there a democratic deficit in the European Union?
- 3 If so, what can we do about it?

I do not pretend to give complete or definitive answers to these questions in this paper. Rather I will provide partial answers, focusing on the output of the EU legislative process. I will present a theoretical model and formulate specific suggestions regarding what can be done to increase the democratic accountability of the EU institutions.

## **What is a ‘democratic deficit’?**

To answer this question, we can take two distinct approaches. We can look at the output of a political process – the legislation and regulations that emerge from it – and ask ourselves whether the voters get what they want, whether their policy preferences are reflected in the output. Alternatively, we

can focus on the political process itself and its input, and study whether the voters are adequately represented in the different steps of the process and have the means to exercise influence on it.

Let us consider the output of a political process first. Do people get what they want? This raises more questions: What do people want? What policy constitutes a democratic reflection of voters' preferences? How can we make sure that the legislative process leads to the implementation of this policy? These questions lie at the very heart of democracy, and the answers that are given determine the nature of political systems. I do not provide extensive answers here. Such an endeavor goes beyond the scope of this paper. I merely offer a few thoughts for consideration, based on the excellent book on elections and democracy by Powell (2000). The following two paragraphs reflect some of the ideas discussed by him.

Fundamentally, there seems to be a trade-off in democratic systems between giving the majority its way and protecting the rights of minorities. A policy that has broad appeal as the reflection of voter preferences on a given issue is the median voter's ideal policy on that issue. Whether you have a majoritarian or a proportional view of democracy, the median voter's ideal policy has some attractive characteristics. In a vote on a given issue it beats any other policy in a majority vote, and, as the outcome of a political process, it suggests that all voters have an equal influence on policy. As a result, it seems like a good, first indication of which policy people want on a given issue. Policy deviations away from the median may, however, be justified, for example in order to take into account the preferences of minorities who are affected by the issue. Nonetheless, the distance between the median voter and the outcome of a political process can be considered a reasonably good measure of the democratic deficit of the process. Using this measure, we can analyze the democratic deficit theoretically, using spatial models, which is the focus of Crombez (2001a), and we can study it empirically by comparing poll data with the actual outcomes of a political process.

What about the political process itself? Are people adequately represented? To answer this question, we can calculate indices of effective representation and see whether everybody is equally represented and has equal influence at the various stages of the process, which would be consistent with a proportional view of democracy. We can also analyze whether the political process does indeed create the conditions for the majority to get its way, which would be consistent with a majoritarian view. This requires that people can identify potential legislative majorities, that legislative majorities can set policies, and that those legislative majorities are responsive to public opinion.

For politicians to have incentives to be responsive to voters, be it responsive equally to all voters or only to the majority, voters need to be able to

observe what goes on in the legislative process. For this to be possible, two (related) requirements need to be fulfilled: (1) the political process needs to be transparent, and (2) it should not involve too many steps of delegation, because delegation introduces noise. This is somewhat consistent with the requirements for democratic accountability put forward by the German constitutional court: (1) the existence of a public opinion, and (2) subsidiarity. For the public to have an opinion on issues being discussed, it needs to know what goes on in the political process, which requires transparency of the process. And subsidiarity does not allow for too much delegation.

Most of the literature on the democratic deficit has focused on the legislative process itself and the role of public opinion therein. It suggests that the EU does not function well as a democracy because there is no European public opinion, no European electorate, no 'European *demos*.' Scharpf (1999) provides an excellent analysis of the underpinnings of democratic legitimacy, with a focus on welfare policies. Weiler (1996) discusses voters' attachment to national identities. Sánchez-Cuenca (2000), however, casts some doubt on such arguments. His analysis suggests that popular support for the EU can be enhanced by the efficient functioning of its institutions. Clark et al. (2002) show that there is already significant convergence of partisan opinions in the area of fiscal and monetary policies and that it predates the institutional developments toward monetary union.<sup>1</sup>

In this article, I focus on the output of the legislative process. I present a theoretical model and consider the distance between EU policy and the median voter's ideal policy as a measure of the democratic deficit. However, this does not imply that I consider the process itself to be irrelevant. In fact, the model shows that the legislative process in the EU does not lead to undemocratic policies. Therefore, I conclude that the perception of a democratic deficit must stem from the way the policy process is conducted. In this respect the analysis thus complements, rather than contradicts, the literature on the democratic deficit. Furthermore, I would argue that the EU has been able to preserve its institutions and legislative process, in spite of their perceived undemocratic functioning, precisely because the policy output has been largely consistent with voters' preferences.

## Is there a 'democratic deficit' in the EU?

In this section, I use a theoretical model to analyze the legislative process in the EU, to study its output and measure the democratic deficit. The basic institutional setup of the EU consists of a bicameral legislature and an executive, the Commission. One chamber, the Council, represents the member countries,

whereas the other, the Parliament, represents the people. This is not an unusual institutional arrangement and by no means one that is inherently undemocratic. Similar arrangements exist in other political systems. In this section I first present a parsimonious model of policy-making in bicameral systems. Then I apply the model to the EU, and finally I compare the EU with the United States (USA).

### The model

In this subsection, I present a model of policy-making that can be applied to political systems such as those in Belgium, Germany, the USA, and the EU. Three institutions are involved in the legislative process: the Upper House,  $U$ , the Lower House,  $L$ , and the executive,  $E$ . In the bicameral legislature, the Upper House represents the different states that form the union; the Lower House represents the people. The executive may be a body that is directly elected or appointed by the Upper House and/or the Lower House. It proposes policies and implements the decisions of the two Houses.

I present a one-dimensional spatial model with policy space  $P \subseteq \mathbb{R}$ .<sup>2</sup> That is, I study policy-making on a given issue and assume that alternative policies on that issue can be represented as points on a line. The members of the Upper and Lower Houses and the executive have Euclidean preferences over policies. The executive is represented as a unitary actor. The underlying assumption is that the executive consists of a single individual, or that it is a political body that uses simple majority rule and has no restrictions on amendments that can be proposed within it. In the latter case the executive is represented by the ideal policy of its median member. The Lower House is also represented as a unitary actor. The Upper House is not represented as a unitary actor, because we assume that it uses a supermajority rule, as is the case in many federal systems. As a result, there are two pivotal members in the Upper House: members  $U_1$  and  $U_2$ . Member  $U_1$  is pivotal for a move to the right, whereas the support of member  $U_2$ , who is right of member  $U_1$ , is required for a move to the left. There are thus four actors in the model: the executive,  $E$ , the Lower House,  $L$ , and the two pivotal players,  $U_1$  and  $U_2$ , in the Upper House.

The legislative process is shown in Figure 1. First the executive proposes a policy. The Upper and Lower Houses then have an opportunity to amend the proposal. For simplicity I assume that the Lower House proposes the amendment and that it needs the approval of a supermajority in the Upper House. Finally both Houses vote on the (amended) proposal. The proposal needs the approval of a simple majority in the Lower House and a supermajority in the Upper House for adoption. If the proposal fails to garner this support, the status quo prevails.

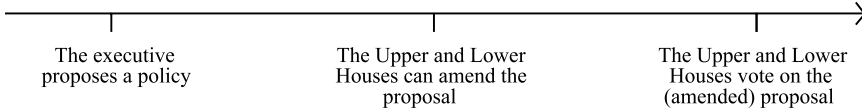


Figure 1 The legislative process.

I assume that the actors have complete and perfect information. That is, they know each other's preferences, the impact of policies, the structure of the legislative process, and the actions that have been taken in earlier stages of the process. An equilibrium consists of a strategy for each actor. A strategy tells an actor what actions to choose at the relevant stages of the process, given the actions chosen in earlier stages. I look for a subgame-perfect Nash equilibrium, in which the actors can do no better by changing their strategies at any stage during the process, given the strategies of the other actors, even if an actor deviated from his or her strategy in an earlier stage.

What policy does the executive propose in this model? When contemplating what proposal to formulate, the executive thinks ahead and considers what proposals will get adopted. Successful proposals require the approval of the Lower House and of a supermajority in the Upper House in the last stage of the legislative process. The Lower House approves the proposals it prefers to the status quo. Similarly, the pivotal member in the Upper House approves the proposals it prefers to the status quo.

Figure 2 illustrates the legislative process for a given configuration of ideal policies and a given location of the status quo. In Figure 2 the status quo,  $SQ$ , is located left of the ideal policies of the executive, the Lower House, and the pivotal members of the Upper House. The Lower House approves the policies in its acceptance set, which is the set of policies that are closer to its ideal policy than is the status quo. Similarly, the pivotal member  $U_1$  of the Upper House approves the policies that are in her acceptance set.

Suppose the executive's proposal is indeed preferred to the status quo by the Lower House and a supermajority in the Upper House. Such a proposal does not necessarily make it through the legislative process. In the second stage of the process the Lower House can file an amendment. The amendment is adopted if a supermajority in the Upper House approves it. The pivotal member in the Upper House approves it if she prefers it to the proposal. The Lower House proposes only amendments that it prefers to the proposal. In particular, the Lower House proposes as an amendment the policy it prefers most from among the policies that are preferred to the proposal by the Lower House and the pivotal member in the Upper House.

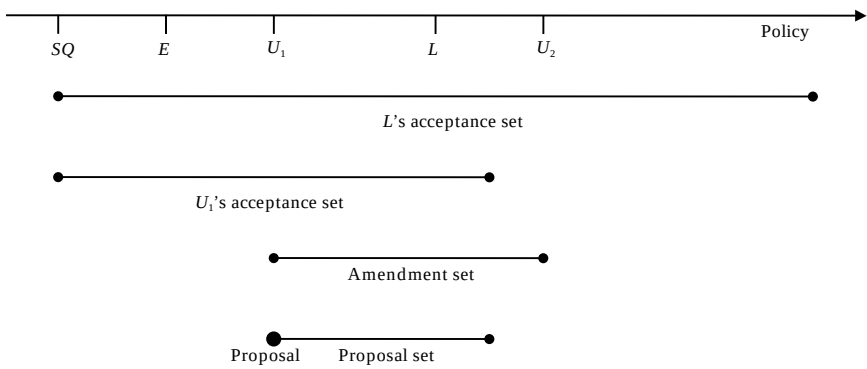


Figure 2 An example.

The proposal cannot be amended if no policy is preferred to it by the Lower House and the pivotal member in the Upper House.

In Figure 2, only policies in the amendment set cannot be amended. Policies to the left of member  $U_1$  are amended, because both the Lower House and Upper House member  $U_1$ , who is pivotal for a rightward move, want to move right. Similarly, policies to the right of member  $U_2$  would be amended because both the Lower House and Upper House member  $U_2$ , who is pivotal for a leftward move, want to move left. Whatever the executive's proposal is, the Lower House's amendment belongs to the amendment set. The Lower House proposes its ideal policy as an amendment if the pivotal member prefers it to the proposal. Otherwise it proposes a policy between the pivotal member's ideal policy and its own ideal policy, just close enough to the pivotal member to get her approval.

A policy can thus be adopted if it belongs to the proposal set of policies that satisfy the following two requirements: (1) they are preferred to the status quo by the Lower House and the pivotal member in the Upper House; and (2) no policy is preferred to them by the Lower House and the pivotal member in the Upper House. In Figure 2, policies left of the proposal set cannot be adopted because member  $U_1$  and the Lower House want to move right. Policies right of the proposal set cannot be adopted because member  $U_1$  prefers the status quo.

In the first stage of the legislative process, the executive proposes the policy it prefers most from among the policies that can be adopted. The executive considers the proposal set and proposes the policy in the set that is closest to its ideal policy. In Figure 2, the executive proposes the ideal policy of the pivotal member  $U_1$ .

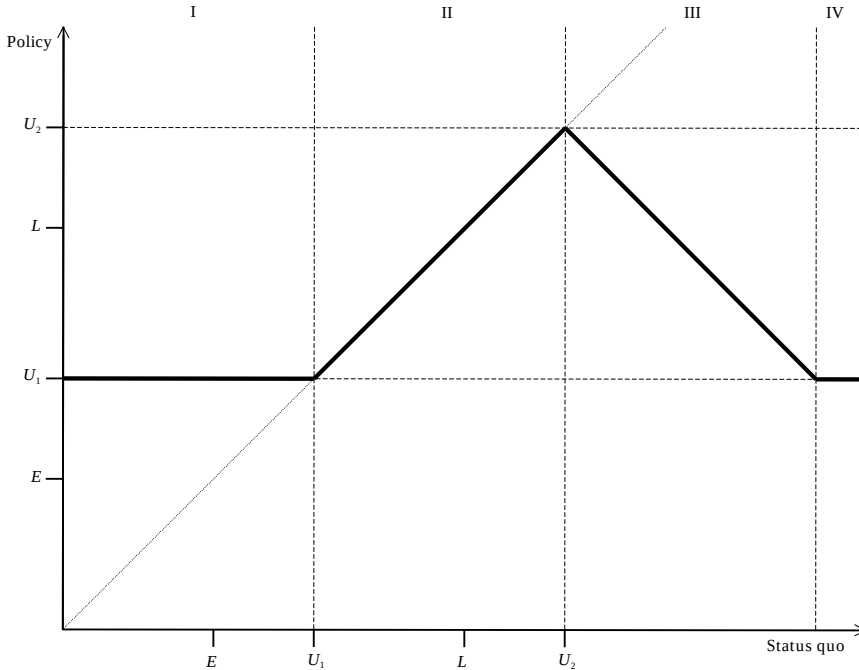


Figure 3 Policy-making under a relatively extreme executive.

The bold line in Figure 3 shows the executive's proposal for different locations of the status quo. The executive is located left of the Lower House and the pivotal members of the Upper House, as in Figure 2. Four different situations can be distinguished.

- I If the status quo is left of the pivotal member  $U_1$ , the executive successfully proposes member  $U_1$ 's ideal policy. Proposals left of it would be amended.
- II If the status quo is between the ideal policies of the two pivotal members in the Upper House, the executive proposes the status quo, because the Upper House cannot approve any other policy by the required supermajority.
- III If the status quo is just right of member  $U_2$ , the Lower House and the pivotal member  $U_2$  both want to move left. The executive successfully proposes the policy that makes member  $U_2$  indifferent.
- IV If the status quo is far to the right of member  $U_2$ , the executive can successfully propose member  $U_1$ 's ideal policy. Proposals left of it would once again be amended.

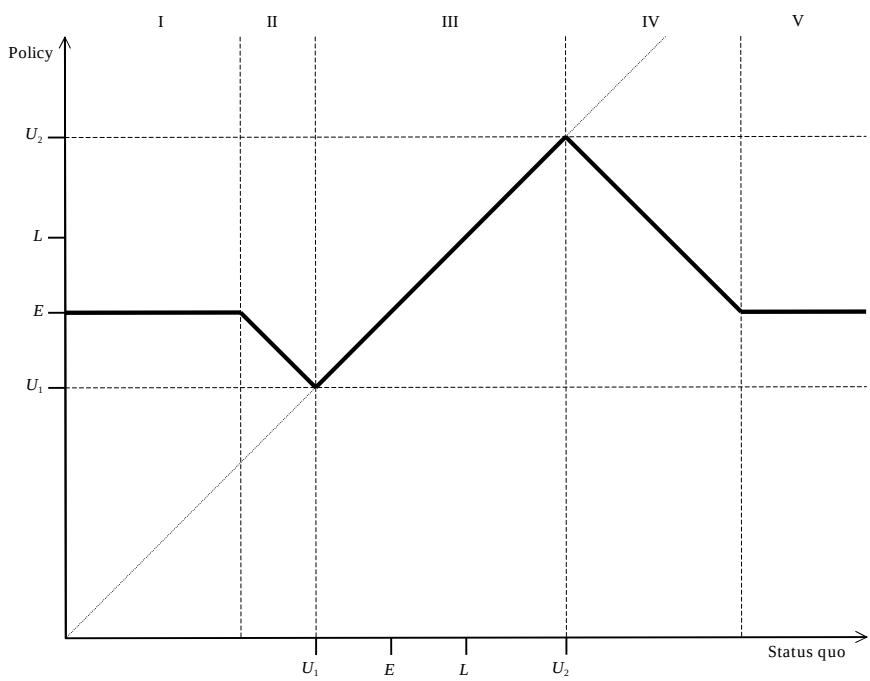


Figure 4 Policy-making under a relatively moderate executive.

The bold line in Figure 4 shows the executive’s proposal as a function of the status quo for a more moderate executive relative to the pivotal members in the Upper House.

The model presented in this subsection studies what policy emerges from a political system that consists of an executive and two legislative chambers, one of which uses a supermajority rule. In this system the executive proposes policies that need the approval of both chambers for adoption. The two chambers can together amend the executive’s proposals. The model shows that, in such political systems, policies end up between the ideal policies of the pivotal members in the two chambers, and they are closer to the ideal policies of these pivotal members than is the status quo.

### Policy-making in the EU

The model presented in the previous subsection can easily be applied to EU policy-making. The Parliament and the Council constitute the two principal legislative bodies. EU voters directly elect the Parliament, and the member countries are represented in the Council. The Commission is the EU’s

executive and has monopoly proposal power. It is appointed by the Parliament and the Council. The Commission and the Parliament use simple majority rule and, even though it can be argued that they have become increasingly partisan, their respective medians can still be expected to determine policy.<sup>3</sup> The Council uses supermajority rule. In particular, most legislation requires a qualified majority in the Council for adoption. A qualified majority currently consists of 62 out of 87 votes. The Nice Treaty re-weights the countries' vote shares to prepare for enlargement. After enlargement to 27 countries and ratification of the Nice Treaty, a qualified majority will consist of 255 out of 345 votes and a majority of the member countries, representing at least 62% of the EU population.<sup>4</sup> Most important EU legislation is passed under the co-decision procedure.<sup>5</sup> Under that procedure, Commission proposals need the approval of the Council and the Parliament, and the Council and the Parliament can together amend them.

What does the model teach us about EU legislation passed under co-decision? It shows that the EU policy emerging from this legislative process satisfies two conditions. First, it is preferred to the status quo by the Parliament and a qualified majority in the Council. It belongs to the acceptance sets of the Parliament and the pivotal member in the Council. Second, it is such that the Parliament and a qualified majority in the Council cannot amend it. It is located between the ideal policies of the Parliament and the pivotal countries in the Council; it belongs to the amendment set. The Commission chooses the policy it prefers most from among the policies that satisfy these two conditions.

Figure 2 shows us that, if the Commission wants to move right and the Parliament and the pivotal member countries in the Council all want to move further right, the Commission successfully proposes the smallest rightward move that will not be amended. In Figure 2, this is the ideal policy of the country that is pivotal for a rightward move.

What does this teach us about the democratic deficit in the EU? The EU has a bicameral legislature, and an executive appointed by the two chambers of the legislature. EU policies are chosen by the executive, they are preferred to the status quo by the two chambers, and they lie between the ideal policies of the pivotal actors in the two chambers. This is not an unusual institutional arrangement and by no means one that is inherently undemocratic. There are two chambers, elected directly or indirectly, and EU policy ends up between what the two chambers want.

If there is a democratic deficit in the EU that is significantly larger than in other political systems, if EU policy tends to be far away from the EU median voter, it is therefore not a result of the basic institutional setup of the EU, nor is it a consequence of the legislative procedure the institutions use. There may, however, be an element in the specific design of the institutions,

in the allocation of seats across member countries, that results in undemocratic policies. If the EU institutions were all directly elected by EU voters and each vote had equal weight, the ideal policies of the pivotal actors could be expected to be close to the EU median voter, even though multiple issues usually play a role in elections and elected officials may not be close to voters on issues considered as less important. Only the Parliament is directly elected, however, and its elections are often fought on national issues. Moreover, smaller countries are overrepresented in it. As a result, a simple majority of MEPs of smaller countries represents fewer voters than a majority consisting of MEPs of larger countries. So, even the Parliament's ideal policy may be some distance away from the EU median.

How far away can EU institutions be from the median voter? And how far away can EU policy be from the median?<sup>6</sup> If MEPs were to vote along country lines, which they rarely do, and the MEPs of the smaller countries were to form a majority, they could represent as few as 40% of EU voters. After enlargement and the Nice Treaty, they could represent only 38%.<sup>7</sup> Conversely, a coalition of the MEPs of the larger countries may need to represent as many as 60% of EU voters to pass EU legislation, and as many as 62% after enlargement and the Nice Treaty.

The smaller countries are also overrepresented in the Council and to a larger extent than in the Parliament. The qualified majority rule makes it harder for the smaller countries to form a coalition and pass legislation though. In the Council, a coalition of the smaller countries needs to represent at least 58% of EU voters to pass legislation. This percentage is set to increase to 62% after enlargement and the Nice Treaty. A coalition of the larger countries may need to represent as many as 88% of EU voters.<sup>8</sup> This percentage will remain unaltered after enlargement and the Nice Treaty.

The Commission consists of two members of each of the 5 largest countries and one member of each of the other 10 countries. A majority consisting of the Commissioners of the smaller countries needs to represent at least 26% of EU voters to propose legislation.<sup>9</sup> The representatives of the larger countries may need to represent as many as 83% of EU voters. The Nice Treaty limits the number of Commissioners to one per country. After enlargement, Commissioners representing as few as 12% of EU voters may then propose legislation, although in other circumstances Commissioners representing as many as 90% of voters may be required.

This analysis shows that EU policy cannot be moved away from the median voter, since countries representing at least 58% of EU voters need to support a proposal for adoption. Passing legislation after enlargement and Nice will require the support of countries representing even more voters: 62%. EU institutions can, however, prevent EU policy from moving toward the

median. Countries representing as many as 88% of voters may be required to pass legislation. Countries representing as few as 12% of voters may thus block legislation. Moreover, in the Commission—the monopoly proposer—members representing as few as 26% of voters may determine the proposal. After enlargement and the Nice Treaty, Commissioners representing as few as 12% of voters may determine it. These percentages seem low and may raise concerns that EU policy might in some instances not reflect voter preferences. In the next subsection, I compare the EU institutions with the political institutions of the USA in this respect.

### **A comparison with the USA**

The model presented above can also be applied to policy-making in the USA. The US Congress consists of the Senate, in which each state has two directly elected members, and the House of Representatives, in which seats are allocated to states based on population. Members of the House are also directly elected. The approval of both chambers is required to pass legislation. The House uses simple majority rule, whereas in the Senate the support of 60 of the 100 senators is required to close the debate and proceed to a vote. If the House and the Senate pass different versions of a bill, they can work out a compromise in a conference committee. The executive is formed by the President, who can propose legislation.<sup>10</sup>

How far away can US policy be from the median voter? House seats are allocated based on population. So the House median can be expected to be close to the median voter. In the current 107th Congress, a majority in the House represents at least 49% of the voters, and House members need to represent at most 51% to form a majority. In the Senate, a majority of 60 senators may represent as few as 24% of the voters, although it may have to represent as many as 90%. The President may be elected by states representing as few as 43% of the voters, although he or she may need the support of states representing as many as 57% of the voters.

This analysis shows that US policy may thus be moved away from the median voter, but only slightly, since House members representing 49% of voters may suffice to move policy. In the EU, policy cannot be moved away from the median. In the USA, Senators representing as many as 90% of the voters may be needed to pass legislation. As few as 10% of the voters can thus prevent policy from moving toward the median. This is slightly fewer than the 12% of voters in the EU. In the USA, a President representing as few as 43% may propose legislation, whereas, in the EU, the Commission may do so and represent as few as 26% of voters, and only 12% after enlargement and the Nice Treaty.

Thus the basic structure and the specific composition of the EU institutions are not inherently less democratic than the US political institutions, with the exception of the Commission, the monopoly proposer of legislation. EU policy cannot be moved away from the median and the percentage of voters required to block legislation can be just about as small as in the USA. If the EU is less democratic than the USA, the reasons thus lie elsewhere.

To find other reasons, I briefly look at the EU political process itself and raise the issues of transparency and delegation, which I have already mentioned above. Are voters in a position to observe whether politicians represent them adequately in the legislative process? The answer seems to be negative: the legislative process is simply too secretive. Commission and Council meetings, for example, are closed to the public. As a result, members can blame unpopular decisions on their colleagues from other member countries, and they often do. The voters have few opportunities to check their claims. During the 1990s, for example, politicians in several EU countries referred to the Maastricht criteria for monetary union to explain their restrictive fiscal policies, thus avoiding the need to clarify the inherent merits of sound fiscal policies.

Another element that contributes to the lack of information people have about the EU legislative process, and what transpires in it, is that there are too many steps of delegation. Each step of delegation comes with imperfect monitoring and discretion. The Parliament is directly elected. So it involves only one step of delegation. The Council, however, consists of national government ministers. Thus, it involves at least two steps of delegation: voters delegate responsibilities to the members of the national parliaments, and these in turn delegate powers to national government ministers, who also become the national representatives in the Council. The Commission involves at least three steps of delegation: Commissioners are appointed by the national governments. The Parliament now also plays a role in the appointment of the Commission, but the national governments still dominate the appointment process.

If there is a democratic deficit in the EU, it may thus result from a lack of transparency and an excess of delegation, rather than from the basic institutional setup or the allocation of votes and seats in the institutions across countries.

### **What can we do about it?**

The institutional setup of the EU is not fundamentally undemocratic. A system consisting of a bicameral legislature and an executive can function

democratically. Issues on which the debate about the democratic deficit has often focused in recent years, such as the precise composition of the institutions and the decision rule used in the Council, are interesting and important, but they do not fundamentally touch the institutional setup.

The discussions between proponents of a Europe of nation-states and a federal Europe are more fundamental. They are intellectually very interesting, but they do not provide the key to the reduction of the democratic deficit, for two reasons.

- 1 Essentially, what both camps want is to give one of the two chambers a more dominant role in the legislative process. Euro-skeptics want to concentrate powers in the hands of the nation-states and thus want the Council to play a more important role. Euro-federalists want a more important role for the Parliament. There seems to be nothing inherently undemocratic with either system. Both a Europe of nation-states and a federal Europe could function democratically. Whether they indeed do function democratically depends on other elements.
- 2 The debate is not likely to be solved any time soon. It has been around since the creation of the first EU institutions in the 1950s. Even at that time there were tensions between the two camps and they have remained over the years. At each major round of institutional reforms, the debate has resurfaced and provisions have been made to appease both the Euro-skeptics and the Euro-federalists. The Maastricht Treaty, for example, introduced a new legislative procedure that gave more powers to the Parliament, but it kept foreign and security policy and home and justice affairs largely out of the Parliament's reach. However interesting the debate thus may be, it is not going to be concluded and reduce the democratic deficit.

I concluded above that the problem of the democratic deficit may rest on a lack of information and an excess of delegation. This suggests that the EU could enhance its democratic legitimacy by improving the functioning of its institutions, consistent with the argument made by Sánchez-Cuenca (2000). What can be done to reduce the democratic deficit without fundamentally affecting the institutional setup of the EU? I suggest two elements that could contribute to a solution. These suggestions have been made before by others and are currently under discussion at the Convention.

- 1 Open Council meetings could contribute to a better understanding of the legislative process and would allow the voters to monitor it better. The argument that Council meetings involve negotiations between countries,

and therefore do not lend themselves to be held in the open, does not seem to be substantive.

- 2 As far as the excessive delegation is concerned, this seems to be most problematic in the case of the Commission. Commission decision-making involves at least three steps of delegation. Moreover, the Commission can be relatively far away from the median voter, as shown above. A different procedure for the appointment of the Commission could solve these problems. I suggest two possible procedures:
  - The first solution resembles the US model for selection of the executive. It consists of the direct election of the Commission president. The other Commissioners can then be nominated by the president and can be made subject to confirmation by the Council.
  - The second solution resembles the parliamentary model for selection of the executive. It consists of the appointment of the Commission by the Parliament.

These two possible solutions do not alter the institutions' powers in the legislative process and in that sense do not render the EU institutional setup more or less supranational. The Commission already exists and its powers are not increased under either solution. What changes is its appointment process. Such a change is long overdue: the origins of the Commission go back to the creation of the European Coal and Steel Community in the early 1950s and reflect the rather paternalistic views of the mainstream political parties at that time.

The solutions imply that the Council loses control of the Commission appointment process, and in that sense they constitute a move away from the intergovernmental philosophy. For that reason it is unlikely that the Council would agree to these reforms, however minor. The loss of Council influence resulting from such changes could, however, be compensated for by giving not only the Commission but also the Council, and possibly the Parliament, the right to initiate legislation. At the moment, only the Commission can initiate legislation, which gives it substantial powers in the EU. To my knowledge, the EU is unique in having a political system in which the legislature cannot propose legislation. The Commission could then in turn be given veto powers to make up for the loss of its monopoly proposal powers.

The alternative to the two solutions is the current situation. The Commission plays an important role in the legislative process. Some of the member countries do not like that, and they want to concentrate more power in the Council. So they appoint weak Commissions: the Santer Commission, and, to a lesser extent, the Prodi Commission. At the same time, the Commission's powers are gradually being reduced. The Parliament's gain in

powers over the past decade has occurred at the expense of the Commission rather than at the expense of the Council. Under the co-decision procedure, the Parliament and the Council can amend Commission proposals relatively easily.

## Conclusions

This paper presents a formal model of EU policy-making and shows that the institutional setup of the EU is not fundamentally undemocratic. It consists of a bicameral legislature – one component of which (the Parliament) represents the people, while the other (the Council) represents the states – and an executive (the Commission). Such a system can work well and lead to democratic policies, whether it is essentially federal or based on nation-states, and whether the Parliament or the Council is more powerful. EU enlargement and the Nice Treaty do not alter these conclusions.

I find that the democratic deficit is, in the first place, a problem of lack of information and excess of delegation. Open Council meetings and a different selection of the Commission could go a long way in rendering the EU institutions more accountable. Institutional reforms are hard to achieve, however, if they upset the EU's institutional balance, and particularly if they reduce the Council's powers, because the Council decides on treaty changes. Since the Council currently also plays the leading role in the appointment of the Commission, altering the Commission selection process may prove to be especially difficult. The Council might agree on a different procedure if a reduced role for the Council were compensated for by an increase in its powers in other areas. The Council could, for example, be granted the right to propose legislation in exchange for accepting a directly elected Commission or a Commission appointed by Parliament.

My analysis complements earlier work on the democratic deficit, because I focus on the output of the legislative process, whereas most of the literature studies the process itself. I conclude that EU policies are not fundamentally undemocratic, but that the way the process itself is conducted may give rise to a democratic deficit. Furthermore, I would argue that the EU is able to pursue its policies in spite of a lack of democratic accountability in the legislative process, precisely because the policies themselves are not undemocratic.

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## Notes

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- 1 For more academic references to the democratic deficit see, for example, Crombez et al. (2000), Hix (1999), and Tsebelis (1997).
- 2 See Crombez (1996, 1997, 2001b), Steunenberg (1994), and Tsebelis and Garrett (2000), for example, for spatial models of EU policy-making.
- 3 If partisanship drives the Commission and the Parliament away from their medians, the median members of their ‘majorities’ can be expected to get their way. The Commission and the Parliament could then be represented as unitary actors with ideal policies equal to the ideal policies of their majorities’ medians.
- 4 France, Germany, Italy, and the United Kingdom currently each have 10 votes in the Council; Spain 8; Belgium, Greece, the Netherlands, and Portugal 5 each; Austria and Sweden 4 each; Denmark, Finland, and Ireland 3 each; and Luxembourg 2. After enlargement and ratification of the Nice Treaty, France, Germany, Italy, and the United Kingdom will each have 29 votes; Spain and Poland 27 each; Romania 14; the Netherlands 13; Belgium, the Czech Republic, Greece, Hungary, and Portugal 12 each; Austria, Bulgaria, and Sweden 10 each; Denmark, Finland, Ireland, Lithuania, and Slovakia 7 each; Cyprus, Estonia, Latvia, Luxembourg, and Slovenia 4 each; and Malta 3.
- 5 A substantial part of EU legislation is passed under the consultation procedure, however. Under this procedure the Commission proposes, the Parliament issues non-binding opinions, and the Council decides. Because of the intergovernmental character of consultation and the closed nature of Commission and Council meetings, legislation passed under consultation may suffer from a significant ‘democratic deficit.’ I focus on co-decision, however, because it applies to most important legislation.
- 6 It would be better to study how far away from the median EU policy can be expected to be, rather than to study what the maximum distance is. Answering that question requires probability estimates of the locations of institutions, but such an analysis is beyond the scope of this paper.
- 7 Such a coalition would require the support of the MEPs of Luxembourg, Ireland, Finland, Denmark, Austria, Sweden, Portugal, Belgium, Greece, the Netherlands, and Spain and 48 MEPs from Italy. In this paper, I assume that the percentage of the voters a politician represents is equal to the percentage of the population he or she represents. After enlargement and the Nice Treaty, the MEPs of Poland and all smaller countries would constitute such a coalition.
- 8 A coalition of the ‘smaller’ countries would consist of Luxembourg, Ireland, Finland, Denmark, Austria, Sweden, Portugal, Belgium, Greece, Spain, Italy, and France. The votes of the Netherlands are not needed in this coalition. A coalition of the ‘larger’ countries would comprise Germany, the United Kingdom, France, and Italy.

- 9 Such a coalition would require the support of the Commissioners of Luxembourg, Ireland, Finland, Denmark, Austria, Sweden, Portugal, Belgium, Greece, and the Netherlands, and one of the Spanish Commissioners. In theory, Commissioners do not represent their countries though.
- 10 The President has no formal agenda-setting powers, however. He or she can veto legislation passed by the Congress, but the House and the Senate can override a presidential veto with two-thirds majorities. This does not affect the conclusions, however.

## References

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- CEC (2001) Press Release IP/01/1742, Commission of the European Communities, 5 December.
- Clark, William, Matt Golder, and Sona Nadenichek Golder (2002) 'Fiscal Policy and the Democratic Process in the European Union', *European Union Politics* 3: 205–30.
- Crombez, Christophe (1996) 'Legislative Procedures in the European Community', *British Journal of Political Science* 26: 199–228.
- Crombez, Christophe (1997) 'The Codecision Procedure in the European Union', *Legislative Studies Quarterly* 22: 97–119.
- Crombez, Christophe (2001a) 'Democracy in the European Union', Working Paper.
- Crombez, Christophe. (2001b) 'The Treaty of Amsterdam and the Codecision Procedure', in Gerald Schneider and Mark Aspinwall (eds) *The Rules of Integration: Institutional Approaches to the Study of Europe*, pp. 101–22. Manchester: Manchester University Press.
- Crombez, Christophe, Bernard Steunenberg, and Richard Corbett (2000) 'Understanding the EU Legislative Process: Political Scientists' and Practitioners' Perspectives', *European Union Politics* 1(3): 363–81.
- Dehaene, Jean-Luc, David Simon, and Richard von Weizsäcker (1999) *The Institutional Implications of Enlargement. Report to the European Commission*. Brussels, 18 October.
- Hix, Simon (1999) *The Political System of the European Union*. London: Macmillan.
- Powell, G. Bingham, Jr. (2000) *Elections as Instruments of Democracy: Majoritarian and Proportional Visions*. New Haven, CT: Yale University Press.
- Sánchez-Cuenca, Ignacio (2000) 'The Political Basis of Support for European Integration', *European Union Politics* 1(2): 147–71.
- Scharpf, Fritz (1999) *Governing in Europe: Effective and Democratic?* Oxford: Oxford University Press.
- Steunenberg, Bernard (1994) 'Decision Making under Different Institutional Arrangements: Legislation by the European Community', *Journal of Institutional and Theoretical Economics* 150: 642–69.
- The Economist* (2000) 'The Public Uninterest', London, 9 September, p. 59.
- Tsebelis, George (1997) 'Maastricht and the Democratic Deficit', *Aussenwirtschaft* 52: 29–56.

- Tsebelis, George and Geoffrey Garrett (2000) 'Legislative Politics in the European Union', *European Union Politics* 1(1): 9–36.
- Weiler, Joseph (1996) 'European Democracy and Its Critique', *West European Politics* 18: 4–39.

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