How is Democracy Applied within the EU: Combining Elements of Traditional and Innovative Democratic Practice

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Summary

The EU represents a new and complex political system which, according to numerous social scholars, suffers from the so-called democratic deficit. The basic argument behind this claim is that citizens lack control of the EU because, within its political system, national parliaments of member states possess only limited powers which have not been adequately compensated through steady empowerment of the European parliament (EP). Starting from this notion, the paper will explore the application of various concepts of democracy within the political system of the EU. First and foremost, it will analyse representative democracy in the EU, which stands as a foundation of all contemporary democratic systems. However, the paper will not stop at representative democracy, but it will also look at participatory, direct and deliberative democracy as applied within the political system of the EU. These concepts of democracy can only be viewed in relation and as an addition to representative democracy, but their application is very important for the EU due to limited possibilities for developing representative democracy at the supranational level. The paper will argue that, with regard to participatory and deliberative democracy, the EU can be viewed in many respects as a showcase for the national level, because it successfully developed various mechanisms related to implementation of these concepts. Particular attention will be paid to the Lisbon Treaty, which clarified many uncertainties that previously burdened the application of democracy within the EU. It will be argued that with the Lisbon Treaty the classic argument about the EU's democratic deficit lost some of its appeal, because this treaty transformed the EP from secondary to equal participant in the EU's legislative process.

Keywords: European Union, Lisbon Treaty, representative democracy, participatory democracy, direct democracy, deliberative democracy

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Introduction

The EU represents an extremely complex political system with no fixed representatives, no government and opposition, no hierarchy of norms, and with continuously changing rules of the game, which makes it difficult to define, analyse or evaluate (de Sousa /Moury, 2009: 4). For Jo Shaw, the EU is a "polity-in-the-making", because its democracy remains both a conceptual problem and a practical challenge, requiring multilevel and multi-actor solutions that are "beyond the state", and perhaps also beyond the conventions of western-style representative liberal democracy (Shaw, 2000: 291). However, even if we accept that the EU represents a "polity-in--the-making" and an entity "beyond the state", it can never be absolved from comparisons with the nation state because, apart from the nation state, we simply do not have anything else to measure democracy with. The inevitability of comparing the EU with the nation state will be taken as a framework for the analysis in this article. Theoretically, this approach is much in line with Simon Hix's conception of the EU's institutional structure being more similar to the modern nation state then to an international organisation, which makes it prone to be researched by using methods traditionally developed for researching nation states (Hix, 2006: 334).

The purpose of this article is to analyze how democracy is applied within the political system of the EU. The analysis is to show that, despite being a "polity-in--the-making", the EU managed to develop both the representative concept of democracy – cornerstone of all contemporary democratic systems – as well as its supplemental concepts of participatory, direct and deliberative democracy (Holzhacker, 2007: 261). The development of democratic concepts as such does not remove the claim about the EU's democratic deficit due primarily to shortcomings of representative democracy at the supranational level. Namely, as pointed by Peter Mair, the scope for meaningful input and, hence, for effective electoral accountability is very limited, and the EU appears to have been constructed as a safeguarded sphere, protected from the demands of voters and their representatives (Mair, 2005: 9). However, the situation somewhat improved with the coming to force of the Lisbon Treaty, which strengthened the EP. Still, the question how the EU can improve its democratic legitimacy remains unanswered, and the aim of this article is to seek answers to this problem.

Representative Democracy

Representative democracy is founded on powerful normative ideas such as delegation, conditionality and equality. Although there is a wide range of institutional models of representative democracy, in the centre of all of them is the institution of parliament, as an institution to which the people acting as political equals in elections delegate political power on a conditional basis. Therefore, parliaments can

claim to represent the people and to effectively embody popular sovereignty (Crum, 2005: 455). The concept of representative democracy is tightly connected with the nation state phenomenon, and the difficulty in transposing representative democracy to the EU level stems from the fact that the EU is not a state and will probably never become one. As pointed by Richard Bellamy and Alex Warleigh, the democratic legitimacy within the EU cannot be obtained by modelling its institutions on those of the nation state, because the scale is wrong, the institutions are wrong, and the demos is wrong (Mair, 2005).[1] Still, when thinking about representative democracy, there is no escaping constant comparison with realities bound with the nation state because, from a historic perspective, the idea of democratic representation has been implemented in practice only within that framework.

Institutions through which the concept of representative democracy has been transposed at the EU level are primarily the EP and the national parliaments of the member states. Starting with the EP, it must be emphasized that, as an institution bearing direct democratic legitimacy from the European citizens, in the past 20 years its powers have been gradually enhanced more then those on any other EU institution. However, powers of the EP still look weak when compared with those given to parliaments at the national level. The EP is not divided into position and opposition, there is no government that depends upon its support, it does not have the right to initiate new legislation, and most importantly, unlike the national parliaments, the EP is not the only institution involved in the adoption of new legislative acts. These acts need to be initiated by the European Commission, and later on adopted by the Council of Ministers and the EP. The complex institutional structure of its legislative branch motivated Alex Warleigh to conceptualise the EU as traditional bicameral legislature, while, in the same line of argument, Ludger Helms argues that the EP represents an institutional embodiment of parliamentary opposition at the EU level (Warleigh, 2001: 85; Helms, 2008: 215).

An additional weakness of the EP when compared with parliaments at the national level is the relatively underdeveloped party cohesion of its multinational party groups. Despite the established system of party whips, party coordinators and the institutionalised opportunity to expel a member from the party group, direct control of the party groups over their members remains comparatively weak (Helms, 2008: 221). One of the biggest obstacles in achieving EP party group cohesion has to do with the MEPs nomination procedures, which fall under the jurisdiction of the national parties and not of the EP party groups or the Europarties. Furthermore, the comparative institutional weakness of the EP has to do with diminished possibilities for making party politics, because in numerous areas where creation of an EP

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[1] Mair (2005) cites Bellamy/Warleigh (2001: 10).

position has to be reached by the absolute majority of the MEPs votes, two major EP groups have been constrained at finding common positions.

Although it cannot be disputed that the legislative competences of the EP still do not match those given to the national parliaments, the Lisbon Treaty in particular enhanced the EP's importance through various changes that were brought to decision-making processes. First of all, it proclaimed the co-decision procedure, whereby the EP and the Council of Ministers equally share their legislative powers, as the ordinary legislative procedure (TEU, Article 34). This means that, as a rule, the Council of Ministers needs to work with the EP as equal legislator in producing European legislation. Secondly, by abolishing the pillar structure of the EU and submitting the area of judiciary and police cooperation to the legislative process known as the community method, the scope of the EP jurisdiction has been enhanced. Therefore, the Common Foreign and Security Policy remains largely isolated as the area where the EU makes decisions based on the methods of international cooperation.

The integration-related loss of powers of the member states' national parliaments has long been designated as one of the main causes of the perceived EU's democratic deficit. Namely, it has been observed that in the process of European integration democratic institutions of the national parliaments lost powers which were insufficiently compensated by the powers of representative institutions at the European level (Crum, 2005: 454). Through different phases of the integration process, national parliaments used their right to question decisions of the members of their governments in the EU institutions. However, in practice the level of control and coordination between national parliaments and national representatives in the Council of Ministers and the European Council varied greatly from one member state to the other (Auel/Benz, 2007: 64). Furthermore, even in the most promising cases of cooperation between national parliaments and national representatives in the EU institutions, international cooperation as such tends to compromise parliamentary control. While parliaments normally have the possibility to enter into negotiations over the terms of the legislation proposed and to decide on amendments to it, when it comes to international agreements, their options are very limited (Crum, 2005: 458). Finally, when dealing with control of international cooperation, all national parliaments are faced with the so-called "efficiency-responsibility" dilemma, which implies that too great of a restriction imposed on representatives of national governments narrows down the manoeuvring space which is needed during negotiations with governments of other countries (Auel/Benz, 2007: 70).

The national parliaments of the member states represent an integral part of the EU political system. They usually ratify new treaties, but they also provide a source of legitimacy for members of the Council of Ministers and the European Commis-

sion. Still, the role of national parliaments has not been sufficiently clarified in the treaties which preceded the Lisbon Treaty. One of the greatest achievements of the Lisbon Treaty is the strengthening of the role of national parliaments in the European legislative process. According to Article 12 of TEU, the EU institutions have been obliged to: forward draft legislative acts to the national parliaments, notify the national parliaments about applications for accession to the Union, include national parliaments in inter-parliamentary cooperation with the EP, include national parliaments in some procedures within the framework of the area of freedom, security and justice, and include national parliaments in the revision procedures of the founding treaties. Furthermore, according to the Protocol on Subsidiarity and Proportionality attached to the Lisbon Treaty, with one third of the votes allocated to the national parliaments, during a period of six weeks they will be able to register their objections against any European legislation in progress which in their view breaches the principle of subsidiarity.

Applying the representative concept of democracy in the EU does not stop with the EP and the national parliaments, because the states are also represented by their representatives in the Council of Ministers and the European Council. According to Christopher Crombez, this indirect kind of representation is based on the legitimacy of the second level of delegation. Namely, the European citizens are represented in their national parliaments, which support the governments that represent state interests in these EU institutions (Crombez, 2000: 114). Although there are obvious problems with regard to the Council of Ministers (which is composed of ministers of the EU member states) as a genuine legislative actor, the leading legislative role of this institution cannot be denied (Helms, 2008: 214). In fact, it can be stated that the Euro-optimistic "dream" of the EU's federalization, whereby the EP's powers would gradually be enhanced to match the parliamentary powers in the national setting, has been scattered away by persistent refusal of member states to scale down the legislative competences of the Council of Ministers. In spite of strengthening the EP, the expansion of the co-decision procedure provided by the Lisbon Treaty did not jeopardise the Council's legislative role. Moreover, it can be argued that co-decision strengthened the role of the Council as well, because all legislation decided upon in the Council through co-decision has to be adopted with the qualified majority and not with unanimity, as was the case sometimes within pre co-decision procedures.

Participatory Democracy

While the idea of representative democracy in its core defends the view that direct citizen participation in policy-making processes is not essential to democracy and that citizen participation should be limited to voting for leaders and producing a

government, the theories of participatory democracy see participation as more than voting in elections (Saurugger, 2007: 386). Defenders of participatory democracy attempt to go one step further than voting and other conventional forms of democratic practice. They try to create a space for additional forms of political activity that could be helpful in returning to the basic promises of democratic life. The goal is to introduce political activism in the areas that were traditionally considered non-political domains of social life, such as working environments, households and schools (Terchek/Conte, 2001: 165). Benjamin Barber is one of the most important theoretical scholars advocating participatory democracy within his concept of "strong democracy". He notes that to participate means to create a community that governs itself, and to create a self-governing community means to participate. His theory implies transformation of the "masses" into "citizens" via education for citizenship. Such transformation should ultimately result in popular preferences becoming a principal factor in the forming of government policies (Terchek/Conte, 2001: 176).[2] The popularity of ideas of participatory democracy is strongly related to contemporary tendencies in political life, where the emphasis on party politics becomes less appealing and effective, while alternative forms of decision-making, including judicialisation, expert decision-making, and reliance on non-majoritarian institutions, win greater prominence and acceptance (Mair, 2005: 25).

For Mary Kaldor and Ivan Vejvoda, there are two kinds of democracy. Firstly, there is "formal democracy", which is not primarily about active participation by citizens, but rather about providing legitimate leadership and mechanisms to choose between rival candidates for public office. Secondly, there is "substantive democracy", which gives centrality to an active civil society and widespread public participation in political life. In the case of European integration, as argued by the authors, we need to consider whether "formal democracy" is sufficient, and, if not, how best to combine it with "substantive democracy" (Kaldor/Vejvoda, 1999: 3-4). It is needless to stress that conceptions of "formal" and "substantive democracy" coincide with more widespread notions of representative and participatory democracy.

Promoters of European integration always emphasize the importance of participatory democracy for the EU. This view stems from an understanding that the development of representative democracy at the EU level will always be hindered by the size of the EU, and the inexistence of a European language community, a European demos and a united public sphere. Still, the insistence on participatory democracy and its main component – the transnational civil society – is more strategic than it seems at first. Being part of an extremely small bureaucracy, the Commission officials often lack the necessary detailed expertise and knowledge of sectoral

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[2] Terchek/Conte (2001: 176) cite Barber (1984).

practices and problems. Therefore, the fact that the Commission (and, for the same reason, the EP) promotes openness towards organized civil society is primarily due to its own limitations (Hix, 2005: 228). As a consequence, organized civil society has the opportunity to change the direction of a policy at any point in the legislative process, from pre-legislative preparation through submitting amendments during legislative adoption, even to post-adoption implementation (Hix, 2005: 237).

However, the constant interaction between organized civil society and the EU institutions is slow, opaque and unpredictable. Without a dominant executive actor, such as a president or a governing political party, to serve as the ultimate arbiter, any well-connected group of interests can block a policy initiative (Hix, 2005: 231). The absence of clear regulation seems to reinforce a situation in which groups possessing financial and social resources are privileged, whereas small associations, be they civic or small business groups, are not heard in the consultation process (Saurugger, 2007: 393). Furthermore, according to one perception, civil societies organised at the level of the EU and at the national level represent introverted circles that in most cases have only weak links to the other level. On top of that, the horizontal links between national representatives are even weaker, which creates an obstacle to building a stronger common position and identification with the organization as a whole (Tomašič/Rek, 2008: 412). Still, despite all of its minuses, some practices such as publishing pre-legislative green and white papers or regulation of lobbying activities, promote the EU as a showcase for development of participatory democracy at the national level. This is particularly true for the countries of continental Europe, especially France, where the spirit of the French Revolution still suppresses all intermediary bodies between the citizens and the state, fearing a reconstitution of the *ancient régime*'s guilds and the development of factions distorting the general will (Saurugger, 2007: 389).

The participatory concept of democracy was included in the Lisbon Treaty under the special article dealing with democratic principles (TEU, Article 11). There it is stated: that the EU institutions have obligations towards European citizens and their associations, and that they must adequately present their views in all areas of Union activities; that the EU institutions must maintain open, transparent and regular dialogue with associations and with the civil society in general, and that the Commission has the obligation to proceed with broad consultations with all interested parties in order to assure coherence and transparency of actions. Through this treaty article, the mechanisms of participatory democracy at the EU level have been given a framework through which, ultimately, the complaint about the absence of clear regulation in this area could be undermined. Furthermore, it must be emphasized that many years before the coming to power of the Lisbon Treaty, the EU started to produce different codes of conduct intended to regulate the relationship between its institutions and the organized European civil society.

Yet whatever is being done, the problem of representation remains a weak point within the whole idea of participatory democracy. According to Oliver de Schutter, the representativeness of civil society organizations remains a highly disputed concept prone to all sorts of manipulations. The question is how to measure representativeness. Is it to be measured only through quantitative criteria or through qualitative criteria as well, and if the latter is true, then through what criteria exactly (de Schutter, 2002: 209). Furthermore, due to the problem of representativeness, it is clear that the organized civil society at the EU level can contribute to higher accountability of the EU's institutions only in a specific way, less through enhancing the political engagement of citizens and linking them to political institutions than through mutual control of different societal actors that can foster greater transparency of the political process (Tomašič/Rek, 2008: 405). Keeping all these factors in mind, one must not forget that the participatory concept of democracy can only be viewed as an addition to representative democracy, and that its capacity to substitute for the weaknesses of representative democracy is therefore limited.

Direct Democracy[3]

In the reality of modern states, direct democracy represents all constitutional and other regulations through which citizens can directly decide upon and create a political agenda by voting (Kost, 2008: 10). When compared with representative democracy, direct democracy seems to incorporate much better the idea of "government by the people". Therefore, direct democracy is perceived today more as a "medicine with by-products" than as the "ambit for demagogy" (Schmidt, 2008: 350). However, it needs to be underlined that in contemporary circumstances direct democracy does not represent some independent concept of democracy, but instead a concept which is institutionally bound with representative democracy. Furthermore, direct democracy can clearly be distinguished from participatory democracy. Namely, while participatory democracy is focused on the process of public will formation and the idea of civil society, which operates also in non-political spheres, direct democracy is focused on citizens deciding directly on some specific political topics (Kost, 2008: 12). The spread of mechanisms of direct democracy among democratic states is very uneven. On the one hand, we have so-called "referendum democracies", such as Switzerland, and on the other there are democratic states where the development of direct democracy is constitutionally hindered (Schmidt, 2008: 336).

Although for the most part not included in the Lisbon Treaty, or into any previous treaty, direct democracy still plays a quite significant role within the political

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[3] The statistical data on referendums held in the member states on EU matters are primarily collected from Hug, 2002.

system of the EU. It has mostly been implemented through referendums on EU matters held by the member states according to their own constitutional requirements, although there are other mechanisms, such as a citizen's petition to the European parliament. The referendums can broadly be divided into referendums about membership in the EU, and referendums on acceptance or revision of the treaties (Hix, 2005: 196). However, when analyzing over 50 referendums held on EU matters in the past decades, the most prominent feature is their unequal distribution between member states. Statistics show that approximately one third of all referendums held on EU matters in the EU member states were held in Ireland and Denmark, which is directly connected with these countries' strict constitutional requirements.

When discussing referendums about membership in the EU, it must be underlined that there is a long list of member states which never called their citizens to the possibly most important EU-related referendum, the one about their own country's membership in the EU. Such a referendum has never been held in the six countries which founded the EU: France, Germany, Italy, Luxembourg, Belgium and the Netherlands. Furthermore, such a referendum never took place in a number of newer member states: UK, Greece, Spain, Portugal, Cyprus, Bulgaria and Romania. Finally, citizens of the former GDR have also never been asked about membership in the EU. Keeping all this in mind, it comes as a surprise that two referendums on EU matters have been held exclusively in two regions with special status within the existing member states. One such referendum was held in Greenland as part of Denmark in 1982, and the other in the Finnish Åland Islands in 1994. At the referendum held in Greenland, the citizens decided not to be part of then still EC, which automatically led to Greenland's exclusion from all rights and obligations which applied to Denmark as a member state. The negative outcome of the Greenlandic referendum resulted in the first and only example of leaving the EU.

Referendums on revision of the treaties have been implemented since 1986, when both Ireland and Denmark called their citizens to vote on the Single European Act. The results of both referendums were positive and, in the following period, these two countries called up some other referendums on new treaty revisions. Until 2005, referendums on treaty revisions followed a predictable pattern. Namely, if the result of a referendum was negative, some minimal changes were made in the new treaty and a new referendum was called up on the same matter. However, this practice had to be abandoned in 2005, when both French and Dutch citizens turned down the European Constitution. Unlike such cases in the past, both France and the Netherlands represent countries with a large number of citizens, and count among the founding states of the EU. For this reason, the Constitution had to be abandoned altogether, while its contents have been largely incorporated into the newly-formed Lisbon Treaty.

The uneven spread of referendums on EU matters among member states is a reason for concern, because it leads to a critical imbalance between different member states which, ultimately, can be viewed as an imbalance of rights between European citizens', nationals of different member states. One way of fighting the imbalance of citizens' rights within the EU political system is through promotion of instruments of direct democracy at the level of the EU as a whole. A step in that direction has been made with the so-called citizen's initiative in the Lisbon Treaty (TEU, Article 11), which stipulated that by collecting at least a million signatures from the European citizens from a "significant number of member states", citizens as such could incite the Commission to make certain legislative proposals. On the theoretical level, the idea of EU-wide referendums has been elaborated by Philippe Schmitter, who envisaged the insertion of a certain number of referendum questions on EP election lists. The content of these questions would need to be determined beforehand by the absolute majority of MEPs or by the citizens themselves through collection of the required number of signatures. According to the author, the implementation of EU-wide referendums would bring the EU closer to its citizens, and it would motivate politicians to formulate EU regulations in a way that is more understandable to an average citizen (Schmitter, 2000: 37).

On the one hand, the strong side of direct democracy, in principle, is its capacity to enable citizens to "jump over" the political class which can be ideologically blinded. On the other hand, the main shortcoming of this democratic concept lays in its openness to potentially dangerous simplifications which can pave the way for populist manipulations (Bale, 2008: 195). However, when talking about the EU, these two arguments, conceptualized from the perspective of a nation state, cannot be viewed as equal due to the complex supranational character of the EU, which greatly enhances the danger of populist manipulation with the citizens. Not only is the concept of direct democracy in its theoretical origins, which go back to Rousseau, strongly connected with small communities, but the overall lack of the citizens' knowledge about the EU also does not speak on behalf of its unrestrained implementation at that level.

To conclude, in the future it would be favorable for the development of the EU's democracy if the application of direct democracy on matters concerning it could be limited to some crucial and fundamental questions such as entering and leaving one's own country from the EU. Furthermore, it would be favorable if the application of direct democracy regarding EU matters could be regulated in treaties, not forgetting equal rights for European citizens. This of course is easier said then done, because it would probably require constitutional changes at the level of member states. However, it is worth keeping in mind, since uncritical use of referendums on EU matters can be detected as a source of more than one legitimacy crisis that captivated the development of the EU in the past decades.

Deliberative Democracy

Proponents of deliberative democracy argue that reason-giving for a particular position and deliberation between actors, beyond mere bargaining, allows normative interests and the empirical facts on which policy choices are based to be assessed and evaluated (Risse /Klein, 2007: 69). Deliberative democracy intends to enhance the legitimacy of modern governance by insisting on the creation of social and institutional conditions which enable participation of all those impacted by a certain policy, or their representatives, in the policy-making process (Ginsborg, 2008, 59). It does not coincide with some particular form of organization, but it represents a principle which stipulates what needs to be fulfilled in order for things in politics to be done fairly and justly (Eriksen/Fossum, 2000: 19). It presupposes that citizens are prepared to be moved by reasons that may conflict with their antecedent preferences and interests, and that those preferences and interests may change (Cohen, 1997: 413). Furthermore, within deliberative procedures a government's preferences are not treated as intrinsically legitimate expressions of domestic democratic processes, but must be justified against the principle of collective good (Nayer, 2006: 788). Deliberative democracy as supplemental to representative democracy can greatly contribute to the processes of democratization. It can foster the feelings of belonging to a political community and identification with a political system. It can also provide representatives with much more information about the interests, attitudes and values of the citizens than can be deduced from elections alone. Finally, deliberation can improve both the objective and subjective information available to decision-makers necessary to improve the performance of the political system (Holzhacker, 2007: 262).

According to numerous scholars, the principles of deliberative democracy, even though they are not explicitly mentioned in the treaties, are present in the ways policies are being made within the political system of the EU. That is, in a complex system of uninterrupted negotiations in a non-hierarchical setting (Eriksen, 2000: 60, Grubiša, 2005: 64). Deliberative democracy within the political system of the EU has been developed most prominently within the comitology procedure, whereby each year, in several hundred specialized committees, the Commission and various member state experts assigned by the Council of Ministers discuss the Commission's legislative proposals. During these discussions, through interaction of various actors, the originally proposed legislation often gets significantly reshaped. Besides the comitology procedure, there are other procedures which greatly reflect deliberative principles. Good examples are the "trialogues" as part of the conciliation process of the co-decision procedure. These are informal negotiations between representatives of the Commission, the Council of Ministers and the EP, which take place "behind the scenes" and often create conditions for formal acceptance of

certain legislative solutions at the formal meetings of the conciliation delegation. However, although promoting the deliberative concept of democracy, the evaluation of "trialogues" from the perspective of democratic legitimacy is not always unambiguous. Critics note that informal negotiations may increase gains in terms of efficiency, but that the goals of transparency and representation may be sacrificed in the process (Häge/Kaeding, 2007: 361).

An additional example of promoting deliberative principles at the level of the EU can be found within the framework of the so-called Open Method of Coordination (OMC) as a new intergovernmental method of governance promoted in the ambit of the EU's Lisbon Strategy. The OMC is based on voluntary cooperation of the member states in areas which fall under their competence. It rests on soft law mechanisms such as guidelines, indicators, benchmarking, sharing of best practice and peer review. As stipulated by the March 2000 European Council held in Lisbon, the OMC represents a process which can be divided into four phases (*European Council Presidency Conclusions*, 23 and 24 March 2000). The first phase encompasses fixing guidelines for the Union combined with specific timetables for achieving the goals set in the short, medium and long terms. The second phase is focused on establishing, where appropriate, quantitative and qualitative indicators and benchmarks against the best practice in the world and tailored to the needs of different member states and sectors. The third phase is about translating these European guidelines into national and regional policies by setting specific targets and adopting measures, taking into account national and regional differences. Finally, the fourth phase envisages periodic monitoring, evaluation and peer review organized as mutual learning processes. For Claudio Radaelli, the OMC as a theoretical concept possesses strong deliberative qualities, materialized through prescribed consultations with various social partners and civil society organizations (Radaelli, 2003: 25). On the negative side, however, the author notes large discrepancies between the theoretical concept and its practical application, since in practice the OMC resulted in the emergence of only "narrow deliberative forums" usually reserved for participation by the experts (Radaelli, 2003: 49).

The prevailing expert-focused deliberations within the political system of the EU motivated some authors to conclude that the EU should move from a relatively closed "exclusive" deliberation to a more "inclusive" type of deliberation, which would promote participation of a wide variety of actors (Auberger/Iskowski, 2007: 272). Much in line with such considerations is the conclusion that, while having a highly developed "coordinative" sphere of discourse between levels of government in the multi-level system, the EU has a much less developed "communicative" sphere with the broader public (Radaelli/Schmidt, 2004: 370). For Erik Oddvar Eriksen, a move in the direction of a "communicative sphere" would encourage the

EU to outgrow the currently dominant logic of "bargaining" as a focus of the deliberative process that encourages give-and-take logic, pork-barreling, log-rolling, etc. By outgrowing "bargaining", the EU could fully embrace the logic of "arguing" within its deliberative processes that is marked by a change of views and by the way the discussion helps to mould preferences and to move standpoints. In such circumstances, the author notes, when strategic rational actors change their views, it is only to strike a better bargain as they are not moved by the force of the better argument, but by the outlook of success (Eriksen, 2000: 60).

Conclusion

The Lisbon Treaty removed many uncertainties that previously burdened the democratic development of the EU. Through the coming to force of this treaty, the classic argument about the EU's democratic deficit lost some of its appeal, because it transformed the EP from secondary to equal participant in the EU's legislative process. Furthermore, the Lisbon Treaty clarified the position of the national parliaments which obtained significant control and influence powers over the EU's legislative process. However, although showing exponential growth, representative democracy in the EU will never be as developed as it is at the national level due to the inexistence of a European demos, a common language community and a public sphere. That being said, the shortfalls of the EU's democracy can to some extent be compensated through innovative democratic practice; for instance, through development of participatory, direct and deliberative democracy as concepts supplemental to the idea of representative democracy.

Proponents of the European integration process for the past 20 years have been working on building up the EU's profile with regard to participatory and deliberative democracy. It can be concluded that, despite still present difficulties, they have largely succeeded in their efforts, since in many areas related to deliberative processes and participation of civil society in policy-making, the EU has managed to set a golden standard and has become a showcase for the national democracies. The EU's experiences related to participatory and deliberative democracy are of great importance for national democracies, because the traditional hierarchic character of the national political systems often breaches the spontaneous development of these supplemental democratic concepts at the national level. The implementation of direct democracy within the EU's political system has been detected as problematic, because it is not inscribed in the treaties and as such promotes imbalances between various member states, which ultimately can be viewed as an imbalance of rights between European citizens. Furthermore, direct democracy as a concept originally set for small communities encounters various implementation difficulties related to the EU's own complexity and diversity. Therefore, in the interest of a harmoni-

ous democratic development, future implementation of direct democracy within the political system of the EU should be subjected to some limitations and regulated in the treaties.

As demonstrated, the EU combines elements of both traditional and innovative democratic practice. It is constrained to develop innovative democratic practice, materialized primarily through participatory and deliberative concepts of democracy, due primarily to limitations which it encounters in implementing representative democracy. Still, due to the fact that representative democracy stands as a cornerstone of each contemporary democratic system, its shortfalls can never be completely compensated through development of innovative democratic practice alone. From that perspective, the EU's democratic deficit represents something like a chronic condition, which gets diminished with each new treaty revision, but whose complete eradication is still not in sight. In other words, if the EU represents a "polity--in-the-making" (Shaw, 2000: 291), the criticism of its democratic legitimacy can be characterized as too harsh (Mény, 2009: 122), but not unfounded. In order for the EU to resolve problems with its democratic legitimacy, it will need to go beyond the institutional and procedural improvements analysed in this article. The steady improvements implemented in the last decades reduced some of its democratic deficit, but there is a limit on how much they can do and how far they can go. What the EU requires as the next step in its democratic development is politicisation of its complex system of policy-making in the sense of creating alternative solutions to every conceivable issue.

REFERENCES

Auberger, Tobias/Iszkowski, Krzysztof, 2007: Democratic Theory and the European Union: Focusing on "Interest" or "Reason"?, *Journal of European Integration* (29) 3: 271-284.

Auel, Katrin/Benz, Arthur, 2007: Expanding National Parliamentary Control: Does it Enhance European Democracy?, in: Kohler-Koch, Beate/Rittberger, Berthold (eds), *Debating the Democratic Legitimacy of the European Union*, Rowman & Littlefield Publishers, Plymouth: 57-75.

Bale, Tim, 2008: *European Politics: A Comparative Introduction*, Palgrave Macmillan, Houndmills.

Bellamy, Richard/Warleigh, Alex, 2001: Introduction: The Puzzle of EU Citizenship, in: Bellamy, Richard/Warleigh, Alex (eds), *Citizenship and Governance in the European Union*, Continuum, London: 3-19.

Barber, Benjamin, 1984: *Strong Democracy*, University of California Press, Berkeley.

Crombez, Christophe, 2000: The Treaty of Amsterdam and the Co-decision Procedure, in: Schneider, Gerold/Aspinwall, Mark (eds), *The Rules of Integration: Institutional Approaches to the Study of Europe*, Manchester University Press, Manchester: 101--125.

Cohen, Joshua, 1997: Procedure and Substance in Deliberative Democracy, in: Bohman, James/Rehg, William (eds), *Deliberative Democracy: Essays on Reason and Politics*, MIT Press, Cambridge: 407-438.

Crum, Ben, 2005: Tailoring Representative Democracy to the European Union: Does the European Constitution Reduce the Democratic Deficit?, *European Law Journal* (11) 4: 452-467.

Eriksen, Oddvar, Erik, 2000: Deliberative Supranationalism in the EU, in: Eriksen, Oddvar, Erik/Fossum, John, Erik (eds), *Democracy in the European Union: Integration through Deliberation?*, Routledge, London/New York: 42-65.

Eriksen, Oddvar, Erik/Fossum, John, Erik, 2000: Post-national Integration, in: Eriksen, Oddvar, Erik/Fossum, John, Erik (eds), *Democracy in the European Union: Integration through Deliberation?*, Routledge, London/New York: 1-29.

European Council Presidency Conclusions, Lisbon, 23 and 24 March 2000; URL:http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/00100-r1.en0.htm (03. 04. 2011).

Ginsborg, Paul, 2008: *Democracy: Crisis and Renewal*, Profile Books, London.

Grubiša, Damir, 2005: Europski ustav i politički sustav Europske unije, *Anali Hrvatskog politološkog društva 2004* (1): 53-77.

Häge, Frank/Kaeding, Michael, 2007: Reconsidering the European Parliament's Legislative Power: Formal vs. Informal Procedures, *Journal of European Integration* (29) 3: 341-361.

Helms, Ludger, 2008: Parliamentary Opposition and its Alternatives in a Transnational Regime: the European Union in Perspective, *Journal of Legislative Studies* (14) 1-2: 212-235.

Hix, Simon, 2005: *The Political System of the European Union*, Palgrave MacMillan, London/New York.

Hix, Simon, 2006: The Study of the European Union II: the "New Governance" Agenda and its Rivals, in: Eilstrup-Sangiovanni, Mette (ed.), *Debates on European Integration: a Reader*, Palgrave MacMillan, London/New York: 342-356.

Holzhacker, Ronald, 2007: Democratic Legitimacy and the European Union, *European Integration* (29) 3: 257-269.

Hug, Simon, 2002: *Voices of Europe: Citizens, Referendums and European Integration*, Rowman & Littlefield, Lanham.

Kaldor, Mary/Vejvoda, Ivan, 1999: Democratization in Central and East European Countries: an Overview, in: Kaldor, Mary/Vejvoda, Ivan (eds), *Democratization in Central and Eastern Europe*, Pinter, London: 1-25.

Kost, Andreas, 2008: *Direkte Demokratie: Elemente der Politik*, Verlag für Sozialwissenschaften, Wiesbaden.

Mair, Peter, 2005: Popular Democracy and the European Union, *European Governance Papers*, No. C-05-03; URL:http://www.connex-network.org/eurogov/pdf/egp-connex-C-05-03.pdf (03.04.2011).

Mény, Yves, 2009: The "democratic principle" and the European Union: the Challenge of a Post-national Democracy, in: Moury, Catherine/de Sousa, Luís (eds), *Institutional Challenges in Post-constitutional Europe*, Routledge, London/New York: 121-133.

Neyer, Jürgen, 2006: The Deliberative Turn in Integration Theory, *Journal of European Public Policy* (13) 5: 779-791.

Radaelli, Claudio, 2003: The Open Method of Coordination: a New Governance Architecture for the European Union?, *Sieps: Swedish Institute for European Policy Studies*; URL: http://eucenter.wisc.edu/OMC/Papers/radaelli.pdf (03.04.2011).

Radaelli, Claudio/Schmidt, Vivien, 2004: Policy Change and Discourse in Europe: Conclusions, *West European Politics* (27) 2: 364-379.

Risse, Thomas/Klein, Mareike, 2007: Assessing the Legitimacy of the EU's Treaty Revision Methods, *Journal of Common Market Studies* (45) 1: 69-80.

Saurugger, Sabine, 2007: Democratic "Misfit"? Conceptions of Civil Society Participation in France and the European Union, *Political Studies* (55) 2: 384-404.

Schmidt, Manfred G., 2008: *Demokratie-theorien: Eine Einführung*, Verlag für Sozialwissenschaften, Wiesbaden.

Schmitter, Philippe C., 2000: *How to Democratize the European Union... And Why Bother?*, Rowman & Littlefield Publishers, INC., Lanham.

Schutter, Oliver de, 2002: Europe in Search of its Civil Society, *European Law Journal* (8) 2: 198-217.

Shaw, Joe, 2000: Constitutional Settlements and the Citizen after the Treaty of Amsterdam, in: Neunreither, Karlheinz/Wiener, Antje (eds), *European Integration after Amsterdam*, Oxford University Press, Oxford: 266-290.

Sousa, Luís de/Moury, Catherine, 2009: Introduction: Institutional Choices in Post-constitutional Europe – Facing Challenges, in: Moury, Catherine/de Sousa, Luís (eds), *Institutional Challenges in Post-Constitutional Europe*, Routledge, London/New York: 1-15.

The Treaty on European Union and the Treaty on the Functioning of the European Union, Council of the European Union, 6655/1/08 REV 1, 30 April 2008; URL:http://www.consilium.europa.eu/uedocs/cmsUpload/st06655-re01.en08.pdf (03.04.2011).

Terchek, Ronald, J./Conte, Thomas, C., 2001: *Theories of Democracy: a Reader*, Rowman & Littlefield Publishers, INC., Lanham.

Tomašič, Matevž/Rek, Mateja, 2008: Governance and Civil Society at the EU Level, *Managing Global Transitions* (6) 4: 403-420.

Warleigh, Alex, 2003: *Democracy in the European Union*, SAGE Publications, London.

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