Project 2: Designing demoicracy in Europe

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The EU is a multinational polity. In a great variety of policy-areas, it makes authoritative rules and decisions that are directly binding, applicable, and enforceable in its member states. At the same time, it does not have a single *demos*: only a small part of its citizens identify themselves (primarily) as "Europeans" (see e.g. Gillespie and Laffan 2006), there is no single European public sphere (De Vreese 2007), and political structuring is weak (Bartolini 2005). All these attributes of a *demos* can be found predominantly at the member state rather than the Union level. We therefore start from the assumption that a democratic EU must be conceived of, analyzed, and evaluated as a 'demoicracy', in which the idea of democracy is reconciled with the persistence of multiple *demoi*.

As a consequence, we need to put into perspective those criticisms of the EU's 'democratic deficit' as well as proposals for a more democratic EU that are (often implicitly) based on the nation-state model (e.g. Hix 2008). We move beyond 'gradualist' institutional designs for 'cosmopolitan democracy' that replicate nation-state democracy and downplay the demos problem (Habermas 1998; Held 1999), and beyond standard accounts of nation-state democratization with their focus on inequality, social unrest, and political mobilization from below (for recent accounts see Acemoglu and Robinson 2006; Boix 2003). Rather, our project seeks to *establish the normative foundations and to map and explain the development of demoicratic institutions in the EU, as well as to critically evaluate their democratic functioning*.

At this point, the transformationalist conception of demoicracy is still in its infancy. The term was first proposed for the EU by Nicolaidis (2003; 2004). Bohman's 'transnational democracy' (2007a) and Cheneval's 'multilateral democracy' (2008) discuss philosophical justifications for legitimate democratic rule in multinational polities. In addition, Bohman (2007a) provides examples of institutional design, mainly taken from the EU. Rittberger and Schimmelfennig propose an explanatory framework for institutional democratization in the EU (Rittberger 2005; Rittberger and Schimmelfennig 2006; Schimmelfennig 2009).

Our project aims to advance the study of 'demoicracy' by describing, explaining, and evaluating the design and workings of those EU institutions that can be seen as demoicratic prototypes. Put briefly, demoicracy starts from the principles that the 'sovereignty of the people' in a democratic multinational polity is the joint sovereignty of citizens and communities (*demoi*) realized through interlinked procedures and multiple participations of citizens. In principle, political equality applies to both citizens and communities amongst each other and to the relationship between the collective of citizens and the collective of *demoi*. Neither are the multiple *demoi* subordinated to some kind of cosmopolitan people, nor are the rights of citizens limited to their community but are extended supranationally to the multinational polity and transnationally to other communities.

In the EU, these principles are at least rudimentarily embodied in a variety of constitutional rules and institutions. First, the legal orders of the member states and the Community are parallel and overlapping orders rather than hierarchically nested ones. The same is true for the courts that are at the apex of these legal orders. Second, citizens enjoy citizenship and human, civil, and political rights as both EU and member state citizens. Third, citizens are directly represented in national parliaments as well as the European Parliament, whereas communities are mainly represented by national governments in the Council. Consequently, the multi-level system of rights (review) and the multi-level parliamentary system will be two cases studied in our project. In addition, Bohman suggests that the EU's intricate system of policy coordination through committees and agencies also has demoicratic quality (2007a; 2007b). These non-majoritarian institutions and their democratic accountability, transparency

and participatory qualities will therefore constitute the third empirical case. For each of the three systems, we strive to answer the following *research questions*:

1. Which institutional designs are appropriate for a democratic EU (normative justification)?
2. Which institutions have developed in the EU and how do they work (description)?
3. How have these institutions developed, and why do they work as they do (explanation)?
4. How democratic are these institutions (normative assessment)?

The project will focus on theory development in a weakly theorized area of research. The following *propositions* should therefore be seen as starting points for answering the research questions. Also note that the nature of the research questions requires different – normative and causal – hypotheses and theoretical operations. Answering the normative research questions require us to establish and elaborate basic *normative foundations of demoicracy*. Drawing on Francis Cheneval's framework of multilateral democracy and principles developed during the first phase (IP 22; Cheneval 2006; 2007; 2008; Cheneval forthcoming) the project will derive appropriate institutional designs for the EU (research question 1) and develop criteria for the normative assessment of existing institutions (research question 4).

For research questions 2 and 3, the general expectation is that *democratization in the EU* will result in demoicratic institutions because it is a multinational polity. For when and how this happens, we start from the EU constitutionalization hypothesis of Rittberger and Schimmelfennig. It stipulates that democratic constitutionalization in the EU results from conflict over the distribution of competences between institutional actors in the European multi-level system (see also Farrell and Héritier 2007). Whereas these actors do not belong to a single *demos*, they are part of an international community that defines itself by shared liberal-democratic norms of legitimate political authority. If efficiency-oriented steps of integration (threaten to) undermine democratic rights and competences, affected or concerned actors are therefore able to exercise normative pressure on the member state governments. To preserve the legitimacy of European integration, governments consent to incremental democratization. In the absence of popular contention motivated by socio-economic grievances and facilitated by the common identity and mobilization capacity of a nascent European demos, the development of democratic institutions in the EU is thus the outcome of elite constitutional conflict in the context of a liberal international community (Rittberger and Schimmelfennig 2006: 1116; Schimmelfennig 2009).

With regard to the *workings of EU democracy*, we expect ambivalent outcomes. On the one hand, we hypothesize that transnational rights and multiple representation and participation offers citizens increased opportunities for contestation and participation. It also creates opportunities for mutual learning, imitation, and a positive co-evolution and interlocking of parallel institutions. As a result, the input side of democracy in the European multilevel system would be improved. On the other hand, however, the coordination of parallel and overlapping legal and political orders creates incentives for forum-shopping and the "interblocking" of institutions, resulting in captured and/or ineffective governance.

In order to empirically assess the hypotheses, we will first do a *mapping of institutions and their development* in the EU (i.e. since the entry into force of the Maastricht Treaty in 1994) in the three systems of parliaments, rights (review), and agencies. This mapping can be done mostly as a secondary analysis of the literature but might require some additional primary analysis on the basis of documents (backed up by interviews). This aim is threefold: to answer the first part of research question 2 ('Which institutions have developed?'), to provide data on the dependent variable 'demo(i)cratic constitutionalization', and to gain an overview of the universe of cases from which the case studies can be selected systematically.

In the second phase, we will do case studies of the development and workings of democratic institutions in the EU. For the study of the conditions and processes of democratization, we

will select a few cases of the (non-)development of parliamentary competences, civil and political rights, and democratic governance provisions in agencies (see IP2 in first phase). For the study of the workings of demoicracy and the conditions of its positive and negative consequences, selected cases of legislation, jurisdiction, and agency decisions will be analyzed. In general, these case studies will combine small-n, quasi-experimental comparative analysis with process-tracing. As a result, we hope to contribute to the elaboration and specification of the theory of democracy in a multinational polity and to render a predominantly conceptual and philosophical innovation empirically relevant. We envisage close cooperation with a similar project directed by Berthold Rittberger and Arndt Wonka at the Mannheim Center for European Social Research.

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