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prospects for a European sphere of publics**

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prospects for a European sphere of publics**

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New governance and the prospects for a European sphere of publics¹

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Introduction

In the dynamics of European integration, two ambitious projects mark the threshold toward an ever closer and, at the same time, always wider Union: EMU with the introduction of the single currency in 12 member states, and Eastern enlargement with the incorporation of up to 12 new members. However, although we can safely assume that from 2002 on, citizens in the “eurozone”², instead of their national currencies, will exchange *euros*, and that, a few years later, Eastern and East Central European Citizens will have EU-passports in their hands, it is less certain what this will mean with respect to the existing multitudes of identities, solidarities, and loyalties. At the level of mass culture, the “euro” as well as the “European passport” are political symbols that involve language and rituals and touch the experiences of people. But such mass cultural icons may carry “a range of diverse, and often even conflicting meanings deriving from integral aspects of specific material and social situations” (Edelman, 1988: 8). In the institutional reform process inaugurated by the Intergovernmental Conference held in Nice in December 2000 to prepare the EU for enlargement, political elites have targeted “the public” as an active audience and central actor in this process. In the Treaty concluded at Nice they “resolved to launch a “broad discussion on the future of the European Union...in which all interested parts participate: representatives of national parliaments and the public at large, that means representatives from politics, the economy and universities, representatives of civil society, etc. The candidate countries will be included in this process in ways still to be determined.” In the first part of my paper, I will question whether this aim to make “the public” participate in the institutional reform debate is realistic, in the light of the

¹ *Paper prepared for presentation and discussion at joint Bremen-Riga Conference “Integration in a multiple Europe: Memory and Markets, Democracy and Citizenship”; University of Riga, October 4-6, 2001, and as a contribution to “Europe 2004 - Le Grand Debat”, European Commission, DG Education and Culture, Brussels, October 15-16, 2001*

shortcomings and deficits of a European sphere of publics. Among the many factors and mechanisms conducive to these deficits, I will then, in the second part, focus, in particular, one: European governance. Distinguishing three modes of governance - the traditional Community mode of governance, the concept of “network governance” and the novel model of “participatory governance” - I will discuss their respective merits and shortcomings with respect to enhancing a European sphere of publics. My claim is that all three are insufficient to enhance a European sphere of publics.

1. Deficits of a European sphere of publics: theoretical and empirical views

In European Union research it is conventional wisdom that the European Union suffers from an “Öffentlichkeitsdefizit” – a large and even widening gap in attitudes between EU-policy makers and publics, with European issues being exclusively framed in public discourses at the elite and expert level; while public involvement in these discourses is scarce, levels of public information on and support for EU-policies are relatively low, and the quality of public debates – if they are promoted by the mass media - is poor:

The comfortable “permissive consensus” by mass publics whose support European elites could take for granted over four decades, started to erode at the wake of the Maastricht Treaty, and further declined with the Northern enlargement in 1995: While in 1991 public support for the EU was at 70%, in 2000 it was at about 50% (EB 54: S. 32; Niedermayer 1995);

A number of referendum campaigns in Denmark, France, Sweden, Austria and, recently, Ireland on EU-accession and on Treaty reforms displayed a dynamics of polarization between supporters of the EU and Eurocritics. While the intense politicisation undoubtedly benefited the mobilization of citizens in quantitative terms, it appeared more detrimental to the quality of substantial argument and debate on EU-issues, such as monetary union or treaty reforms;

In certain occasions, Euro-sceptic discourses became significant enough to set the public agenda and block EU-Treaty ratification or policy implementation, for instance in Denmark (the first Maastricht Treaty ratification in 1993 and not “opting in” with EMU, in

² The “eurozone” includes twelve of the fifteen EU-member states, except the Denmark (that has opted out by a referendum held in September 2000), the UK and Sweden.

2000); in Norway and in Switzerland (entry in the EU), and in Ireland (in 2001, the Nice-Treaty ratification);

In a gender perspective, and drawing on the feminist debate on Habermas' model of the public sphere (Moller Okin 1998; Meehan 1995) further limitations to a transnational, inclusive, pluralist, less hierarchical European public sphere become visible. Adopting criteria of equal opportunities, comparative analyses of political discourses on European issues reveal asymmetries between male and female publics, institutional and rhetoric forms of exclusion of topics from the political agenda and of potential speakers from getting voice. In this context, gender gaps in public attitudes towards the EU indicate disparities that will not necessarily become articulate in public discourses on the EU (Liebert eds., 2002 forthcoming).

Counter publics mobilized around the issue of neo-liberal globalization, for instance at the „Counter summit“, in July 2001, on occasion of the European Council meeting at Göteborg, Sweden.³ Despite the willingness of governance to dialogue, this fell victim to the prevalence of violent collective action.

In researching the deficits and dynamics of European publics, perceptions of how significant these shortcomings are, whether they will persist or disappear, and how they can be explained, vary a great deal: Some democratic theorists – and purists – continue to deny the necessity as well as the possibility of a European public sphere altogether. For instance, Graf Kielmansegg, in a much cited article, argued that the EU for principle reasons could not become a „community of communication“ (Graf Kielmansegg): with its plurality of languages it could neither come to see itself as a community of memory and of common experience nor could it develop a European identity and civil society. Presuming a national framework for political democracy, he denied to the EU the necessary preconditions for democratisation (Kielmansegg 1996: 58, 55). This argument certainly loses much of its persuasiveness in the light of counter factual evidence from multi-ethnic and linguistic societies that nevertheless count as consolidated democracies: such as Switzerland, Canada, India, Spain and may be also the Baltic countries.

³Einen solchen Protest gegen die „neoliberale Globalisierung“ formulierte etwa ATTAC, eine von Frankreich ausgehende und - nach eigenen Angaben - in etwa 30 Ländern gewaltfrei, und auf den Prinzipien demokratischer Vereinbarungen agierende Bewegung, in ihrer Kommunikation „Nach den Zwischenfällen von Göteborg. Wir werden den Protest gegen die neoliberale Globalisierung nicht kriminalisieren lassen“ (Paris, 19. Juni 2001). Die Kritik richtet sich gegen den „Autismus der Kommission und der fünfzehn Regierungen“ sowie der Unternehmerverbände, welche „trotz der wachsenden Ablehnung der Folgen der neoliberalen Globalisierung durch die Öffentlichkeit“ und trotz der „Proteste gegen eine zutiefst ungerechte Gesellschaftsordnung“ auf ihrem Willen beharren, „weiterhin zügellos zu liberalisieren“. Die

Other authors, by contrast, conceive of a European public space – or more adequately: a European sphere of diverse publics - as a necessary prerequisite for legitimising and, eventually, for democratising the EU (Schlesinger/Kevin 2000). A European public sphere is conceived of as a “key component of a European civil society in the making”, in the sense of “a critical mass of concerned citizens who discuss European issues and will (eventually) be ready to support European policy, as a precondition for a responsible European public authority” (Perez Diaz 1998: 233). A growing number of studies provide empirical evidence of different kind demonstrating how processes of Europeanisation affect the emergence of such public spheres:

- Rainer Grundman argues that the creation of a European public sphere can be reconduced to the emergence of distinctively European issues such as BSE, hence, can be explained by the synchronisation and homogenisation of cycles of media attention on contentious “European issues” (Grundmann 1999).
- Christoph Meyer has taken the issue of accountability on mismanagement in the European Commission in 1999 to explore communicative integration of the media-polity system at Brussels (Meyer 2000);
- Regarding mass public attitudes, Mathew Gabel and Christopher Anderson have used Eurobarometer data to show that EU citizens’ attitudes across a broad range of EU-policies are systematically structured and can be described by a common two-dimensional model of the EU policy space: a socio-economic left-right axis combined with a national sovereignty-supranational integration dimension (Gabel/Anderson 2001);

Summarising and concluding from these and other studies, we can identify two major problems affecting the emerging European space of public communication: On one hand, public attitudes towards EU-issues may converge towards a structured European political space, but the participation of publics in political discourse on the EU remains limited and fragmented, due to the dominance of domestic agendas and frames, and the weakness of transnational communication. On the other hand, if domestic public discourses synchronize and homogenize on particular issues of European relevance, such as BSE (mad cow disease) or issues of institutional reform in the European Union, these debates appear limited to exclusive circles of political elites, involving few public intellectuals and Civil Society not at all. To give an example, Jürgen Habermas is one of the internationally

renowned German intellectuals who has intervened in the current transnational debate on the future of the EU, with an essay entitled “Why does Europe need a Constitution?” By claiming that our continent could only protect its endangered culture and form of life if it constituted itself as a political community, Habermas explicitly took issue with the position of the German Chancellor, Gerhard Schröder – who advocated a European supranational federation as an aim in itself. And he sided with the French Prime Minister Lionel Jospin, who advocates institutional changes necessary for the political project of building a social Europe (Habermas, DIE ZEIT, 28. 6. 2001): “The predominantly negative or at least reluctant population can be won for Europe only if the project is liberated from the pale abstraction of administrative measures and expert discourses, hence, if it is politicised. The intellectuals have not picked up this ball, neither do politicians want to burn their fingers with this unpopular topic” (id., p. 7).

While EU-policy makers primarily have come to face one side of this double dilemma – the lack of public acceptance for European policies and institutional reforms, they appear to largely neglect still the other side of the problem: that public attitudes are still largely formed in domestic contexts and national frames of mass communication, by media that are usually more receptive to domestic political issues than to distant supranational speakers, and not in a transnational European sphere where a multiplicity of views and perspectives can be voiced. As a consequence, political analysts and elites endorsing for instance the single currency, in their domestic public contexts need to adjust to national lens and to rationalise their support by emphasizing national interests, and not common European norms and values. The dilemma is obvious: how could under these conditions ever arise strong political symbols of European unity, let alone of a European identity?

2. The deficits of a European sphere of publics as a problem of EU governance

As Amy Verdun and Thomas Christiansen have observed for the case of EMU, European governance suffers from “dilemmas of legitimacy” insofar as it “rests on the creation of a set of powerful institutions with direct and executive authority in an area of policy-making...”, while their establishment “precedes the emergence of a political community in which such decisions, or, more significantly, the procedures for the taking of

such decisions, can be grounded.” (Verdun and Christiansen 2000, p. 162). This is why the conceptualisation of modes of European governance becomes a key question. The concept of “governance” has become a term to describe any institutionalised arrangement – public, private or mixed – for economic, political, cultural or social regulation, with rules regarding the forms and channels of access to central power positions, the characteristics of actors which are included or excluded, and the strategies they may use to claim access, and the ways in which publicly binding decisions are taken (cf. Schmitter 2000: 3).

Three such modes have been proposed to describe different forms of self-governance by which the EU is supposed to advance policy integration: First, the Community or “Monnet-method”; second, “network governance”; and third, “participatory governance”.

- I. „Monnet mode of governance“. The mode of governance called after Jean Monnet was based on consensual decision-making by elites, and strategic economic instruments for political integration (Wessels 2001). Following Cini (2000) the organizational culture and reforms of the the European Commission still under Jacques Santer were deeply shaped by this method (Cini, 2000/25). Also Wessels sees the incremental Monnet-mode as largely resistant towards change and competing paradigms, aiming at a „big bang“ and a qualitative jump to introduce a process of constitution building, as Spinelli or Habermas are advocating for (Wessels 2001: 11). Since the “Monnet method” is characterised by largely informal and secrete forms of negotiation, it can be qualified as a paradigmatic disincentive to public participation⁴. But also two of the alternative models show certain caveats regarding the promotion of a European sphere of publics.
- II. “Network governance” has been distinguished from other modes of governance – such as „etatism“, corporatism, and pluralism, in so far as in the context of a multilevel system, its constitutive logic is based on „consociation“ as the organizational principle of socio-political relations, and the parallelism of interests: „Governing involves reaching agreements in a highly interwoven negotiating system with two main actors, the Council and the Commission, who are not politically

⁴ The Monnet method was reflected by neo-functionalism, formulated by Schmitter and Haas, with its view that mass publics were largely irrelevant to the process of integration – even if Haas revised this negligence later explicitly (Sinnott 1995: 11; 15, 19).

accountable in any direct way.“ (Kohler-Koch 1998: 13, 15/6). Comitology and its policy-networks are characterised by expertocratic discourses, informality and intransparency. The core idea of this type of governance is that „politics is about problem-solving” (Grande/Jachtenfuchs 2000). To legitimize network governance, Kohler-Koch draws on „deliberative supranationalism“, which, however, is too abstract an idea to be capable of organizing effective procedures to safeguard legitimation. Horizontal or vertical accountability are excluded expressively. The idea to provide all citizens and groups that are affected from decision-making the chance to control the exercise of power or to articulate their own preferences, either directly or indirectly, by their representatives, constitutes a discourse which is alien to the conception of „network governance“.

Furthermore, network governance has been rationalized as a particularly appropriate mode of governance for the complex multilevel system “sui generis” that the EU is seen to represent. From a comparative perspective, it is however more precise to conceptualise the EU as another example of a “mixed polity”, which strikes a dynamic balance between institutions representative of different constituencies: national interests (in the Council); citizens (in the EP) (Maione 2001). Seen in this context, the crucial question that “network governance” involves is whether this mode of governance affects this institutional balance to the detriment of any of the different constituencies. However, so far, the question of how these networks are structured and to which extent these structures offer opportunities for or rather constrain the participation of the public – citizens, civil society – does not seem to have been taken sufficiently into account. Unless network structures, actors and procedures governing “deliberation” are not specified better, it is hardly possible to give the conception of multilevel “network governance” any credit with respect to the construction of a European sphere of publics.

III. “Participatory governance” is a key term describing the outcome of one of the Prodi Commission's four strategic priorities – to develop a new mode of governance. Aimed at laying out recommendations on how to increase the legitimacy of the institutions and enhance democracy in Europe, in the summer of 2001, the European Commission presented its White Paper on European Governance to the European

Parliament and to the wider public. While the ideas of „Bürgernähe“, „Transparenz“ and „equality of opportunities“ had marked already the Amsterdamer Treaty (1996/7), the White Book raised the „public dialogue“ to a leading idea. With “public dialogue” as a new method of work the Commission not only introduced a theoretical but also a practical discourse aimed at citizens in the EU⁵. This paradigm change was based on innovative ideas as much as the inclusion of new actors and groups from civil society, and the introduction of new instruments and methods. Lebessis and Paterson argue in „Developing new modes of Governance“ (De Schutter/Lebessis/Notis/Paterson 2001: 259-272) that institutional reforms as the Nice IGC projected them with their focus on efficiency were too reduced, and limited to technical questions of changes in the size and composition the EU-Institutionen, and in decision-making rules, as a consequence of enlargement. An increase in efficiency would not be conducive to more legitimacy, since Eastern enlargement presented challenges of a different kind: the need to integrate members with different political, economic, social and administrative experiences. Rather it was necessary to improve the legitimacy of governance since the public felt abandoned to ungovernable forces and turned increasingly skeptical towards technocratic problem solving strategies, developed outside formal procedures by a small group of actors, and implemented and evaluated in the framework of technocratic hierarchies. Therefore it was necessary to find new methods for increasing the legitimacy and effectiveness (ebd.). The whole process, from the recognition of a problem over the formulation of a policy to its implementation, evaluation and revision needed to be opened to provide Civil Society access to it (id.). This conception is based on the principle of legitimation by direct participation – with the risk, not only to overburden EU-institutions with complexity, but also to program the frustration of those who participated without seeing any visible impact.

The new governance concept has three implications: First, by questioning the exercise of power, it goes beyond questions of problem-solving and tackles issues of participation and legitimacy. Second, it focuses on informal processes, and not formal decision-making rules, hence radicalising the distinction between governance

⁵ Die Arbeiten am Governance-Weissbuch sind auf 12 kommissionsinterne Arbeitsgruppen verteilt, u.a. zu den Themen „Building the European public space“ und „Participation of civil society“, zu denen auch öffentliche Hearings und Bürger-Dialoge geführt werden (http://europa.eu.int/comm/governance/areas/group1/index_en.htm)

and government. Third, it shifts a sizable portion of power from public office holders to private actors, including NGO's, corporate businesses, civil society etc.

Nevertheless, the conception presented by the Commission in her Whitebook (COM 2001) appears equally limited. It restricts public participation to processes related to the elaboration of non-legislative measures and legislative initiatives in the context of the Commission, but, as Paul Maignette has predicted, initiative and participation "...will probably remain the monopoly of already organised groups, while ordinary citizens will not be encouraged to become more active" (Maignette 2001: 3). He therefore argued for a change in the culture of the Commission: from a neutral style of consensus-building to a politicised mode to articulate conflicts more in public. Although Liesbet Hooghe in her analysis of the attitudes of Commission officials has detailed such differences in views and perspectives, on the other hand, Michelle Cini has persuasively argued how difficult it is to change the culture of a technocratically socialized institution such as the Commission. If a dialogical sphere is needed to politicise European issues in order to bring the EU effectively closer to its citizens, it appears more realistic to search for appropriate institutional mechanisms in the Council of Ministers and in the European Parliament and not exclusively in the Commission.

IV. Accountable Governance. The Council of Ministers is the site among EU-institution where intergovernmental conflicts of interests prevail, but are kept under a "veil of secrecy" (Wallace/Renshaw). It is the most hybrid EU-institutions responsible for legislating Community affairs, representing member state interests. How can, under its formal rule, a European public sphere emerge, function, and eventually provide legitimacy to the EU? Following a general notion of democracy⁶, a European sphere of publics can be defined by channels (procedures) of communication to be institutionalized between European institutions on one hand, and between institutions, private groups and citizens, on the other hand, such that power-holders can regularly be held accountable by publics and in public. A European sphere of publics will provide democratic legitimation to the extent to which the idea of

⁶ In his book „How to democratize the European Union“ (2000) Philippe Schmitter emphasized that a „Euro-democracy “ had to fulfil all the characteristics of a modern political democracy which he and Terry Karl had defined at another place as „a regime or system of governance in which rulers are held accountable for their actions in the public realm by citizens, acting indirectly through the competition and cooperation of their representatives“ (Schmitter 2000: 3).

democratic accountability or control will have penetrated European governance processes, as a function of specific institutional procedures and decision-making practices. Procedures on which accountable governance can be based in the framework of the Council of Ministers include three types: accountability towards national legislatures; transparency regulations of Council deliberations; co-decision making with the European Parliament.

National legislative control of domestic executives and their behaviour in the Council of the EU is hampered by difficulties to define who ultimately establishes national strategies and defines national interests to be defended in Council meetings; and it is limited by the weakening and “decline of parliaments” deriving from processes of internationalization and Europeanisation (von Beyme 1998). To increase the leverage of national legislators vis-à-vis their executives, it is necessary to make processes in the Council more transparent.

Transparency regulations. In the final protocol on the TEU, the right of the public to new rules of transparency were agreed upon only in the aftermath of the first negative Danish referendum on Maastricht, with the purpose to strengthen the “democratic character of the institutions and the trust of the public in the administration”. Under the pressure of the European Court of Justice, the Council reluctantly had to adapt its internal rules to regulate the status of documents and allow individuals access to its Archives (starting on 6-12-1993). Compared to these formal regulations of transparency in Council decision-making, in practice member governments have been quite ingenuous to limit their effective use. I would argue that although the introduction of the transparency principle in 1992 promised to make European governance more accountable and to increase opportunities for participation, in practice, this did not significantly affect the access to legislative processes. The access of non-government actors to information related to government positions in Council decision making varied, depending on member government practices, but on the whole transparency regulations were put in practice in such restricted ways that only extremely small – though increasing - numbers of individuals have benefited from them, so far.

Co-decision making by the European Parliament. On the other hand, the SEA (Single European Act) had already introduced a change in decision-making procedures that had a more significant effect with respect to constructing the basis for a public sphere: the strengthening of the European parliament in the co-decision procedure⁷. This change helped to unlock the joint decision-making trap in which Commission's proposal frequently remained parked in the Council; and, furthermore, it promised to enhance the diffusion of new norms and ideas debated in the EP, thus empowering policy advocacy networks to gain impact across the institutional boundaries of the EP. The EP has fulfilled the classical and more recent functions of modern parliaments only to limited degrees: legislation in the form of co-decision-making in a limited range of fields; the legitimation of collective decisions, and the control of the Commission and not the Council. The EP will contribute to a European sphere of publics to the extent to which – in the framework of postparliamentary governance - it functions as one of the many institutional public sites in the EU where debates on issues of Europe wide relevance take place (Burns et al. 2000: 3). As importantly, the EP will also enhance transparency in EU-decision-making, to the degree to which the co-decision-procedure is used for legislative processes, and especially serving as a counter balance to the secrecy of decision-making in the Council of Ministers, with at least a potentially impact on European publics. Its capacity in this respect will depend on the progress a European system of mass media communication will make (Meyer 2000); the fragmentation of European party systems reduces their capacity of mediation, as well.

Conclusion

The key question discussed in this paper was how a mode of European governance would look like that could provide a basis for and strengthen the practices of a European sphere of publics capable of generating legitimacy without reducing problem-solving efficiency of the EU. To answer this question, among the various models and conceptions of European governance, two modes have been emphasized, in particular: Commission based

⁷ Regarding the question of whether the EU could or should be democratised by modelling it after national parliamentary democracy, I would rather follow Andersen and Burns' argument that the EU "is an instance of post-parliamentary governance, where the direct "influence of the people" through formal representative democracy is marginal, and where governance "tends increasingly to be one of organisations, by organisations and for organisations"(Andersen/Burns 1996: 226; 229).

“participatory governance”, and “accountable governance”, focused on the interaction between Council and Parliament. In particular the latter would aim at keeping the legislative processes transparent and decision makers accountable to publics in ways that would encourage citizens’ information, interest and ultimately involvement in public debates on European issues, at the domestic, transnational as well as the supranational level. “Accountable governance” would complement “participatory governance”, but different from the latter apply to all areas where supranational formal legislative acts are adopted to be subsequently implemented by member states. To enhance a transnational European sphere of dialogical publics, procedures for strengthening the transparency of Council proceedings urgently need to be made more effective. Two devices could help to achieve this aim: By expanding co-decision-making by the European Parliament across more policy sectors transparency of EU-legislation would increase. And by institutionalizing parliamentary hearings at a regular basis, citizens could gain the opportunity of representing claims directly or indirectly, by joining one of the accredited groups with the right to be formally heard if their constituencies are affected by legislative processes. We should hope that such a framework for “accountable governance” would help to govern the double challenge facing the European Union – enlargement and monetary Union – by improving the competence of European publics, and thus the effectiveness and legitimacy of European integration.

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