

Modes of Political Representation in the European Union

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1. Introduction

Modern democracy is defined by the principle of political representation. Decisions are justified by pointing to the representative character of the actors and institutions involved in the policy-making process. Over a period of three centuries, beginning in the 18th century various models of modern representative systems developed differing in the locus of sovereignty, the authorisation of representatives, the power of representatives, the style of representation, the scope of representation, and the modes of accountability. While it is true that the emergence of representative forms of government can be traced back to the Roman period and the early Middle Ages (Hofmann 1974, Podlech 1984, Ullmann 1975, Pollak 2007a) its intimate relation with democracy only developed in the 20th century. It would be a grave mistake to assume an intrinsic relation between political representation and democracy since there are many kinds of representation with scarce respect for democratic core principles like equality and autonomy (Manin 1997: 236). Liberal representative democracy emphasizing individual freedom, equality and a constitutional framework only emerged in the first half of the short 20th century, truncated versions being in place in some parts of the world beforehand.

One of the most prominent features of scholarly debate about European integration has been the widespread agreement that policy-making and administration have changed significantly over the last 15 to 20 years (e.g. Héritier 2002, 2003, Keersbergen/Warden 2004, Knill/Lenschow 2003, Kooiman 2003, Mayntz 2004, Treib et al. 2005). The very term employed to capture this change 'governance' denotes a decreasing importance of state authority and emphasises a multitude of public and private actors convening in various formations and arenas for collective decision-making. In other words, governance focuses on heterarchy rather than on hierarchy (Smismans 2006). While the latter sits well with the Westphalian state-order the former indicates the diminishing importance of the state for the organisation of a polity. Heterarchy poses a considerable challenge, both to theoretical approaches to representation and to the practical organisation of politics. Democratic representative systems need to be rethought if their most important feature – the simplicity with which they can institutionalise political equality (one person: one vote, and one representative: one vote) – is not to be lost in participatory, associative and even deliberative versions of governance, all of which depend less on the people's vote or on regular voting by representatives.

The article proceeds as follows: section two charts socio-political developments which make standard theories of representation (Rehfeld 2006; Castiglione et al. 2007) difficult if not impossible to apply to Europe's "dynamic confusion of powers" (Schmidt 2006: 47). Section three briefly describes the advantages and disadvantages of pluralist representative systems. Sections four and five trace the emergence of the Union as an arena of colliding and sometimes colluding modes of representation, first through an account of how it came to be understood as an 'arena of representation' at all (section four) and then through an analysis of structural tensions between 'governance' and core principles of democratic representation. Section six concludes.

2. "All men can understand what representation is"¹ – Can we?

In its broadest meaning representation means making something present which is absent. This so-called problem of duplication is the starting point for authors as different as Schmitt (1957), Voegelin (1991), Leibholz (1966), and Pitkin (1967). It describes nothing more than the bare assumption that political representation can implicate the represented in their absence. A fuller definition understands representation as "acting in the best interest" of the authorising social group (Eulau et al. 1959: 743; Pitkin 1967: 209; Przeworski et al. 1999: 2) and thus adds a normative principle to the mere dichotomy of presence and absence. This definition entails a number of assumptions: (1) It is possible to differentiate clearly between representatives and represented. A unity of will or interest between those two entities would make representation superfluous. In standard accounts of representation the main criterion for recognition is the electoral process. (2) It is possible to define who comprises the authorising group, i.e. who is allowed to cast his/her vote and for whom decisions by the representatives are (at least temporally) binding. State borders serve this demarcating function. But not all people living in a territory enjoy citizen status which is normally a precondition for enfranchisement. (3) The most problematic assumption concerns the "best interest". In former times epistemological assumptions about the knowledgeability of actors, membership of a specific class, divine rights or electoral results themselves (though rarely democratic ones) were all used to identify 'best interests'.

In modern societies the best interest is formed and constantly adapted in a complex social relationship between representatives and represented. Yet, in the theoretical writings and practice of modern representative democracy, free and fair elections form the centre point. Electoral representation established a viable if uneasy balance between the pressures for social and political democratization and participation, on the one hand, and the rule of the professional political elites, on the other. Because of these functions, theories of political and democratic representation have insisted on two main aspects of political representation (Castiglione et al. 2007):

¹ Thomas Paine, *The Rights of Man*, 1791.

- They describe the relationship between represented and representative as one mainly based on territorial characteristics, so that democratic governments can be made responsive to the interests and opinions of the people at large (and not simply to particular sectors).
- They emphasise the role that democratic representation has in legitimating political power. The relationship between the represented and the representative is understood as the main means by which politics ensure power is exercised responsibly: that is, with responsiveness and accountability.

Thus 'standard theories' (Rehfeld 2006; Castiglione et al. 2007) of democratic representation focus on the role of regular (territorially based) elections, which provide a mechanism for citizens to select their officials and entrust them with the running of public affairs. They assume that the representatives will either 'stand for' or 'act for' the citizens, representing the electors' interests, values and opinions in the normal business of government. It is, accordingly, common for mainstream political science to understand political representation as the proper translation of votes into seats (Laycock 2004: xii; Bingham Powell (2001). Representative democracy became a method for aggregating interests (Downs 1957; Riker 1982; Elster 1983).

But political representation has never been a simple mechanism of aggregation. The relationship between citizens and their representatives has been enabled and mediated by a series of other institutions. In modern democratic politics, mass political parties have played a fundamental role in organising consensus and shaping the political agenda; other class- and occasionally gender-based groups, interest groups, and corporate bodies have also mediated between the represented and their representatives. Both public sphere and civil society have contributed to forming and mediating public opinion. In sum mechanisms of representation have formed and transforming them citizen preferences, as well as aggregated them.²

Yet it is not just the mediated character of political representation that make it difficult to apply standard theories of representation without profound modifications. In the last two decades the political landscape has changed in ways that have both transformed the logic of representation and changed the nature of democratic government. Two of these changes involve the scale and complexity in processes of decision-making in modern society, another concerns the way in which actors relate to political communities (Pollak 2007; Castiglione et al. 2007):

- Increasingly powerful transnational players and decision-making arenas tend to escape the reach of traditional institutions of democratic representation rooted in territorially defined political communities. An increasing number of collective decision-making areas and issues, at both the national and supranational level,

² This points to the important question how representatives construct/imagine their constituency or audience. Ankersmit (2002) and Saward (2003) call this the "aesthetic moment" of representation.

are now largely shaped by specialized and expert bodies. This ‘agencification’ of politics can be understood as an attempt to carve up politics into neat isolated chunks which can be dealt with by experts who hardly have any democratic mandate or connection to the people.

- A multiplication of informal structures and opportunities for democratic representation and influence has increased the importance of decision-making in *couloirs* which bypass formal (parliamentary) politics. Political power has thus been fragmented and responsibility and accountability dispersed.

Modern politics that policy-making are no longer confined to a clearly demarcated system but are dispersed across levels, various actors, changing coalitions and multiple arenas. In short: politics has become governance. The core assumption of representative government at least since Burke and Sieyès³ - that all other forms of representation and public decision-making in a polity can be subject to the ultimate regulation of a parliament elected from across the territorial unit as a whole – appears increasingly challenged. Whilst this is not an entirely new phenomenon, competitors increasingly claim that they are at least as well – if not better – placed than elected representatives to represent citizens. An ever growing number of citizens bypass traditional (parliamentarian) channels of representation via engagement in interest groups of various denominations or by placing their trust directly into executives.

Under these circumstances it is increasingly difficult to base democratic representation on simple elections which are part and parcel of the formal system of democratic politics. Whilst decreasing rates of electoral participation do not automatically mean that the electorate is apathetic or disenchanting, they may mean that citizens have found other channels – formal and informal – to make their voices heard. Thus it is difficult to rely on elected legislative assemblies to shape or represent the general will. Politics today seems to be more inclusive in the variety of modes of representation it connects to public decision-making process. Yet it poses a threat to the core democratic principle – that all citizens should be equally represented – to the extent it does not lead to “egalitarian pluralism” (Cohen/Rogers 1992) but to elitist politics. We must not forget that “[t]he pluralist choir sings with a heavy upper-class accent” (Schattschneider 1960: 35)⁴.

In order to grasp the theoretical importance of this development it helps if we conceive the relationship between representatives and represented as a constant dialogue in which representative claims are made by various actors (be they parliamentarians, NGOs, interest groups civil society associations etc.), which in turn are accepted, amended, or rejected by various (sometimes overlapping) social groups or audiences (Saward 2006). This avoids the sterile differentiation between participation and representation by underscoring that there is no representation without at least a degree of participation. But, above all, it provides a framework in which we can visualise the complexification of representation through the pluralisation of representatives, the multiplication of audiences, the diversification of deliberative fora. With its help we can more easily differentiate between formal and informal representative claims. Formal

³ For the difference between the American, French and British model of representation see Pollak (2007).

⁴ See also David Coen’s “elite pluralism” (1997).

claims are made by political representatives within legal and institutional frameworks designed to reach authoritative, collective decisions on behalf of the political community. The assumption here is that policies which affect all citizens should only be sanctioned by formally authorised actors who derive their legitimacy from democratic structures based on equal representation. What makes representatives representative is that they are elected by – or accountable to – a body of equally entitled citizens, not that they represent this or that substantive interest. Once it is the procedural fact of election by citizens with equal votes that is seen to constitute representation, it is up to representatives, subject to electoral accountability, to decide how to balance different substantive interests: economic, social, religious, and ethnic. No substantive interest has any *a priori* claim on the representative process.

Informal representative claims denote the feeding of information, demands, and interests into the political process by civil society associations with the aim of influence the policy-making process. Civil society associations are all types of organisations, including interest groups, nongovernmental organisations (NGOs) or other types of networks that do not possess a formal mandate to participate in policy-making (see European Commission 2001) but that represent a more or less clearly defined membership which is smaller than the population of a territory under a common regulatory regime. Those groups understand themselves as representatives of their sometimes very broad membership structure – such as consumer groups or environmental organisations and therefore as legitimate members of authoritative action and binding decision-making processes even though they may not have been selected via elections by the majority of the citizens (Kritzing *et al.* 2006).

3. Pluralist representation

Voters and politicians are today confronted with a cacophony of representative claims. Both are authors as well as addressees of those claims. As both politics and policy seemingly become increasingly complex and technical, citizens have both means and motive to engage in “representation shopping”.⁵ Interest groups and informal representatives in the broadest sense offer an alternative to traditional, formal representation by politicians and parliamentary assemblies. But, crucially, informal representatives do not just lack the authority to speak on behalf of the whole citizenry (Warleigh 2001). They do not seek that authority, preferring, instead, to give voice and influence to specific membership groups. Elected representatives, in contrast, have to appeal to the middle ground in order to gain office, with the result that their representative claims are more likely to be general or to resemble pork barrel politics. In systems with clear constitutional frames and fairly uniform policy-making processes such a pluralisation of representative claims can be a welcome completion of democracy. Formal and informal representation can complement one another.

⁵ And they do according to the studies of e.g. Bréchon (2002), Dalton (2003), Norris (2002), Cain *et al.* (2003).

Michael Greven (2007: 234) has shown how justifications for wide societal participation developed in two waves during the second half of the 20th century. Whereas arguments of justice and political socialisation – especially of those “whose involvement had been historically restricted by structural barriers or lack of social resources” arguments – featured heavily during the first wave, they receded somewhat during the second phase in favour of arguments that emphasised effectiveness, problem-solving capacity and greater compliance with less need to commit resources to coercion or even supervision as benefits of participation. A “normative de-individualization of political participation” (Greven 2007: 237) took place which directs the discussion today.

Several attempts to theorize those waves have been made from a state-centred perspective (pluralism, neo-corporatism) and a self-regulatory perspective (associative, deliberative democracy). Thus, there is no shortage in theories trying to explain the pluralisation of political actors or the informalisation of politics. Since these actors increasingly justify their participatory demands by pointing to their representative character this strand of literature proves useful for our discussion too. Classical pluralism (Truman 1951, Dahl 1961) assumes that the competition between interests guarantees all societal groups a voice in the preparation of political decision-making. The state plays the role of a passive arbitrator merely providing an arena for discussion (Schumann 1994: 72). It soon became clear that such a competition does not secure the participation of all existing interests due to resource asymmetries. In addition Mancur Olsen (1965) identified the problem of ‘free-riding’ which drastically reduces the appeal of participation. This leads to a situation which leaves some interests well entrenched in the policy-making process while others are left to grapple with the difficulty of getting organized for action at all. Neo-corporatism, which grants the state a more active, output oriented role (Czada 1994) also recognizes the need for the state to play the role of a gate-keeper in the selection of interests (Offe 1981, Schmitter/Lehmbruch 1979, Schmitter 1981). This role is not problematic as long as all interests participating in the decision-making are visible, all-embracing, internally democratic and clear accountability procedures for state actors are in place.

As has been stressed by many authors a system of pluralist informal representation can be regarded a democracy-supporting factor in order to cure or at least to improve democracy as they dispose of rather short chains of delegation (Schmitter 2000). They appear to be in a better position than formal representatives to gain the trust of citizens; they dispose of the necessary expertise to represent their interests; and they share a common identity as well as interests with them. Interest group participation as example for informal representation, for instance, is thereby considered an important element of democratic political systems. Interest groups help to organise and aggregate interests and thus provide them with weight and a representative character (Knill 2001). Within democratic theory, informal representation via interest groups has played a prominent part in associative democracy (Hirst 1994; Abromeit 1998; Saurugger 2003) and deliberative democracy approaches (Eriksen/Fossum 2000) which maintain that a democratic decision emerges from deliberation amongst those affected by the decision or issue in question, i.e. members of civil society debate an issue and arrive at a solution that is acceptable to all members as the best for the common good. In this context the concept of civil society plays a particular role for deliberative democracy as

the space within which public reasoning takes place, be it organised in the form of interest groups, or unorganised (Cohen/Rogers, 1995).

Under the conditions of a stable institutional/constitutional frame which defines roles in the policy-making process, a transparent decision-making system and clear accountability procedures for all participating actors the existence of a plurality of representative claims has several advantages: (1) The involvement of multiple representatives allows for a wider range of societal concerns to be raised. Noticing these concerns and allowing them a place in the decision-making system could strengthen the EU's legitimacy which for decades tries to shed the image of a pure *Zweckgemeinschaft*. (2) Interest groups, as mentioned above, have a short chain of delegation, i.e. they are closer to the citizens. (3) Interest groups are privileging specific policy issues rather than strategic party politics. Due to this focus on issues rather than on obtaining political power they are potentially transnational in character. (4) From a neo-corporatist point of view the mixture between formal and informal modes of representation mirrors the Union's current regulatory character. (5) Informal channels of representation allow the citizens to direct their support to alternative groups instead of venturing their frustration against the system *per se*. (6) Interest groups demand a higher degree of participation and political activism than formal structures of representation. They may thus be capable of increasing "citizenship practice" (Wiener 1998).⁶ (7) Pluralist representation can increase the inclusiveness/ representativeness of politics. Thus it potentially reduces transaction costs in implementation.⁷ (8) Pluralist representation may counter one of the main weaknesses in assumptions of political equality built into systems of formal representation: namely, the seeming unfairness of always distributing influence over decisions on the principle 'one person, one vote' when many decisions have but small and diffuse effects on the overwhelming majority of citizens but concentrated effects on the livelihoods and other life chances of specific groups of individuals. Unlike formal systems of representation, interest representation does not just count the *number* of preferences for or against policy options. Rather, by allowing for consultation with specially affected groups, it enables polities to take account of those variations in the *intensity* of preference that are widely agreed to be worthy of consideration.

However, in highly complex non-hierarchical and non-coercive systems which rely on interest-based politics instead of competitive party politics, systems which can be defined by 'policies without politics' (Schmidt 2006) such as the EU, the pluralisation of representative claims can have less welcome effects too. (1) The lack of stringent, transparent and comprehensive decision-making rules partly constrains the right of the citizens to decide to whom they want to transfer their authority. (2) While competition is the nuts and bolts of politics the existence of an almost unmanageable number of potential representatives can lead to duplication and thus to efficiency losses. (3) A plurality of representative claims can lead to shirking (Brehm/Gates 1997) and thus heavily affect accountability. In addition the distinction between governmental/formal and non-governmental/informal representatives is blurred opening the door for extensive blame-shifting. (4) In systems which are largely interest-based the existence

⁶ A Neo-Aristotelian argument which is beautifully explicated in Arendt (1958). See also Naschold (1969).

⁷ Bob Jessop (2002) argues that participation, or participatory governance, is a means of coping with the omnipresence of governing failures.

of multiple representative claims can lead to a 'sequentialisation' of policies instead of the implementation of coherent programs. (5) In absence of clear rules central players have to act as gate-keepers/sluice gates which gives them a considerably powerful position. Together these features can lead to a representative system in which claims collide and/or collude.

4. Applying the 'R' word to the European Union

If, following Saward (2006), we are to understand representation as a social relation which is enacted in a constant dialogue, we can expect this dialogue to take different modes (e.g. parliamentary, bureaucratic), to have different content (depending on the policy field and the audience), to be of varying extent (size of the audience) and to perform multiple functions (organisation of rule, control of politics, enabling responsiveness, selection of political elites) depending on the participating actors. Institutions in the broadest sense – be they parties, social groups, organizations, or networks – shape those dimensions of dialogue. Given a system that has gained in complexity since its inception by a series of treaty reforms not only deepening and widening integration but also adding various new institutions and fora, we can expect a bewildering array of rather different claims. Thus, in the EU a representative system has emerged which comprises the following (partly overlapping) modes of representation: (1) parliamentary representation in the EP, the various committees in national parliaments dealing with EU affairs and the COSAC; (2) Nation-state and regional representation in the European Council, the Council of the EU and the Committee of the Regions; (3) Bureaucratic representation embodied in the European Commission; and finally (4) Informal representation via lobby groups, NGOs and the Economic and Social Committee.

But have these elements adapted to one another to form a system of representation? Or are they better described as a series of disjointed and partly contradictory responses to different representative claims? This question is best introduced through a brief review of four texts that traces the emergence of representation as a political standard that can sensibly be demanded of the European Union. Although necessarily abbreviated, the exercise provides an overview of how different representative claims have sedimented historically in the European arena, as well as a brief evaluation of how well the resulting strata now fit together in the contemporary Union.

From the beginning, the notion that a technocratic Europe focused on managing interdependencies between economic systems would need to make little provision for parliamentary representation was opposed by 'federalists' who believed that European institutions could only be properly authorised by calling 'a constituent federal assembly made up of representations of the people and not the governments' (quoted in Corbett 1998: 6). At the urging of those in its institutional affairs committee who argued that, once it was directly elected, the European Parliament had better title than those who had agreed the existing treaties to regard itself as representing the European *pouvoir*

constitutionnel understood as a single people, the 1979-84 Parliament drew up its own Draft Treaty on European Union (1984).

Several of the proposals in the 'Spinelli draft' to empower the EP so that it could provide a form of parliamentary representation suited to the European arena have subsequently been adopted. Yet, crucially, they have only been developed within the context of another understanding of representation made possible by an earlier text, namely the communiqué of the Paris summit (1974). As it happens the communiqué does not even mention the word representation. Far from claiming that it was aimed at the better representation of the individual concerns of Member States, its sponsor would later claim that with agreement to create the European Council the 'European executive would start to be born' (Giscard D'Estaing, 1988, p. 119). Yet by simultaneously reaffirming agreement to proceed to direct elections of the European Parliament and instituting tri-annual European Councils, the Paris summit combined two innovations that would over time be merged into a single dominant narrative of how representation works in the European arena. Thus in signing the Constitutional Treaty in 2004, the Heads of Government also endorsed what had by then become the following mantra: 'citizens are directly represented at Union level in the European Parliament. Member States are represented in the European Council by their Heads of State or Government, themselves democratically accountable to their national parliaments or to their citizens'.

One reason why it would be anachronistic to attribute this view to the Paris summiters themselves is that dual representation was at the time associated with another couple: namely, the Commission and Council of Ministers. Jean Monnet's description of the Community method - 'a permanent dialogue between a single European body, responsible for expressing the view of the general interest of the Community, and the national governments expressing the national views' (Monnet, 1962) – implied that both Commission and Council have representative roles; yet, roles that are only defined in relationship to one another, under conditions of permanent dialogue, of Treaty stipulations giving the Commission a monopoly right of initiative, and, of course, of a demarcation between the claim of the Commission to represent a general interest and the claim of the Council to represent partial interests. To the extent that empowerment of the EP implies a different 'general interest' claim based on election rather than technical understanding, whilst the European Council's representative claims are far from reducible to those occasions it acts as the Council of Ministers of the European Communities, the slow displacement over the past 30 years of the original notion of dual representation (Commission and the Council of Ministers) by its more contemporary usage (European Council/Council Ministers and the European Parliament) amounts to a quiet revolution in official accounts of how publics are represented in the European arena.

That the Commission has itself had to adapt to this changing understanding of dual representation, rather than insist on the original version, is obvious from our third text. In its White Paper on Governance" (2001) the Commission defined its own role as an arbiter between those democratic interests represented by the Council and those represented by the EP. Of course, this claim begs questions of how a mixture of independence and technocratic understanding can ground claims to regulate relationships between different categories of elected representatives (Follesdal, 2003).

At what point is the Commission to arbitrate positions taken by elected representatives? After orientations have been set and it remains only to choose some means of achieving them compatible with the Commission's understanding of the general interest? Or is the choice of ends themselves to be constrained by the Commission's representation of the general interest?

Yet, for the purposes of our study of tensions between governance and representation in the contemporary Union, it is important to note that the Commission had started out by claiming a role as 'referee' between representatives of a different kind before being forced, under pressure from the European Parliament and Member States, to absorb the assumptions of dual representation into drafts of the White Paper. Earlier studies sponsored by the Commission's Forward Studies Unit (European Commission, 1997; De Schutter *et al.*, 2001) had been sharply critical of systems in which representatives 'formulate broad policies in legislative chambers, oversee their detailed implementation by bureaucratic departments' and 'impose a particular understanding of the problem and the means to resolve it'. The FSU studies doubted whether this conventional understanding of representation was still equal to the demands of 'legitimate rule production' (De Schutter *et al.*, 2001, p. 18) in societies of great technical complexity and normative diversity. Rather than go for the apparently clumsy and inflexible one-size-fits-all solutions of representative democracy, the FSU favoured stakeholder networks in which representatives of those affected by each decision would shape policy proposals and even agree their own decision rules and standards of validity. Crucially, though, the FSU saw the Commission as the obvious body to 'moderate' each network by enforcing rules and deliberative standards, as well as promoting equality between stakeholders in access both to the network and resources.

Although it attracted much commentary at the time, the Commission White Paper was subsequently overshadowed by the Constitutional (2004) and Lisbon Treaties (2007). Whatever the ultimate fate of the latter it remains a key text for any study of Member States' self-understanding of representation in the European Union. For a start the clumsy attempt in the Constitution to distinguish direct and representative democracy in the European arena was replaced by a straightforward claim that the 'functioning of the Union is based on representative democracy'. Other parts of the Treaty then go some way to answers three questions that are begged by the notion of dual representation, namely: i) what wider infrastructure of democratic politics – and in particular what role for political parties – is implied by the direct election of the EP? ii) What role for national parliaments is implied by the notion that citizens are also represented at the Union level through domestic democratic institutions and iii) How should the Union's formally authorized institutions interface with informal forms of representation? Article 8 B of Lisbon obliges EU institutions "to maintain an open, transparent and regular dialogue with representative associations and with civil society".

At first sight the story of the four texts might seem to indicate significant mutual adjustment of representative claims in the European arena. The somewhat awkward notion of dual representation in which one component is borrowed from the internal politics of states (parliamentary representation in a body directly elected by citizens themselves) and another from politics between states (representation by the elected governments of Member States) has somehow been fleshed out into a sophisticated system of legislative Co-decision anticipated in the Spinelli draft. Thought has been

given to what this implies for representative infrastructures and for the interface between democratic and non-democratic forms of interest representation in the European arena. Yet evidence remains that different modes of representation are mutually constrained – if not mutually asphyxiated – by their uneasy co-existence within the European arena . The following section discusses examples.

5. The EU's complex system of representation

European integration has created huge problems for political representation hitherto anchored in national systems. It has complicated the functioning of national representative systems without, as yet, producing a fully satisfactory representative system of its own. Political scientists have identified different dimensions of this problem. Conspicuous amongst them are the following: the role of European integration in reducing choice and competition in representative politics (Blyth/Katz 2005); the absence of a fully functioning party system in the European Union arena (Bartolini 2005); and the still second-order character of European elections (Reif/Schmitt 1980). In sum, the European Union has struggled to develop a politics of representation even where it has institutions of representation (Lord/Harris 2005).

Policy-making in the European Union is a dynamic process which demands that formal and informal representatives from different levels collaborate and compete to secure the outcomes they desire. In place of any single policy-making process, decision rules and policy styles vary across policy areas, often reflecting the historical particularities of the moment in the Union's development when they were originally agreed (Warleigh 2001). The possibility of a central form of democratic representation seems to be ruled out by the evolving (Banchoff/Smith 1999: 14) and non-hierarchical network character of the EU .Since, moreover, the EU is a "fused" (Wessels 1997) polity – which merges rather than replaces – the instruments and structures of the member states, any role of formal representatives in scrutinising Union decisions has to be shared out between the regional, national and supranational levels. Even then formal representatives do not have a monopoly either on policy itself or on representative roles. Instead, various formal actors– the Commission, the Council, the EP, the European Economic and Social Committee (EESC), the Committee of Regions (CoR), national parliaments – and various informal actors NGOs and interest groups etc. claim to represent not just distinct constituencies, but sometimes overlapping, and sometimes even identical ones. Overall, the system is one in which the representatives are selected according to different procedures (election, appointment, nomination), based on different grounds (territorial, institutional, ethnic identity; expertise; common interests) with widely different mandates and tasks leading to different representative styles (e.g. trustee, delegate, politico) and modes of responsiveness (policy, service, allocation, symbolic responsiveness) as well different forms of accountability (e.g. legal, political, economic).

The existence of multiple representative claims (both formal and informal) at the same time for the same “constituencies” has become a hallmark for governance regimes. Within the EU the participation of informal representatives in decision-making is happening in manifold ways but they can be differentiated by their role: they are either involved in the preparation of policies (whether they lead to European legislative acts or not) because they provide a specific expertise or they are integrated as equal partners (in the case of some social policies they are even transferred legislative authority upon) in preparing and making decisions (Greenwood 1997, Warleigh 2000, Michalowitz 2005).⁸ Thus, the European Commission’s White Paper on European Governance” awarded civil society organisations a prominent place for reasons of efficient and democratic governance; and, shortly after its publication, the Commission sought to put civil society participation on a firmer basis by addressing the long standing complaint that it was by no means clear which groups it should selected when. It stipulated guidelines and standards for consultation and cooperation with organized interests (Commission 2002; see Kohler-Koch 2007). As seen, the new-found love for presenting civil society co-operation as a form of inclusive policy-making found a sequel in the Constitutional (CT) and Lisbon Treaties.

Who is in charge of this dialogue was made clear by the ruling UEAPME (European Association of Craft, Small and Medium-sized Enterprises) v Council (Case T-135/96; 1998 ECR II-2445). Articles 138 and 139 TEC provide that the Commission “shall have the task of promoting the consultation of management and labour at Community” level. This includes a two-stage consultation before the Commission submits a proposal and after it makes the proposal itself. The Commission established a list of potential consultees which included UEAPME but in the second stage UEAPME was not consulted any longer. This was challenged by the Association in an action before the Court of First Instance on the grounds that without its participation the formal procedure was insufficiently representative and unbalanced. The ruling of the European Court of First Instance (CFI) denied UEAPME standing to sue and left it to the supranational institutions whom they wish to consult. In the eyes of the CFI the participation of the big interest groups (e.g. COPA, ETUC, UNICE, Eurochambres, CEEP) ensures representativity. A position which may be doubted given the fact that for instance ETUC, UNICE and CEEP have no mandate from their national members to negotiate on their behalf, that possible regulations do not necessarily have to be transposed in national law and that membership numbers are dwindling. Furthermore, the CFI holds the view that the exclusion of the EP in this procedure is justified because “the participation of the people is otherwise assured through the parties’ representatives of management and labour who concluded the agreement”. Other actors only have the right to participate if “there is a lack of sufficient representativity”. The astonishing name for this principle the CFI invented is “sufficient collective representativity”. Informal representatives are no longer regarded as completion of a parliamentary representative system but are treated as equal. This amounts to an almost functional or estate like form of representation which does not do justice to a heterarchic system and it is

⁸ The European Commission’s CONNECS database gave an idea of how vast the range of interest groups is. Based on wide-ranging consultations with interest groups about the “European Transparency Initiative” (COM (2007)127 final) the Commission decided to create a new voluntary register for interest representatives replacing CONECCS.

structurally sub-optimal since it reproduces power inequalities. Furthermore, it does not provide what John Stuart Mill (1861) identified as a central quality of one over-arching arena of representative politics: a forum for debate where representatives at least have the opportunity to bring all points of view into contact with one another, and to challenge one another 'in the light of day' to justify their preferred positions.

While formal and informal representative claims were always part of every decision-making system we hold that in the European Union the balance between the two has tilted toward the latter which has severe consequences for the democratic quality of politics since informal representatives are not subject to the safe-guarding mechanisms of democracy and do not need to pay attention to the equality principle (see also Greven 2005). As Andersen and Burns put it "[...] the democracy of individual citizens tends to be replaced by a *de facto* democracy of organised interests, lobbies and representatives of organisations that engage themselves in policy areas and issues that are of particular concern to them" (1996: 229). However, it is also an undeniable fact that the powers of the directly elected European Parliament has expanded impressively over the last decade. But the individual citizen can no longer be sure to see his/her demands, opinions, and values to be automatically represented since decisions are no longer deliberated and taken by formal representatives only. Trying to influence the highly complex European policy-making system demands much more in terms of time, resources, and expertise from citizens compared to national systems. In the EU's pluralist representative system it has become increasingly difficult to identify the representatives. Instead we find a myriad of claims on offer. One potential consequence is the increasingly colliding nature of the relation between and within formal and informal politics (Pollak 2007), the hollowing out of parliamentary democracy and the rising intransparency of politics.

They *collide* most obviously where one claim to representativeness undermines another; where, for example, two conflicting majorities have equal claim to regard themselves as democratically-elected representatives and equal claim to trump the other in deciding a law affecting the lives of the represented (Dehousse 1995; Follesdal 2003); or where a claim to represent some special need refuses to bow down to a claim to represent the public as a whole. Majorities at the European, national and regional levels – each with equal claim to being elected by the citizens – may all claim to be better placed than the others to represent citizens in the making of Union policies: closer to what happens on the ground, able to consider the larger picture, in touch with real political communities supported by real political parties and real media debates, able to listen to the views of those from other countries which are also affected by Union policies and laws, are just some of the contrasting claims typically made by different representatives for why their level is the best one at which to link the citizen to EU governance. But it is not just elected representatives who dispute one another's claims. Specific groups – fishermen, truck drivers, French plumbers, Volkswagen workers – whose livelihoods are *intensely* affected by Union regulations may not feel they can be adequately represented by any kind of elected representative whose main concern will often be with the *diffuse* interest of society in the regulations in question.

However, representative claims also collide in a second sense: namely, when citizens are confronted with a bewildering array of claims that only serves to obscure who is responsible for what within the EU's institutional order, or, indeed, how citizens can engage with the EU's political system, direct their expectations towards it with a view to securing policy outcomes, and claim ownership of it in the fundamental sense of being able to see themselves as authoring their own laws through representatives.

As if these collisions were not enough, all representative systems are exposed to the contrary risk that different claimants to representative status may *collude* to limit political competition and thereby capture for themselves some of the benefits of shared institutions which in a more competitive representative system would be used to satisfy citizen needs and expectations (see esp. Blyth/Katz 2005). This general risk may be especially acute in the case of the European Union, given, first the Union's historical genesis, i.e. being a product of "international" diplomatic negotiations between states; second, the remoteness, opacity and unfamiliarity of the Union's political system as demonstrated by clear empirical evidence that citizens lack knowledge of its representative structures (various Eurobarometers) ; and, given, third, that the locus of political competition between would-be representatives is hardly, even in the case of European elections, focused on the European Union arena, but rather on the domestic politics of Member States (Reif/Schmitt 1980).

Consequently, in such systems transparency is difficult to obtain, accountability is hard to attribute and legitimacy is potentially challenged. While at first glance this system also offers a multitude of access points⁹, it favours certain modes of representation and puts some diffuse interests at a disadvantage due to gross resource asymmetries. It is a system in which the representatives are selected according to different procedures (election, appointment), based on different grounds (territorial, institutional, ethnic identity; expertise; common interests) with widely different mandates and tasks leading to different representative styles (e.g. trustee, delegate, politico) and modes of responsiveness (policy, service, allocation responsiveness). These important differences lead to a vast array of representative claims potentially cancelling each other out, blocking the policy process and leading to suboptimal results in terms of responsive politics. In the resulting complex representative system of the EU comprising different levels it is often unclear who represents what and whom and how this representation feeds into the policy-making process. Consequently, European citizens do perceive the Union's political system as a remote structure hardly serving their interests – a logical conclusion is their demand for more direct participation, them turning away from formal representatives towards single issue or interest groups, or their utter absenteeism from the political stage.

6. Conclusion

The Union's inclusiveness of a plurality of different actor types – representatives of Member States, citizens, regions, interests, NGOs and advocacy coalitions – is sometimes presented as one of its redeeming features. This paper has, however,

⁹ Nentwich (1998) has shown that citizens have 15 different opportunity structures for participating in EU policy-making. However, organized interest groups are more likely to exploit these avenues due to the necessary levels of skill, money and time.

sounded a note of caution. Lumping different types of representative and modes of representation together does not guarantee good representation. To the contrary, it can lead to confusion as to who represents whom, and as to who is responsible for what. Inclusiveness can also reduce competition between representatives. On top of these more or less familiar laments, this paper has used a short study of four texts to demonstrate the emergence of notions of dual and plural representation in the European arena. As illustrated through the example of the UEAPME case, the Union is, however, still some way from agreeing a definition of inclusiveness to the satisfaction of all those who claim access to its arena; or, indeed, to the satisfaction of basic standards of representation.

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