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The Quality of Democracy after Joining the European Union

Jan Zielonka

Joining the European Union (EU) has changed the nature of democracy in the new member states. The EU's membership has complicated the structure of democratic decision making by making it more multilayered and multi-centered. EU membership has enhanced the powers of nonmajoritarian institutions such as the European Commission, the European Court of Justice, and various regulatory agencies. National parliaments tend to be less powerful democratic players after a country joins the European Union—and even before, as the EU accession process has shown. EU membership has also broadened the democratic public space. As a consequence, democratic decision making within the European Union has to accommodate a more diversified set of interests and cultural orientations. Providing citizens with greater access to the European decision-making process seems to be most urgent in the new member states from Central and Eastern Europe, whose citizens feel particularly detached from this process. The article tries to suggest some ways of achieving this.

Keywords: Central and Eastern Europe; European Union; democratic quality; EU enlargement.

Cynics often describe the recent history of Central and Eastern Europe in terms of moving from one union to another. The former is of course the Soviet Union and the latter the European Union (EU). This seems quite unfair because the latter is a symbol of liberty and democracy while the former was about one-party rule if not oppression. True, the EU accession process has often been handled in a dictatorial fashion: the candidates were presented with a long list of conditions for entrance, and they were hardly in a position to negotiate these conditions let alone reject them.¹ However, one of the European Union's conditions for entrance was the establishment of a workable democracy. As the 1993 EU summit in Copenhagen stated, candidate states must have "stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities."² Moreover, joining the union was a means of creating the economic,

political, and institutional conditions under which a new democracy could consolidate and persist. This has been proven by the Greek, Spanish, and Portuguese cases, and the idea was to repeat the same success story in Central and Eastern Europe.³

This is all true, admit the critics, but they point to a growing body of literature describing the union's democratic deficit. Some go as far as to argue that the union does not meet the standards of democracy that it asked the applicants to observe.⁴ This article addresses this puzzle. Does joining the European Union enhance or pervert democracy in new member states from Central and Eastern Europe? Should new members embrace or resist the European "democratic" governance?

I will examine three crucial implications of joining the union. First, and most obviously, EU membership will complicate the structure of democratic decision making by making it more multilayered and multicentered. (I should add that the competencies of various layers and centers are currently underdefined and overlapping if not blurred altogether.) Second, EU membership will enhance the powers of nonmajoritarian institutions such as the European Commission, the European Court of Justice, and various regulatory agencies. National parliaments tend to be less powerful democratic players after a country joins the European Union (or even before, as the EU accession process has shown). Third, EU membership will broaden the democratic public space. As a consequence, democratic decision making within the European Union will have to accommodate a more diversified set of interests and cultural orientations.

I argue that the traditional parliamentary form of democracy is likely to suffer as a consequence of joining the union. However, it is hoped that the union will manage to find new ways of assuring the transparency, responsiveness, and accountability of its institutions. Providing greater citizen access to the European decision-making process seems to be a most urgent and important matter and I will try to suggest some ways of achieving this. It is also hoped that this imperfect democratic unit will manage to assure more system effectiveness and thus compensate for its inability to enhance genuine citizens' participation. I also argue that the new member states from Central and Eastern Europe

will not see the weakness of democratic governance in the union as particularly disturbing. They all value their newly regained sovereignty, and therefore they prefer a polycentric type of European governance rather than a hierarchical one. They also value their own national cultural identity and do not want to see the union creating a new "European" man: a kind of *homo europeanus* as opposed to *homo sovieticus*.

These Eastern European attitudes have their merits, but the principle of sovereignty and cultural distinctiveness should not be interpreted as a *carte blanche* for governments in the new member states to do as they wish. The union should continue to monitor closely the democratic record of all member states (new and old), and it should dissuade those in power from succumbing to any kind of authoritarian temptation.

Complex governance structure

Democracy in a nation-state has a clear governmental center and clear allocation of competencies.⁴ The system is fairly hierarchical, although some countries allow a substantial devolution of power to local units. Moreover, functional boundaries usually correspond with territorial ones.⁵ The government enjoys its legal, economic, and administrative powers within the entire state territory. The structure of European governance, however, is much more complicated, with numerous implications for democracy. EU governance operates at multiple levels: European, national, and regional.⁶ (One should add that in Central and Eastern Europe it was the process of European integration that led to the creation of independent regions, with the European Commission insisting that regional institutions be set up to manage the structural funds.)

Moreover, authority in the European Union is shared and dispersed among various governmental centers. As these centers are dispersed over a number of different sites, their geographic reach varies, and they operate in different functional fields.⁷ For instance, the European Central Bank is not in Brussels but in Frankfurt, and its formal powers apply only to countries belonging to the euro-zone. The system is not only multilayered, multicentered, and

heterogeneous, but it also lacks a clear allocation of competencies and straightforward hierarchy. The competencies of various governmental agencies are overlapping and blurred. Jurisdiction has been dispersed across different levels, and decision making takes place in multiple arenas.⁸

There are various ways of looking at these developments. Experts in public administration often argue that flexible governance arrangements and overlapping, polycentric jurisdictions of European governance promote both efficiency and redistribution.⁹ They allow decision makers to adjust the scale of governance to reflect heterogeneity of the vast European space. They provide more complete information on constituents' preferences and are more adaptive in response to changing preferences. They are also more open to experimentation and innovation and facilitate more credible commitments.

However, experts in democracy are much less happy with these flexible and highly complex governance arrangements. Can democracy properly function in a complicated if not impenetrable system of multilayered arrangements that work at different speeds and are run by shifting groups of unidentified and unaccountable people?¹⁰ It is clear that the complex multilayered nature of European governance is less transparent and accountable than the more simple structures known in nation-states.¹¹ European governance lacks even some of the basic mechanisms that prevent the abuse of power and secure democratic controls. For instance, as Yves Mény has observed, "The separation of powers principle has never been implemented in the EU in the same way it has been in national democratic systems. In fact, powers of the EU were often distributed in an *ad hoc* fashion, characterized by overlaps and mixtures rather than separation. The spheres of legislative and executive bodies were blurred and confused."¹²

European multilayered governance is clearly problematic from the democratic point of view. But the federal solutions put forward to address this deficit seem to be even more problematic in terms of both efficiency and democracy. Centralized federal governance run from Brussels is likely to be insensitive to local demands and ill suited to accommodating diversity. Variable

geometry and competing jurisdictions allow individual member states to opt for policies best suited to their needs and characteristics. Multilevel governance means that not all decisions are being made in an ever more powerful European center that is presumably more detached from local problems than national or regional governments. Flexibility and subsidiarity may well have an adverse effect on transparency, but they leave space for creative solutions orchestrated from the grassroots levels. According to the 2006 Eurobarometer, in most of the new member states the vast majority of citizens believe that their voice does not count in the European Union. In Latvia, only 18 percent of those polled believe that their voice counts; in the Czech Republic it was 20 per cent; and in Estonia and Slovakia, 21 percent. (The EU average is 36 percent.)¹³

All the above arguments help to explain why new member states from Central and Eastern Europe fiercely resist any decisive shift of powers to the European center. This was particularly evident in the process of drafting the European Constitution. New member states opposed efforts to make the European Commission a more effective center of government by insisting that each member state would continue to have its own commissioner with the right to vote. They also insisted that the system of a rotating EU presidency would remain in place in one form or another. This system implies that the main center of governance in the European Union moves from one European capital to another on a regular basis, thus preventing the emergence of a single European center in Brussels.

The new member states obviously remember the bad experience they had with the centralized governance system of the communist regimes. However, their main concern has more to do with the European politics of today. They fear that an all-powerful center in Brussels would have homogenising tendencies and that it would ignore or even negate various local concerns and priorities. Despite the intense process of regulatory convergence that took place in the long preaccession period, the new member states still have different structural features from the old ones. This means that one-size-fits-all solutions imposed by a strong European center would be likely to

harm their interests. The new members are still much poorer than the old ones, and their ability to close the welfare gap requires differentiated tax, labor, and environmental regimes.¹⁴ Their legal and administrative institutions are still relatively unstable and rather fragile. For instance, in none of the Western European states is “de-communisation” such a central political issue as it is in Eastern European states, and this requires a different set of European rules for the civil service and the judicial sector. Unlike Western Europe, Eastern Europe still has relatively few immigrants from third world countries, but it is struggling to come to terms with its own diverse and often sizable national minorities such as Russians in Latvia and Estonia or Hungarians in Romania and Slovakia. This means that the Schengen *acquis* can hardly be applied in the same manner by the old and the new member states. These and other similar examples of persisting divergence explain why the new member states from Eastern Europe oppose strong centralised European governance and favor a more flexible, multicentered, and multilayered structure. As the Latvian president, Vaira Vike-Freiberga, put it, “Latvia sees the EU as a union of sovereign states. . . . We do not see the need at the moment to create a unified federal European state. . . . Europe’s vast diversity is one of its greatest strengths. While this diversity may present challenges to consensus-building, it is a source that must be nurtured and cherished. Every member state of the European Union, whatever its size, has the potential to make a meaningful contribution to the organization as a whole.”¹⁵ And Slovenia’s Foreign Minister, Dimitrij Rupel, added, “The basis of diversity management is the principle of subsidiarity. Subsidiarity can be an efficient means of avoiding unnecessary disputes.”¹⁶

In short, simplifying and centralizing the European system of governance would leave less space for local initiatives and concerns. There is a need to address problems emerging from the complexity and flexibility of the current system, especially with respect to transparency and accountability, but replicating a statelike system in the enlarged and highly diversified EU is not likely to improve the quality of democracy.

Peculiar parliamentary representation

The key pillar of democracy as we know it is the system of parliamentary representation. People elect their representatives to a parliament, usually through political parties that are primarily organized with the aim of winning elections. Parliament adopts laws and usually also decides about the composition of the executive. A parliamentary majority is not entirely free to have its way on all matters, however. It has to obey the constitution and respect the bill of rights and the independence of the judiciary and some other institutions such as central banks. That said, the electorate remains an ultimate reference in democratic nation-states, and the parliament is their central institution. If you want to know who holds most powers in a given state, you need to look at the composition of the parliamentary majority.¹⁷

In the EU, the situation is very different. Here, the position of Parliament is much weaker. The problem is not so much in the catalogue of formal powers bestowed on the European Parliament but rather in the peculiar nature of the European parliamentary game.¹⁸ The European Parliament has no ruling majority as we know it in national systems; it has neither a governing cabinet nor a governing program to support or oppose. Moreover, the Parliament, the Commission, and the Council were created more or less independently; therefore, the element of “fusion” that is usually observed between cabinets and their parliamentary majority does not exist. Cleavages within the European Parliament break more along national “boundaries” rather than along party affiliations or ideologies.¹⁹ Although Members of the European Parliament (MEPs) are now directly elected to five-year terms, these elections tend to serve as popularity contests for the ruling national governments.²⁰

Although the formal powers of the European Parliament have gradually been increased, the Parliament is not the principal let alone sole legislator, and its say in selecting the European executive and judiciary is very limited. In the EU, power is much more in the hands of nonmajoritarian institutions—that is, the Commission, the European Court of Justice, the European Central Banks, and the European Council—than is the case in member states.²¹ The composition of the Council is only indirectly related to the electoral

results in individual countries, and the complex (and still evolving) way of weighting votes in the Council leaves little space for the assertion of majoritarian politics. (One should add that national executives are often able to bypass their respective parliaments by making decisions in the European Council.) At the same time, more and more powers are being shifted to the ever-growing list of European regulatory agencies.²²

Of course, effective governance requires special skills and knowledge as well as long-term commitment that are usually in short supply among members of Parliament. The problem is that nonmajoritarian institutions are often more responsive to the wishes of narrow and partisan lobbies than to a broader electorate. Moreover, it is not easy to make these various regulatory agencies transparent and accountable.

The question is, "can the union develop a sound system of parliamentary democracy?" This could be done either by making the European Parliament the true center of European power or by giving more powers over European affairs to national parliaments. The publics in new member states from Eastern Europe seem to be unenthusiastic if not negative concerning the former solution. Only a tiny minority of the respective electorates in these states bothered to vote in the last elections to the European Parliament.²³ (A few months earlier, these electorates rushed to the polls to support their countries' membership in the union.²⁴) The governments of the new member states are also keener on strengthening the role of national rather than European parliament(s) in the EU decision-making process.²⁵ But this does not seem to be a plausible solution either. To start with, parliaments in the new member states are very weak, and this has been partly caused by the process of accession to the union. Over the past several years leading to the EU's accession, parliaments from Eastern Europe had to hastily adopt a vast body of European laws with little discussion and opportunity for amendments to take account of local concerns and peculiarities. Their room for manoeuvre was practically nonexistent because the applicant states from Eastern Europe were not allowed to have any opt-outs from the EU's *acquis communautaire*. (It is worth keeping in mind that the *acquis* is made up of some twenty thousand laws, decisions, and regulations,

spanning nearly eighty thousand pages.) Stephen Holmes has subsequently observed that "the prestige of the domestic lawmaking function has plummeted due to the mandatory extension of the *acquis communautaire*, a code of law *octroyé* (conferred) from abroad, without serious input from domestic constituencies."²⁶ This has been confirmed by the opinion polls. For instance, public confidence in Poland's parliament (Sejm) decreased from approximately 44 percent in 1998 to 20 percent in 2002 (four crucial years for the adoption of EU legislation).²⁷

And thus, it is unlikely that a full-fledged system of Pan-European parliamentary representation will emerge. Should one regret this? The answer again is negative. As Renauld Dehousse rightly argued, "The parliamentary system with its majoritarian aspects is ill adapted to the needs of a hybrid creature like the EU, characterized by great diversity and by strong national feelings."²⁸ And in any case, can we talk about a European system of representation without a truly European *demos*? The EU currently has twenty-five distinct *demoi*, and together they do not form a single European public space. This leads us to the next democratic dilemma for the enlarged EU: the question of European identity.

Weak and diversified cultural identity

Democracy is not only about institutions, it is also about culture understood in broader political, legal, and economic terms.²⁹ Democratic institutions are only able to persist if they enjoy a political culture that is congruent to and supportive of its democratic structures. The key terms usually used in this context are *demos*, *ethos*, and identity. Nation-states usually enjoy all this, albeit to various degrees. The *demos* is formed by a nation that represents a closely bound if not homogeneous cultural community sharing common history, habits, and language.³⁰ Political discourse occurs in a clearly defined public space within which it is relatively easy to communicate and identify common public goods (or at least major competing alternatives). Parties and civil society organizations are vibrant. The media system is diversified and sophisticated.

However, the European Union possesses few if any of these attributes, and one wonders how democracy can function in such a

situation. There is no single and easily identifiable European *demos* for which and by which European policies are being made. At best, we can talk about an ever-growing plurality of European *demoi*.³¹ Political discourses are largely confined to national public spaces with little signs of a truly European public space emerging with the process of European integration.³² Political parties are also active mainly within state boundaries, and their alliances on the European level are still very artificial constructs. Some civil society organizations were able to cross nation-state borders, but they usually see themselves as global rather than merely European movements.³³ There is no single European newspaper or a pan-European television, if one does not count the Euro-news or global newspapers with a European interest such as the *Financial Times*.

Successive waves of EU enlargement have obviously increased cultural and political diversity within the union.³⁴ The year 2004 marked the largest single enlargement, taking in ten new members with distinct cultural characteristics. Careful studies such as those of the World Survey of Values do not reveal a sharp cultural cleavage between the old members from Western Europe and the new ones from Eastern Europe.³⁵ However, they do show that the cultural map of Europe is now much more diversified and complex than was the case before this last wave of enlargement.

Of course, *demos*, *ethos*, and identity are not primordial and stable categories. They evolve over time through experiences and discourses in a certain public space.³⁶ The role of various political agents in engineering them cannot be underestimated. In fact, the European Union promotes various European symbols such as the European flag, aimed at strengthening the European identity. European citizenship is also part of this effort, as are various cultural and educational exchange programmes. Similarly, one should recognise the role of structural funds or the euro in enhancing European identity. The question is, however, whether this all is enough to create a cultural basis for a well-functioning democracy at the European level. The question also is whether efforts to engineer a European identity are plausible on either political or cultural grounds. The current Czech President, Václav Klaus, expressed the anxiety of millions of fellow Eastern Europeans by asking, Shall we let our identity "dissolve in Europe like a lump of

sugar in a cup of coffee?"³⁷ In fact, during the accession process, the candidates from Eastern Europe fought hard to preserve their own cultural identity. For instance, all Eastern European governments insisted that their language became one of the official languages of the EU, thus undermining the efforts of those who wanted to see fewer rather than more languages as the means of pan-European communication.

Is all this likely to change within the next several years? Will Eastern European EU members welcome the development of a distinct European public space and cultural identity? So far, the evidence does not suggest such a change. Consider, for instance recent opinion polls. According to the 2004 Eurobarometer, the majority of those polled in the new member states consider themselves as "their nationality only" rather than calling themselves "European to some extent."³⁸ (In the old member states, the result is reversed.) Even more striking is the fact that "Europeanness" in the new member states dramatically decreased when they acceded to the union. Between autumn 2003 and spring 2004, the number of those who consider themselves "their nationality only" rose by 12 percent, while the number of those who see themselves as "European to some extent" declined by 7 percent. (And one should keep in mind that according to the same poll, the level of knowledge about the EU is higher in the new member states than in the old ones.)

Moreover, in the new member states there are very few pan-European agents able to promote greater cultural homogeneity within the enlarged EU. Organisations of civil society, especially those interested in EU-related issues, are clearly underdeveloped in most of the new member states.³⁹ Parties are more developed and some have joined the existing federations of parties in the European Parliament. However, it is far from certain that they will act as agents of cultural homogenisation across the union. The 2004 European elections saw an increase in the number of Euro-sceptic MEPs, many of them coming from the new member states of Eastern Europe.⁴⁰ Nor is there any evidence to suggest that enlargement will stimulate the growth of pan-European media. Although many newspapers in the new member states are now in the hands of international media conglomerates, national television is still

many citizens in Central and Eastern Europe have again the impression that decisions concerning their lives are being made outside their borders and by largely unidentified actors and bodies.

Second, parliaments in Central and Eastern Europe are the greatest institutional losers in the process of European integration. True, their position was never strong before joining the union, partly because of their own organizational shortcomings, and partly because of the weak parties in the region. Nevertheless, joining the union has weakened their position even further because the European system of governance privileges nonmajoritarian institutions and technical experts.

Third, citizens in Central and Eastern Europe may feel more isolated and powerless with the shift of powers from national to the European level. This is not only because the European government is naturally more detached from individual concerns than a national government but also because the absence of a European *demos* prevents pan-European communication and solidarity. On the mental maps of Western Europeans, Eastern Europeans are still very much in the European periphery with no right to an equal say about the union's policies.

There are no easy solutions for addressing the above-mentioned problems. This article has shown that it is virtually impossible, and probably undesirable, to try creating a statelike parliamentary democracy on the union level. In fact, the idea is particularly resisted by the new member states from Central and Eastern Europe. It is also important to comprehend that new members have somewhat different sensibilities and requirements than the old members. In other words, one-size-fits-all solutions for addressing the democratic deficit of the enlarged union will not work. But the situation need not be bleak if we apply several meaningful measures to enhance citizens' participation in European decision making.

Simplifying the European system of governance by making it more centralised and hierarchical is not desirable in view of the above analysis. However, European transparency and accountability may well be enhanced by spelling out better the roles and functions of various European centers of government and by

forcing European decision makers to publicly explain and defend their decisions.⁴³ At the same time, it is important to keep certain domains of public life at the national and local levels (and outside EU competencies).⁴⁴ Citizens in the new member states, in particular, would feel less powerless if they could exercise significant control over decisions on the smaller scale of matters important to their daily lives: education, public health, and social security.

Enhancing the powers of national parliaments in European decision making may help parliaments in the new member states to regain some lost ground. However, such a step could also stimulate national egoisms in European politics and in effect paralyse the European decision-making process. It is therefore better to think about providing greater access to decision making not only for national parliaments but also for various professional associations and nonprofit organizations with interests and loyalties that are not confined to national borders only. Such transnational social actors are usually weaker in the new member states, so the union should help them to catch up with their Western counterparts.⁴⁵

It is also important to enhance European communication and solidarity. This article has shown that all kind of efforts aimed at engineering a certain type of European citizenry are wrong and futile. Nevertheless, European citizens could be given more opportunities by the union to learn about their different cultures and histories. The union should create more institutional channels for exchanging ideas among various professional, religious, and ethnic groups. There is no need to attempt creating a common European interest, but there is a need to attempt creating greater understanding of various societal actors across the continent. Without this, citizens in the new member states will always feel that their interests are not understood and taken seriously in European decision making.

Finally, the union should act as a guardian defending democratic rights and procedures. This could largely be done through a combination of quiet diplomacy and public shaming. A good example of the latter is the 2006 European Parliament's resolution condemning "the general rise in racist, xenophobic, and anti-Semitic

and homophobic intolerance in Poland."⁴⁶ Since the Amsterdam Treaty came into force, the union has had the right to intervene not only if a member state violates a vast body of economic and administrative *acquis* but also if it does not comply with the principles of democracy, human rights, and the rule of law proclaimed in Article 6(1) EU. The union should learn to apply this article in practice in a more effective manner than has been the case so far.⁴⁷ Citizens in the new (and old) member states can also defend their rights by appealing directly to the European Court of Human Rights and by submitting complaints to the European Ombudsman.⁴⁸

All these measures will not make democracy in the union resemble a democracy in nation-states. Nonetheless, these measures will enhance the quality of democracy within the union itself. We need to start thinking about European democracy in a novel way, and this applies especially to the new member states from Central and Eastern Europe. They have just successfully created a workable democracy on the ashes of authoritarian communism, and they do not want this to be lost after joining "another" union.

Notes

1. See, e.g., Karen E. Smith, "The Evolution and Application of EU Membership Conditionality," in Marise Cremona, ed., *The Enlargement of the European Union* (Oxford: Oxford University Press, 2003), 114-15; or Milada A. Vachudova, *Europe Undivided: Democracy, Leverage, and Integration after Communism* (Oxford: Oxford University Press, 2005).
2. See Council of the European Union, *Presidency Conclusions: Copenhagen European Council* (Brussels: Council of the European Union, 1993).
3. See Loukas Tsoukalis, *The European Community and Its Mediterranean Enlargement* (London: Allen & Unwin, 1981).
4. This argument is often put forward by Polish experts, but according to the 2006 Eurobarometer, a much higher percentage of Poles are satisfied with the way democracy works in the EU (62 percent) than in Poland (39 percent). See Eurobarometer (Brussels: European Commission, June 2006), 5. On average, more citizens in the new member states than in the old EU fifteen are satisfied with the way democracy works in the EU (59 versus 48 percent, respectively).
5. See, e.g., Lester M. Salomon, ed., *The Tools of Government* (Oxford: Oxford University Press, 2002); or Christopher Hood, *The Art of the State* (Oxford, UK: Clarendon, 1998). See also Max Weber, "Politik als Beruf," in *Gesammelte politische Schriften* (Tübingen, Germany: J.C. Mohr, 1971); and Hendrik Spruyt, *The Sovereign State and Its Competitors* (Princeton, NJ: Princeton University Press, 1994).
6. See Peter Flora et al., eds., *State Formation, Nation-Building, and Mass Politics in Europe. The Theory of Stein Rokkan* (Oxford: Oxford University Press, 1999); or Stefano Bartolini, *Restructuring Europe: Centre Formation, System Building, and Political Structuring between the Nation State and the European Union* (Oxford: Oxford University Press, 2005).
7. Beate Kohler-Koch and R. Eising, eds., *The Transformation of Governance in the European Union* (London: Routledge, 1999); or Jeremy Richardson, ed., *European Union Power and Policy-Making* (London: Routledge, 2001).

8. See R. Daniel Kelemen, "The Politics of 'Eurocratic' Structure and the New European Agencies," *West European Politics* 25 (2002): 93-118.
9. As Michael Keating put it, "This is a complex political order, comparable, although not identical to, the pre-state European order of overlapping and underlapping sovereignties, different types of authority in the state, the economy and civil society, and competing forms of legitimacy." See Michael Keating, "Europe's Changing Political Landscape: Territorial Restructuring and New Forms of Government," in Paul Beaumont, Carole Lyons, and Neil Walker, eds., *Convergence and Divergence in European Law* (Oxford: Hart, 2002), 12. See also Helen Wallace, William Wallace, and Mark Pollack, eds., *Policy-Making in the European Union* (Oxford: Oxford University Press, 2005).
10. See, e.g., Liesbet Hooghe and Gary Marks, "Unravelling the Central State, but How? Types of Multi-level Governance," *American Political Science Review* 97 (2003): 234.
11. For instance, Adrienne Heritier pointed out that 4,500 lobbies and 650 consultancy firms and legal offices specializing in EU affairs have disproportionate access to and influence over EU decisions. See Adrienne Heritier, "Composite Democracy in Europe: The Role of Transparency and Access to Information," *Journal of European Public Policy* 9 (2003): 816.
12. See, e.g., Frank Decker, "Governance beyond the Nation-State: Reflections on the Democratic Deficit of the European Union," *Journal of European Public Policy*, 8 (2002): 256-72; or Yannis Papadopoulos, "Cooperative Forms of Governance: Problems of Democratic Accountability in Complex Environments," *European Journal of Public Research* 42 (2003): 493.
13. Yves Mény, "Making Sense of the EU: The Achievements of the Convention," *Journal of Democracy* 14 (2003): 68-69.
14. See Eurobarometer (Brussels: European Commission, June 2006), 30.
15. The new members tried to stall efforts to limit tax competition by the EU because they need to continue to offer better conditions to investors if they are to catch up with the more developed members. The new members also worry that the convergence criteria required by the Maastricht Treaty will prevent any fast growth and by the same token frustrate their efforts to catch up with the old members. This is because fast growth in their case would imply much higher rates of inflation and public deficit than allowed by the Maastricht Treaty. For instance, the new members are sorely dependent on investments in infrastructure to implement the necessary structural adjustments and fulfill the objectives of real (rather than merely nominal) convergence. Harmonization of trade rules for all EU members has meant that some new members such as Estonia have had to increase their external tariffs and nontariff barriers (e.g., subsidies, quotas, and antidumping duties) with regard to low-cost locations outside the EU. See, e.g., Helmut Wagner, "Pitfalls in EMU-Enlargement," at <http://www.aicgs.org/c/wagner.shtml>; or Likka Korhonen, "Some Implications of EU Membership on Baltic Monetary and Exchange Rate Policies," in Vello Pettai and Jan Zielonka, eds., *The Road to the European Union: Estonia, Latvia and Lithuania* (Manchester, UK: Manchester University Press, 2003), 255-81. Also see Magnus Feldmann and Razeen Sally, "From the Soviet Union to the European Union: Estonian Trade Policy, 1991-2000," *World Economy* 25 (2002): 79-106.
16. "European Integration: New Opportunities and Challenges," address by Vaira Vike-Freiberga, President of Latvia, at the Institute of European Affairs in Dublin, 4 June 2002, http://europa.eu.int/futurum/documents/speech/sp040602_en.htm.
17. Dimitrij Rupel, "The Future of Europe-Debate," Ljubljana, Slovenia, 3 July 2001, http://europa.eu.int/futurum/documents/other/oth030701_en.pdf.
18. For a more in-depth analysis of the scope of parliamentary powers, see, e.g., Gerhard Loewenberg and Samuel C. Patterson, *Comparing Legislatures* (Lanham, MD: University of America Press, 1979), 43-67.
19. The European Parliament (EP), first directly elected in 1979, has significantly increased its powers over the past two decades. The Single European Act introduced the cooperation procedure, the first step to making the EP a colegislator with the European Council. The Maastricht Treaty then introduced the codecision procedure (which was modified in the Amsterdam Treaty), which makes the EP de facto a colegislator in policy areas in which it applies. This means that neither the European Council nor the European Parliament can adopt any legislation without the support of the other. See Andreas Maurer, "The

Legislative Powers and Impact of the European Parliament," *Journal of Common Market Studies* 41 (2003): 227-47. As far as other traditional legislative tasks are concerned, especially the selection of the executive and the judiciary, the EP has far fewer powers. Although incoming European Commissioners have to undergo hearings in the EP, the Parliament can only refuse the nomination of the Commission as a whole and not simply of individual Commissioners. This weakens the EP's influence considerably. (Although in October 2004 the incoming President of the European Commission was forced to reconsider the proposed list of his Commissioners under the EP's pressure). Judges at the European Court of Justice and the Court of First Instance are all appointed by the member states without any approval of the EP being necessary.

20. See Luciano Bardi, "Transnational Party Federations, European Parliamentary Party Groups and the Building of Europarties," in Richard Katz and Peter Mair, eds., *How Parties Organize: Change and Adaptation in Party Organizations in Western Democracies* (London: Sage, 1995).
21. See Amie Kreppel, *The European Parliament and Supranational Party System: A Study in Institutional Development* (New York: Cambridge University Press, 2002).
22. See, e.g., Alec Sweet Stone, *Governing with Judges: Constitutional Politics in Europe* (Oxford: Oxford University Press, 2000).
23. See Giandomenico Majone, "Delegation of Regulatory Powers in a Mixed Polity," *European Law Journal* 8 (2002): 319-39.
24. The overall turnout at the 2004 European Parliament election was 45.7 percent. The individual turnout numbers for all member states, new and then old, lowest turnout first, were as follows, in percentages: Slovakia 16.96, Poland 20.87, Estonia 26.83, Czech Republic 28.32, Hungary 28.5, Latvia 41.34, Lithuania 48.43, Cyprus 71.19, Malta 82.37, Sweden 37.8, Portugal 38.6, United Kingdom 38.83, Netherlands 39.3, Finland 39.4, Austria 42.43, France 42.76, Germany 43, Spain 45.1, Denmark 47.9, Ireland 58.8, Greece 63.4, Italy 73.1, Luxembourg 89, Belgium 90.81 (compulsory voting); data available at http://www.elections2004.eu.int/ep-election/sites/en/results1306/turnout_ep/index.html.
25. Interestingly, the country with the lowest turnout at the European elections, Slovakia, had the highest turnout of all membership referenda and the new member state with the highest turnout for the EP elections, Malta, had the lowest in its membership referendum. The turnout for membership referenda, highest first, was as follows, in percentages: Lithuania 90, Slovenia 90, Hungary 84, Czech Republic 77, Poland 77, Estonia 67, Latvia 67, Malta 54, Cyprus: 26. See, e.g., address by Ms. Kristiina Ojuland, Estonian Foreign Minister, *An EU of 25 and Estonia's Role in It*, at the European Policy Centre's lecture series "Meet the New Member States," 23 October, 2002, Brussels, http://www.vim.ee/eng/kat_140/2961.html&arhiiv_kuup=kuup_2002; or a contribution by Prime Minister Milos Zeman of the Czech Republic to "The Debate on the Future of Europe," 14 June, 2001, http://europa.eu.int/futurum/documents/contrib/cont140601_en.htm.
27. Stephen Holmes, "A European Doppelstat?" *East European Politics and Societies* 17 (2003): 113. Holmes also observed, "The accession process has deprived the incompletely democratized East European states of that most important 'school of democracy,' namely, the necessity, under the pressure of events, to hammer a coherent policy out of a cacophony of domestic interest and opinions."
28. *Opinions on the Functioning of Public Institutions* (Warsaw, Poland: CBOS, June 2002). Of course, many other factors were behind this decreasing popularity of Eastern European parliaments, but it is important to note that some nonmajoritarian institutions such as the Constitutional Courts or Central Banks enjoyed much higher popularity despite their rather controversial political activism. In 1995 in Hungary, public support for the Constitutional Court was 58 percent, compared to the parliament at 36 percent and the government at 35 percent. The data are taken from Gabor Halmi and Kim Lane Scheppele, "Living Well Is the Best Revenge: The Hungarian Approach to Judging the Past," in A. James McAdams, ed., *Transitional Justice in New Democracies* (South Bend, IN: University of Notre Dame Press, 1996), 155-84, at 181, Figure 1. Similar data, with respect to the Czech Republic and Slovakia, are given by Herman Schwartz, *The Struggle for Constitutional Justice in Post-Communist Europe* (Chicago: University of Chicago Press, 2000), 320, n. 22. See also the 2004 Eurobarometer poll showing that people in the EU-25 trust the European Court of Justice more than they trust any other European institution and this "trust gap" is particularly evident in the new member states. European Commission, Eurobarometer

- Spring 2004 (Brussels: European Commission, 2004) no referendum held. Available at <http://news.bbc.co.uk/1/hi/world/europe/2266385.stm>.
29. Renauld Dehousse, "Constitutional Reform in the European Community: Are There Alternatives to the Majority Avenue?" in Jack Hayward, ed., *The Crisis of Representation in Europe* (London: Frank Cass, 1995), 134.
 30. See Gabriel A. Almond and Sidney Verba, *The Civic Culture* (Princeton, NJ: Princeton University Press, 1963); and Hans-Dieter Klingemann and Dieter Fuchs, eds., *Citizens and the State* (Oxford: Oxford University Press, 1995).
 31. Of course, this is not to ignore the experiences of multinational states that have managed to sustain multiple identities. See, e.g., Michael Keating, "Europe's Changing Political Landscape: Territorial Restructuring and New Forms of Government," in Paul Beaumont, Carole Lyons, and Neil Walker, eds., *Convergence and Divergence in European Public Law* (London: Hart, 2002), 7.
 32. See Kalypso Nicolaidis, "We, the Peoples of Europe . . .," in Paul Hilder, ed., *The Democratic Papers: Talking about Democracy in Europe and Beyond* (Brussels: The British Council, 2004), 22-33. Also see J. H. H. Weiler, *The Constitution of Europe* (Cambridge: Cambridge University Press, 1999).
 33. Mathew J. Gabel and Christopher J. Anderson, "The Structure of Citizen Attitudes and the European Political Space," *Comparative Political Studies* 25 (2003): 893-913; Philip Schlesinger, "The Changing Spaces of Political Communication: The Case of the European Union," *Political Communication* 16 (1999): 263-79; and Hans-Jörg Trenz and Klaus Eder, "The Democratizing Dynamics of a European Public Sphere: Towards a Theory of Democratic Functionalism," *European Journal of Social Theory* 7 (2004): 5-25.
 34. See, e.g., Simon Hix et al., "The Party System in the European Parliament: Collusive or Competitive?" *Journal of Common Market Studies* 41 (2003): 309-31.
 35. There have been five enlargements so far. Since its creation in 1957, the European Union has grown from a European Economic Community of six member states (Germany, France, Italy, the Netherlands, Belgium and Luxembourg) to a union of twenty-five members with a population of more than 450 million citizens. In 1973, Britain, Ireland, and Denmark joined; in 1981, Greece; in 1986, Spain and Portugal; in 1995, Austria, Sweden, and Finland; and in 2004, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia, Cyprus, and Malta. See Ania Krok-Paszowska and Jan Zielonka, "EU Enlargements and the Evolving Nature of European Integration," in Anand Menon and Colin S. Hay, eds., *European Politics* (Oxford: Oxford University Press, 2006).
 36. According to the World Survey of Values (see <http://www.worldvaluessurvey.org/>), Spain and Lithuania have a similarly low score for those who perceive violence as illegitimate. Support of autocratic rule is higher in Finland than in Hungary, Estonia, or Slovenia. But Germany (East and West) shows even less support for autocratic rule than any of the new members. Ethnic tolerance in the Czech Republic is higher than in Spain, but Spain is much more tolerant than either the Baltic states or Hungary. And in Poland and Estonia, the solidarity index is much higher than in Sweden, but still lower than in Spain. See Dieter Fuchs and Hans-Dieter Klingemann, "Eastward Enlargement of the European Union and the Identity of Europe," *West European Politics* 25 (2002): 19-54.
 37. For a more in-depth analysis of the European public space, see Philip Schlesinger and Dietdre Kevin, "Can the European Union Become a Sphere of Publics?" in Erik Oddvar Eriksen and John Erik Fossum, eds., *Democracy in the European Union* (London: Routledge), 222-28.
 38. Václav Klaus, *Ceska cesta* (Prague, Czech Republic: Profile, 1994), 136.
 39. Eurobarometer (Brussels: European Commission, June 2004), 182.
 40. For an in-depth analysis of a rich set of comparative data on civil society in the new member states, see especially Joerg Forbrig, "Civil Society: Theory and Practice in East-Central Europe" (Unpublished PhD thesis, European University Institute, Florence, 2004). See also *Think Tanks in Central and Eastern Europe* (Washington, D.C.: Freedom House, 1999); and Katherine Gaskin and Justin Davis Smith, *A New Civic Europe? A Study of the Extent and Role of Volunteering* (London: National Centre for Volunteering, 1997).
 41. See <http://euobserver.com/?aid=16766>; and <http://www.guardian.co.uk/guardianpolitics/story/0,,1238317,00.html>. For an in-depth analysis of parties in Eastern Europe, see Herbert Kitschelt et al., *Post-Communist Party Systems: Competition, Representation, and Inter-party Cooperation* (Cambridge: Cambridge University Press, 1999), 402. See also Anna M.

- Grzymała-Busse, *Redeeming the Communist Past: The Regeneration of Communist Parties in East Central Europe* (Cambridge: Cambridge University Press, 2002), 123-74; and Klaus von Beyme, "Parties in the Process of Consolidation in East-Central Europe," in Geoffrey Pridham and Attila Agh, eds., *Prospects for Democratic Consolidation in East-Central Europe* (Manchester, UK: Manchester University Press, 2001), 146, 154.
42. See, e.g., Helena Luczywo, "Media Market Development, Privatisation and Ownership Patterns in SEE and New EU Member Countries" (Conference paper, June 2004), http://www.mirovni-insitut.si/media_ownership/conference/pdf/Galik.pdf; and Michal Klima, "Czech Media Market 1992-2004" (Conference paper, June 2004), http://www.mirovni-institut.si/media_ownership/conference/pdf/Klima.pdf.
43. The notion of "constitutional patriotism" is usually associated with the work of Jürgen Habermas. See, e.g., Jürgen Habermas, "Yet Again: German Identity—A Unified Nation of Angry DM Burghers?" *New German Critique* 52 (1991): 84-101; or Jürgen Habermas, *The Philosophical Discourse of Modernity: Twelve Lectures* (Cambridge, MA: MIT Press, 1987), 11-16. For a comprehensive analysis of the origin of the concept and Habermas's interpretation of it, see Jan-Werner Müller, *Another Country: German Intellectuals, Unification and National Identity* (New Haven, CT: Yale University Press, 2000), 90-119.
44. According to Yves Mény, the draft of the European Constitution has clarified the positions of the European branches of government only slightly. For instance, no clear answer has been given to the question, "Who is the executive of the EU?" See Yves Mény, "Making Sense of the EU: The Achievements of the Convention," *Journal of Democracy* 14 (2003): 68-69.
45. As Robert A. Dahl rightly argued, "The larger scale of decisions need not lead inevitably to a widening sense of powerlessness, provided citizens can exercise significant control over decisions on the smaller scale of matters important to their daily lives: education, public health, town and city planning." See Robert A. Dahl, "A Democratic Dilemma: System Effectiveness versus Citizen Participation," *Political Science Quarterly* 109 (1994): 33.
46. See Marc Morjé Howard, *The Weakness of Civil Society in Post-Communist Europe* (Cambridge: Cambridge University Press, 2003).
47. See *International Herald Tribune*, 30 June, 2006, 2.
48. The European Union applied this article for the first time in 2000 when Jörg Haider's FPÖ (Freedom Party) extremist party became part of the Austrian government. However, the exercise proved only partly successful and quite controversial. See, e.g., Per Craniér and Pål Wrangle, "The Heider Affair, Law, and European Integration," *Europarättslig tidskrift* 28 (2000): 28-63; or Matthew Happold, "Fourteen against One: The EU Response to Freedom Party Participation in the Austrian Government," *International and Comparative Law Quarterly* 49 (2000): 953-63.
49. This includes the right to contest actions of the European institutions. See, e.g., Adam Cygan, "Protecting the Interests of Civil Society in Community Decision-Making—The Limits of Article 230 EC," *International and Comparative Law Quarterly* 52 (2003): 955-1012.