

## CLOSING THE GAP: PERSPECTIVES ON HOW TO TACKLE THE EU'S LEGITIMACY CRISIS

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‘There are no riots, no extremists in power, no abrogation of civil liberties, no postponement of elections. Still, I think there is a crisis in Europe. It is a crisis in minds rather than on the streets—and disorder in the mind, in our ideas and loyalties, can be even more dangerous than its more visible counterparts. Europe is suffering a crisis of legitimacy.’

Larry Siedentop<sup>1</sup>

### INTRODUCTION

The question of how to remedy the legitimacy deficit of the European Union's politics and policies seems more urgent than ever in the EU's history. Until the 1990s, the EU institutions and the member states were primarily focused on effectively delivering policy output. The Maastricht ratification crises in 1992 initiated a period of structural concern with regard to the EU's democratic underpinnings, with incidental shock waves following the subsequent negative referendum outcomes (most notably those in France and the Netherlands in June 2005 and in Ireland in June 2008). The cumbersome ratification of much wanted treaty revisions constitutes, however, the tip of an iceberg of public discontent with EU policy-making that is perceived as being elitist, disembedded or ‘post-democratic’.<sup>2</sup> The depth of the latest institutional impasse on the Treaty of Lisbon suggests that the challenge of legitimizing the EU is here to stay for the coming years.

This chapter reflects upon a number of cited remedies to enhance the legitimacy of the European Union. As reviewing cures imply a basic consensus over

<sup>1</sup> Larry Siedentop (Kebble College, Oxford) is the author of the highly acclaimed and best-selling essay ‘Democracy in Europe’ (2000). More recent contributions by Larry Siedentop on the EU's democratic deficit include: ‘A crisis of legitimacy’, *Prospect Magazine*, special issue: ‘A Europe of illusions’ (July 2005); and ‘No to this EU proves self-respect’, *NRC Handelsblad* (12 July 2008).

<sup>2</sup> C. Crouch, *Post-democracy* (Cambridge, Polity Press 2004).

the diagnosis, the issue of legitimacy is first unravelled and its dimensions identified. Subsequently, attention turns towards solutions that have been proposed. Three broad methods of re-legitimizing the EU are discussed: first, improving the EU's output and performance; second, communication strategies aimed at developing the European public sphere; and, third, remedies under the heading 'politicisation' and strengthening the political domain of European Union affairs. The discussion in the final section focuses on the merits and potential pitfalls of these remedies and the particular role national politicians can play in enhancing the EU's legitimacy by their actions within the national political arena.

## DEFINING THE PROBLEM

### Unravelling legitimacy

Overseeing the heated scholarly and policy debates on the EU's alleged democratic deficit, to say that the EU and its member states suffer from problems in this respect is like stating the obvious. But although legitimacy is commonly assumed as a crucial requirement for any stable polity, including that of the EU, the concept is notoriously ambiguous. First, legitimacy cannot be measured or enforced and it is by definition rather implicit: it becomes problematic once it is disputed. Second, the problem is multifaceted: indicators for malaise range from voter disaffection, political extremism and the demise of traditional party membership, via non-compliance with EU rules and declining public support for EU policies, towards complaints about the simplicity of national EU debates by technocratic elites.<sup>3</sup> Third, both the definition of the problem and the assessment of solutions cannot be separated from differing perspectives regarding the nature of the EU. On the one hand, there are those who regard the EU as a particular form of special-purpose organisation, which can and should rely on providing common goods for the citizens of its member states. On the other side, an image of the EU prevails as nascent polity with particular legitimisation strategies. As the debate continues, 'whether describing a threatening super-state or a welcome replacement for the national state, Europhiles and Europhobes alike portray a fictional future disguised as a fact'.<sup>4</sup> Both schools judge fundamentally differently about the EU's capacity to provide legitimate policies and politics and the necessity to do so. Any analysis of how to re-legitimize the EU should thus start by unravelling the concept.<sup>5</sup>

<sup>3</sup> M. van Keulen & T. van den Brink, 'Towards Strengthened Legitimacy of Dutch EU Policy', in: 6 *Horizons stratégiques*, No. 5 (2007) pp. 112-116.

<sup>4</sup> A. Menon, *Europe: the state of the Union* (London, Atlantic Books 2007) p. 42.

<sup>5</sup> See for an extensive discussion of the concept of legitimacy: WRR [Dutch Scientific Council for Government Policy], *Rediscovering Europe in the Netherlands* (Amsterdam, Amsterdam University Press 2007).

## Legitimacy does not equal acceptance

That the lack of a clear concept definition can give rise to serious controversy becomes clear when efforts to enhance the EU's legitimacy are equated, in public discourse, with attempts to strengthen public support or acceptance of the EU.<sup>6</sup> Inherent in the traditional concept of legitimacy in democratic systems is the recognition that (democratic) politics by necessity involves compromise. Politics is a process of give and take, the outcomes of which may not always reflect individual preferences. This 'diffuse support' implies a stable belief and acceptance of the leaders' right to rule and citizens who may recognise a particular policy as legitimate, even when they do not necessarily support it.<sup>7</sup>

By separating legitimacy from support, it is acknowledged that (European) policies do not necessarily require the assent of all of the citizens, all of the time. The EU cannot and should not always be loved or liked by the respective constituencies of the member states and its decisions may be individually disputed and contested. But if policies, perceived as coming from Brussels, face consistent and widespread opposition among European citizens, there is reason to reconsider the legitimacy of the EU as a polity, however disputed the precise nature of that polity may be.

## Lack of legitimacy does not equal a democratic deficit

A second relevant distinction in which the role of perception becomes relevant is that between legitimacy and the *democratic deficit*. Crucial here is the requirement of representation: the extent to which the democratic process guarantees that preferences are reflected in political decision-making. The assumption behind input legitimacy is that the more (often) citizens are involved in decision-making, the higher the possibility that they will accept the outcomes. The corollary of representation is public control or accountability: the degree to which politicians can be properly held accountable by the electorate for their actions at the EU level.

The literature focusing on the democratic side of the legitimacy discussion has been accused of deploying different, sometimes unclear standards in order to measure the degree of democracy.<sup>8</sup> But that the EU also has problems in this

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<sup>6</sup> Beetham and Lord warn in this respect against the tendency to over-simplify and 'to reduce the many dimensions of legitimacy to a single one: to legality or procedural regularity alone, to effective performance, or to consent, as the case may be' (as quoted in Chr. Meyer, 'Political Legitimacy and the Invisibility of Politics: Exploring the European Union's Communication Deficit', 37 *Journal of Common Market Studies*, No. 4 (1999) p. 618).

<sup>7</sup> D. Easton, *A framework for political analysis* (Englewood Cliffs, Prentice Hall 1965).

<sup>8</sup> Chr. Lord, 'Assessing Democracy in a Contested Polity', 39 *Journal of Common Market Studies*, No. 4 (2001) pp. 641-661.

vein is clear, if only because many citizens regard the EU as, at best, a 'pseudo-democracy'.<sup>9</sup> On the one hand, the European Parliament has not yet acquired co-decision powers in fields where decision-making is shared or 'pooled' by the member states at the EU level. On the other hand, national parliaments in the member states fall short of making politicians accountable for their EU-level actions. This is not only because of structural impediments in their own structures which prevent them from effectively controlling government representatives, but also because any government representative can be outvoted by a qualified majority in the Council of Ministers. The EU's structure, in short, empowers governments and disempowers parliaments.

Seen from the perspective of representation and accountability, the solution for the EU's 'democratic disease'<sup>10</sup> lies primarily in improving its democratic mechanisms. Many investments have been made in the past decade to remedy this situation by piecemeal institutional and procedural reform – the latest invention being the much hailed 'orange card' procedure, by which a group of national parliaments can raise objections against newly proposed European legislation. More radical options for reform include a further strengthening of a true European government at the EU level, for example by holding an open contest for the post of European Commission President.<sup>11</sup> A third stream of approaches, coined 'post-parliamentary', focus on making the work of the EU's institutions more transparent and to increase public participation by public and civil groups.<sup>12</sup>

### The relevance of output and identification

These types of solutions are sharply contested; however, from 'the other side' as described above. This is the perspective from where the EU is primarily regarded as a functional regulatory organisation, which is 'necessarily undemocratic'<sup>13</sup> and '...at its best when it is boring.'<sup>14</sup> When talking about ways to enhance the public legitimacy of this type of organisation, the focus is on delivering output, which most international organisations rely on. The legitimacy of

<sup>9</sup> Siedentop (2008), *supra* n. 1.

<sup>10</sup> Ph. Riès, *L'Europe: malade de la démocratie* (Paris, Guillard).

<sup>11</sup> See, e.g., S. Hix, *What's wrong with the EU and how to fix it* (London, Polity 2008); and A. van Staden, *The right to govern: the democratic legitimacy of the European Union* (The Hague, Clingendael paper 2003).

<sup>12</sup> Chr. Lord & D. Beetham, 'Legitimizing the EU: is there a post-parliamentary basis for its legitimization?', 39 *Journal of Common Market Studies*, No. 3 (2001) pp. 443-463.

<sup>13</sup> Riès, *supra* n. 10.

<sup>14</sup> A. Moravcsik, 'Brussels Diary: the EU is at its best when it is most boring', *Prospect Magazine*, Issue 115 (October 2005).

NATO, for example, is in this view mainly derived from the security perceptions it offers to its member states, while the World Trade Organization draws its legitimacy from the perceived economic benefits of removing trade barriers on a global scale. The EU's effectiveness in delivering concrete output by solving problems is for these authors the most important source of its legitimacy.

A last dimension of legitimacy has thus far remained uncovered, namely that of identification. The idea of a 'government *of* the people' rests upon the assumption that citizens who feel attached to their community will be more inclined to accept public policy decisions. For the EU, this implies that its policies become more legitimate the more citizens feel a sense of belonging and connection to the European Union as a polity. Thus far, there is a common agreement that identification with the EU has accordingly had the character of a functional process among a small, Euro-centric circle of politicians, senior officials, lobbyists and a small group of higher educated citizens. Although opinion polls show that many citizens recognise that in times of globalisation and internationalisation the EU is the place to address cross-border problems, for many of the EU's citizens allegiance remains primarily attached to their locality, city or region. Whether this empirical finding is consistent with ideal types again depends on the vision one holds about the Union. For some, any feelings of a European identity will always remain a composite of diverse national and European elements. Others regard the lack of a European *demos* as being explanatory for the legitimacy problems experienced in this domain and suggest the development of a European public sphere where citizens and politicians interact and communicate. The idea is that increasing the engagement of intermediary actors within that space, such as political parties and civil society actors, will build bridges between politicians, policy-makers and the citizens, which would strengthen political arrangements and ultimately lead to more identification with this European community.

### **Interrelated dimensions**

These four dimensions of legitimacy (representation and accountability, output and identification) can function independently of each other. European citizens may acknowledge the legitimacy of the democratic process, even where this leads to decisions which they do not (always) like. A minimum degree of identification with the EU as a polity may lead to greater tolerance of policies which do not correspond with individual preferences. Similarly, European citizens may have their doubts about the functioning of the political process at the EU level, yet accept these shortcomings because they feel connected to 'Europe' as an idea. But if the policies of a rather abstract and uncontrollable organisation, towards which people feel no sense of belonging, fall short in the longer term,

legitimacy problems become more serious. People may become sceptical about the political system that is held accountable for these (unwanted) outputs, as well as on how their preferences are systematically (mis)represented. This is the situation with which the member states of the EU are currently confronted.

The identification of the composite elements of legitimacy provides a useful starting point for discussing proposals about how to solve the gap. For one thing, it points attention to the fact that most debates on how to increase the EU's legitimacy have focused on the institutional dimension, whereas this is only one part of the puzzle. One account of the elusiveness of the solutions is to be found in the work of Beetham and Lord.<sup>15</sup> The main difficulty for the EU in their view lies in tension between democracy and identity. Democracy requires at least enough of an identity for people to accept that their deliberations and electoral processes take place *within* a particular community. However, there is no guarantee that this sense of identity will be available at the moment a political system democratises its decision-making. *Eurobarometer* surveys consistently indicate that European citizens identify overwhelmingly more strongly with national states than with the EU as a polity. As long as this is so, those approaches to EU legitimacy which focus on strengthening representation, but entail a high probability of national democratic institutions being overridden by European ones, could even have the opposite effect.

## DISCUSSING REMEDIES

In the following sections, three main headings in this menu will be discussed from the perspective of the different elements of legitimacy: first, the often cited focus on output and performance to address the EU's delivery deficit; second, strategies deployed to 'communicate Europe'; and, third, remedies focusing on the purposeful politicisation or political highlighting of European issues both at the national and the EU level.

### Improving EU output

From a very pragmatic point of view, the most direct way to address the EU's alleged delivery deficit is by presenting clear policy solutions to the concerns and problems of European citizens in their day-to-day lives. Presenting output legitimacy as the core solution to the current problems was the response of the European Commission and the heads of state to the ratification crises haunting the draft European Constitution in 2005. It also forms the core of a plea, just

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<sup>15</sup> Lord & Beetham, *supra* n. 12.

after the Irish rejection of 'Lisbon', to 'go on doing things that matter to Europeans and the world.'<sup>16</sup> But providing more added value by Brussels or making its real achievements more visible to the public could also work positively on the other dimensions of legitimacy. If national politicians, political parties or members of parliament would proudly present EU policies that do, in fact, work – concerted European action against unfair competition or lowering mobile phone costs within the internal market – they would perhaps no longer fear being held accountable by their electorate for what they do or do not do in Brussels. A positive perception of the EU as a successful polity might foster feelings of identification by European citizens. It has been argued that precisely this mechanism has contributed to the weak but nascent identification with the concept of Europe: not so much due to a shared history or 'essence', but to an appraisal of its common policies over the past fifty years.

This perspective of the EU's legitimacy as solely output-driven is problematic, however, in at least two respects. One is that an organisation whose legitimacy is only based upon criteria of delivery or effectiveness is very vulnerable, as experiences with the EU have shown. Once its outcome becomes disputed, the legitimacy is under fire. As the expectations of citizens have for long been mainly instrumental and functional, their declining appreciation of decisions of a more contested nature are reflected in empirical findings, including opinion polls pointing towards declining approval ratings.<sup>17</sup> The EU's mere focus on output has also contributed to the image of an elitist and technocratic playground for politicians and bureaucratic elites. Due to broader macro level developments such as globalisation, unemployment and threats to the traditional welfare state, citizens feel threatened by the loss of existing safety nets and blame the EU for that.

A second and related problem is that at the same time the EU institutions, by the voices of national politicians, aspire to be much more than a functional delivery organisation, merely relying on results. In the course of the 1990s, the growing impact of policies and regulations from Brussels, the creation of the euro and eastward enlargement have created the impression, for European citizens, that power is escaping towards the EU level.<sup>18</sup> From this perspective, the process by which the EU makes policies both at the national and the EU level is characterised by opaque, technocratic and undemocratic politics. These con-

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<sup>16</sup> Timothy Garton Ash, 'Instead of bullying the Irish, Europe should be working on plan D - and E', *The Guardian* (19 June 2008).

<sup>17</sup> H. Schmitt & J. Thomassen, *Political Representation and Legitimacy in the European Union* (Oxford, Oxford University Press 1999)

<sup>18</sup> Siedentop (2005), *supra* n. 1.

cerns are set aside as misperceptions by national politicians – but ‘if perceptions of citizens contradict the reality, then the latter is wrong.’<sup>19</sup>

The realisation, from the part of both politicians and citizens, that the outputs of EU policy do not always create positive sum games, does not imply that output legitimacy is no longer a valid way to re-legitimize the EU. However, it does imply that a sole focus on results is insufficient, if it is not matched with parallel investments into the alternative sources of legitimacy. To begin with the input side: without sufficient attention for mechanisms of representation and accountability, there is no incentive for politicians to actively contribute towards improving the EU’s output, let alone to credit the EU for the results. This is because the EU’s political structure facilitates a ‘perverse incentive’ for national politicians to claim EU successes as their own and blame the EU for results that are less politically appealing. Although this strategy may be electorally appealing in the short term, it is obvious that it feeds into negative misperceptions of the EU by citizens. One way to soften this very persistent reflex is the introduction of procedural safeguards to the policy process: openness, transparency and the adequate representation of citizen groups and societal interests within the policy process. However, due to problems with representation and access of these groups, participatory democracy is a challenge in itself.<sup>20</sup> In the end, if citizens are to value the significance of concrete policy results, adequate accountability mechanisms must be in place to control the actions of politicians. Third, in order to feed into the identity dimension of legitimacy, these results have to be adequately communicated to the citizens. Here we touch upon a second strand of solutions: that of communication on the EU.

### Communicating the EU

A well-known reflex of politicians when confronted with public opposition regarding EU issues (negative referenda, falling turnouts for European Parliament elections) is to ‘spin’ the problem away from the contents and towards an alleged lack of knowledge. This hypothesis was sustained by the results of opinion research into the outcomes of the French, Dutch and Irish referenda, all of which were driven by a reported lack of information from the side of the voters.<sup>21</sup> In

<sup>19</sup> As is argued by Ries, *supra* n. 10.

<sup>20</sup> E. van den Berg & T. Brandsen, *The Dutch Third Sector and the European Union: Connecting Citizens to Brussels* (The Hague, WRR publication no. 22, 2007)

<sup>21</sup> In the Irish case, survey and focus groups revealed that 42% of people said they had voted ‘no’ due to a lack of information or understanding (source: Millward Brown IMS, September 2008). In the Dutch case, the lack of knowledge was an important explanation (see: Kees Aarts & Henk van der Kolk, eds., *Nederlanders en Europa: Het referendum over de Europese grondwet* (Amsterdam, Bert Bakker 2005)).



order to better communicate Europe, a number of strategies are feasible, including government-sponsored information campaigns and partnership with organisations which stimulate debates on European issues; improving attention for European co-operation in civic education as well as attempts to enhance media attention for European affairs.<sup>22</sup>

From the perspective of the above-mentioned legitimacy dimensions, there is much to say for this line of thought. Obviously, all forms of participation and engagement are based upon a certain basic level of knowledge about the available channels and ways for influence. In order for politicians to adequately represent the electorate's views on a particular matter, it is necessary that the voters are informed about the issues at play. Advocating institutional reform to an electorate which does not perceive its own knowledge about the EU as adequate is particularly difficult. A lack of information increases the perceived complexity and lack of transparency of the EU (as demonstrated by the highly effective 'no' campaign in the June 2008 Irish referendum: 'if you don't know, vote no'), which complicates the satisfactory functioning of accountability mechanisms even further. If the scope, the content and the effects of EU policies are not made sufficiently clear to the public, output legitimacy is also jeopardised. And it is clear that any kind of affection towards or positive identification with the EU is based upon a proper understanding about what the EU is and how it affects daily lives.

However, there are at least two problems to this approach. First, a serious complication for all recent efforts to improve EU policy communication is that they often land on seemingly unfertile grounds. Government EU communication strategies are easily perceived as a management strategy, steered from above, without taking into account how essential deep, pre-existing mind-sets are in judging new information. A well-known mechanism in cognitive psychology is that people are biased in picking up information that confirms existing beliefs, whilst ignoring information that may suggest alternative views on a particular matter. This has proven to be a serious impediment for successive 'yes' campaigns in the member states.

Second, the problem with EU communication is that it is essentially about a fragmented system of governance which depoliticises conflict and obfuscates political accountability. Just because the complications to this system are often gratefully used by national politicians to circumvent public scrutiny and externalise public dissatisfaction to the EU, it takes a double effort to re-steer attention towards the virtues of the same system.<sup>23</sup> This is one of the reasons

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<sup>22</sup> See, e.g., the Commission's White Paper on a European Communication Policy (CEC 2006) which complements the 'Plan D' response to the institutional crisis. The Dutch government presented a national action plan for Communicating Europe in December 2007.

<sup>23</sup> Meyer, *supra* n. 6.

why all recent referenda have demonstrated the efforts for politicians to display confidence and passion in attempting to persuade their electorate to vote 'yes'.<sup>24</sup>

To add insult to injury, third, information campaigns and media attention concerning the EU is normally incidental and focused upon isolated 'events' such as elections for the European Parliament or national referendums on EU issues,<sup>25</sup> whereas people have a conservative tendency to only gradually adapt existing mind-sets.

This does not mean that information and communication cannot contribute to the legitimacy deficit. Rather paradoxically, the crucial influence that communicative strategies of political elites and parties may have on the way citizens end up identifying with Europe can be demonstrated by the results of similar strategies in the past.<sup>26</sup> In recent years, politicians in a number of member states have adopted a populist 'framing' of pro- or anti-European standpoints, thereby fuelling fears of a European 'superstate'. Moreover, the line between information and propaganda has sometimes deliberately been crossed, as the implicit agenda of the EU's institutions was one of persuasion instead of communicating Europe.<sup>27</sup> In the eyes of many citizens, the EU has become simply a 'soulless' and remote technocratic project and any attempt to contribute to this image will be associated with propaganda. There are lessons to be learned from this experience. First, the effects of communication can be considerable, but, second, if politicians do not take seriously (the effects of) these reception strategies and existing mental blocks (for the creation of which they were mostly responsible), information will not 'land'. Perhaps more importantly, the relative success of the aforementioned 'blaming and shaming' by national politicians, as compared to long-standing efforts by the EU institutions to increase public interest in their operations, demonstrates that communication on the EU should be focused at the local, regional or national level. These offer political spaces to which citizens do feel an allegiance, for which there are channels available and which remains the most likely location, in the absence of Europe-wide mass media and politics.

One particular requirement in this respect is that national differences are to be taken into account. Schmidt differentiates between compound polities, including the EU itself and Germany and Italy, and more simple polities such as

<sup>24</sup> 'Charlemagne: Democracy in Europe', *The Economist* (21 June 2008).

<sup>25</sup> H.-J. Trenz, 'Understanding media impact on European integration: enhancing or restricting the scope of legitimacy of the EU', 30 *Journal of European Integration*, No. 2 (2008) pp. 291-309.

<sup>26</sup> See V. Schmidt, 'The EU: Democratic Legitimacy in a Regional State?', 42 *Journal of Common Market Studies*, No. 5 (2004) pp. 975-997.

<sup>27</sup> J. Lodge, 'Transparency and democratic legitimacy', *Journal of Common Market Studies* (1994).

the United Kingdom and France. In the first case, including a fragmented political system such as the Netherlands, politicians have developed this vital communicative skill only on a very insubstantial level. In these member states in particular, the challenge lies in an investment in the quality of structural and consistent communicative discourses on EU policies within the member states. Efforts should focus on communicative discourse which informs the national news media and national citizens in appealing and accessible terms about the *why* and *how* of specific policy choices, let alone involving them in the drafting or assessing of possible alternatives. As will be discussed in the next section, enhancing the possibility of open contestation is perhaps one of the most fruitful solutions to the legitimacy problems of the EU.

## Politicisation

The intensity of the scholarly debate on politicisation may suggest that introducing more of it into the EU system is a value *per se*.<sup>28</sup> Instead, it is widely considered as primarily an instrument to prevent that contrasting opinions are persistently covered up or left out of the political debate, so that public unease may grow gradually and unnoticed and suddenly spill out, as happened in the French and Dutch referenda in 2005. Politicisation refers to the conscious revelation and articulation of contrasting opinions or positions on a given issue. This requires that political actors hold different opinions, that these potential conflicts are highlighted rather than covered, and that the process by which an assessment of these values, sealed by a political decision, is made, has real consequences for the content of policies. For the EU, this implies that its EU policies are subject to '... a battle for control of political power and the policy agenda at the European level, between rival groups of leaders with rival policy platforms.', according to Hix. Pleas from a more politicised debate stem from the realisation that the traditional 'permissive consensus' as well as the technocratic ways of policy-making are no longer regarded as consistent with the development by which the EU has entered into the realms of 'high politics', notably in the sensitive fields of foreign, justice and home affairs policies.<sup>29</sup>

A number of solutions have been put forward which could increase the contestability of EU policies. Most radically, these include a reshuffle of the

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<sup>28</sup> S. Hix & S. Bartolini, *Politics: The Right or the wrong sort of medicine for the EU?* (Paris, Notre Europe paper series, no. 19, 2005).

<sup>29</sup> The distinction between 'low' and 'high' politics was introduced and later modified by Hoffmann (1966). 'Whether an issue falls into one or the other category depends on its momentary salience – on how essential it appears to the government for the survival of the nation or for its own survival, as well as on the specific features of the issue [...] and on the economic conjuncture.'

EU's party structure, the installation of more state-like governmental characteristics in its structure, including a presidential system with the European Commission as an elected 'government' being accountable to the European Parliament, or holding EU-wide referendums for concrete policy choices. In terms of policy contents, the introduction of a more politicised debate could be facilitated by the introduction of former 'taboos' to the European discourse, such as introducing European taxes, which would no doubt heat up the debate. As these solutions are inevitably linked to a particular vision of the future development of the European Union, it is unlikely that such radical redistributions of power would be accepted by the member states in the near future.

Less radical alternatives for introducing a more contested EU debate include piecemeal reforms at the national level, that of politics within the member states. Here, a number of obstacles remain. First, the 'classical' route via political parties and election campaigns has proven problematic, which has been explained by the fact that the discussion of EU issues remains stuck in the one-dimensional sphere of 'in favour or against Europe.' If politicians do take up contrasting positions on EU issues, these are rarely translated into political power struggles at the national level, due to compound problems of a lack of political steering, information exchange and co-ordination between actors.<sup>30</sup> The timing, scope and impact of parliamentary involvement differ considerably across the member states. In most member states, national parliaments could more fully exploit existing competencies to control the executive in their European tasks. Even in the much cited case of Denmark, where an active parliamentary 'European Committee' plays an important role in devising mandates for Danish EU policy, a lack of information and resources prohibits Parliament as a whole from playing a proactive role in shaping national EU policy. This has inspired pleas to politicise not all EU dossiers all the time, but to select or 'target' certain dossiers or decisions for more (explicit) political contestation. This would not necessarily require procedural innovations, such as the 'yellow' or 'orange' card procedure introduced in the Lisbon Treaty, but rather a more conscious and committed use of existing arrangements.<sup>31</sup>

Secondly, and rather paradoxically, it should be noted that the current political emphasis on 'subsidiarity' (which implies that the EU should focus on the policy issues that are truly transnational or require international attention) may turn out to be counterproductive for involving or engaging European citizens. It implies that political 'fireworks' on those issues that really matter to many citi-

<sup>30</sup> C. van der Eijk & M. Franklin, 'Potential for contestation on European matters at national elections in Europe', in Gary Marks & Marco R. Steenbergen, eds., *European Integration and Political Conflict* (Cambridge, Cambridge University Press 2004).

<sup>31</sup> Ph. Kiiver, 'Europe in Parliament: Towards Targeted Politicization', Scientific Council for Government Policy (WRR) online paper no. 23 (2007).

zens (welfare policies, health care, education, housing) remain located at the national level, whereas the remaining issues for which the EU is competent (free movement, trade, agriculture) are normally not electorally decisive.

Thirdly, the particular features of the European decision-making arena pose particular difficulties to making it more political. Negotiation mandates that politicians have realised in a more (explicitly) 'politicised' way may turn out to be inflexible, in the sense that they are so different from the positions of the European partners that it is impossible to realise the political consensus that EU negotiations normally aim at.<sup>32</sup> If the results of a politicised policy process thus cannot be realised, disillusion or frustration may be the – counterproductive – result. This sets a number of requirements for the process. First, efforts to politicise should come with the silent agreement that *all* outcomes from agreed procedures should be respected. In other words: there are no wrong answers by the electorate in popular referenda or elections – as could be the impression from some of the political reactions to the subsequent rejections of the Constitutional and Lisbon Treaty in France, the Netherlands and, most recently, Ireland. There is a serious risk here, which should be duly taken into account. As politicisation sensitises people to value conflicts, they may become less willing to accept a decision that favours other values than their own preferences. Thereby, politicisation could in the end undermine the degree of diffuse support that is necessary for a legitimate political system. The paradoxical situation with the latest rejection of the institutional treaty shows that the effects of politicisation may run counter to efforts to improve governability, effectiveness and efficiency, as the Lisbon Treaty was meant to remedy precisely these alleged shortcomings of the EU's structure.

A second requirement is a sufficient degree of realism, both from the part of national politicians and the electorate, that taking part in European cooperation structures essentially implies 'to win some and lose some' in concrete policy negotiations. This political realism is part of the deal, but may be difficult to openly admit in a climate of electoral competition. In other words: it may be politically appealing in the short term to continue 'blaming and shaming Brussels'; in the long run, however, this tendency undermines all serious political efforts to enhance the EU's legitimacy. Politicisation is therefore ultimately dependent on the sense of responsibility of national politicians to take this challenge seriously.

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<sup>32</sup> P.W. Meerts & F. Cede, *Negotiating European Union* (Palgrave, EU series, 2004)

## CONCLUSION

This chapter has discussed several perspectives, from which the current crisis of legitimacy that haunts the EU and its member states can be perceived. It has identified a number of indicators of the current malaise, depending on the views of commentators on the current and desired state of the Union in general. In order to analyse solutions, a number of composite elements of EU legitimacy (output, representation, accountability and identification) have been identified, as well as a portfolio of methods to 're-legitimise' the EU. It has been argued that for remedies to work in the long term, these solutions should work positively on more than one element of legitimacy and be deployed consistently over time.

Whichever angle is chosen, however, the main challenge seems to lie with national politicians in the member states, who in daily practice function as the hands and faces of the EU. Perhaps paradoxically, their failure thus far to effectively communicate EU actions, in a way that appeals to citizens, demonstrates the crucial influence that communicative strategies of political elites and parties may have on the way citizens end up identifying with Europe. Institutional solutions focusing on procedural reform, including an overhaul of competencies or a rearrangement of responsibilities, may facilitate the processes of politicisation. But whatever the institutional arrangements selected, the key challenge lies in the contents, words and visions that are offered by national politicians themselves. As national discourse on European issues remains largely focused on procedures and institutions, the 'communicative discourse' is the main challenge for the coming years.