



**LUND**  
UNIVERSITY

Department of Political Science

STV

Tutor: Christian Fernandez

# Multi level governance

- Democratic benefactor?

Martin Vogel

# Abstract

This is a study of Multi level governance and its implications on democracy in the EU.

Normative democracy theory has been used to illuminate and highlight the institutional and political conditions that are necessary for an effective democratic rule.

This study is a qualitative case study, evaluating the case of the EU as a scene for implementation of the multi level governance system. The European multi level governance system is here evaluated against certain normative democratic criteria for democratic rule in order to evaluate if this “new” type of governance effectively benefits democracy or not in practice.

The findings of this thesis have shown that, while the multi level governance can offer potential developing mechanisms for increased democracy and citizen participation, as for now, in the case of EU, the criteria set up for democratic measurement are not being sufficiently met. This can be explained principally due to the complex nature, often too complex for the average citizen, of the European multilevel governance

*Key words: Multi level governance, democracy, EU, democratic deficit*

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# 1 Introduction

The concept of *Multi level governance* has in the recent decade gained more and more importance in the analysis of politics. The concept describes a new form of organizing politics, replacing the vertical and hierarchical, state-centric mode with one characterized by horizontal, non-hierarchical relations, involving a multitude of different actors acting autonomously in different layers and at different levels of the political system (*Scheuer, 1999: 20*).

Within this type of “new governance”, power is dispersed into a multiplicity of sites where actors act in a non-hierarchical network rather than in layers in a hierarchical pyramid. The state is no longer an omnipotent political sovereign but one of many actors within a complex system of decisions making. Thus, controlling the political power does can no longer be equated with controlling the state (*Bernard, 2002: 234-235*).

The European Union has in recent academic literature been identified as a system of multi level governance, where the European institutions play the part of actors in this governance network, by which they influence to a certain extent the decisions being taken, but do not control the process from a hierarchical perspective. The structure of the European Union around a multiplicity of political levels has led to an increase of complexity marking the decisions making process and also a need of a non-hierarchic coordination of the participating actors, coming both from the public and from the private field, as well as of all the administrative levels. The quest for influence at the same time, the European Union and its institutions are becoming increasingly important in the lives of its citizens, why new questions concerning democratic values need to be asked (*Nergelius & Zetterquist, 2006: 62-64*).

This paper will thus focus on the implications of multi level governance on democracy, in order to try to find out how the European citizens are affected by this new type of governance. The thesis will focus on the case of the European Union, which can be said to represent a case example of multi level governance in practice.

## 1.1 Statement of purpose

The purpose of this paper is to critically discuss and analyze the implications, beneficiary or non-beneficiary, of a multi level governance system for certain stated democratic values and civilian rights in the context of the European Union.

The overarching question is as follows:

*How does a system of Multi level governance affect democracy in the EU?*

I will analyze how a system based on multi level governance meet basic criteria of a democratic society. The analysis will be based on *normative democratic theory*, as will the criteria set for measurement and comparison. This approach will contribute and help in the understanding and high-lightening of what is to be expected of a democratic society today.

This paper thus aims to contribute to the understanding of how democracy and important values are being taken care of in this relatively new type of network governance, and doing this by analyzing more closely the actual political system of the European Union

## 1.2 Methodological considerations

In this section I will present my methodological considerations. I will here further explain the outline of my research, its delimitations and possible generalization of the results of my study.

### 1.2.1 Research outline

This is a qualitative research as opposed to a quantitative research. Conducting a qualitative research implies the selection and analyze of information (*Esaiasson et al, 2002: 233-235*). This method of research can however be criticized for being too subjective which is why it is of great importance to pursue the criterion of transparency. It is important for the research's results to be independent from the researcher conducting the research, a criterion more easily met when conducting a quantitative research, given that this type of research is often based on relatively simple instruments of measurement, e.g. a questionnaire (*Esaiasson et al, 2002:*

23). The nature of this study however makes it hard to conduct a quantitative research which is why I have chosen a qualitative research method, better suited for the purpose of this study. I have therefore, considering the problems of transparency, read the material I have used with great care and I have also provided continuous information about how the study is planned and carried out. This also makes it possible for other readers to follow the steps that I have taken. (*Esaiasson et al, 2002: 24*).

This study is a case study of the European Union, investigating how the fact that the EU is organized in a system of multi level governance may affect democracy in the Union. The EU has in earlier research more and more been referred to as a system of multi level governance involving actors situated in multiple layers of the political sphere (*DeBardeleben&Hurrelmann, 2007: 2-4*). This is why I have chosen to make the EU the case of my study and problematization. To support my investigation, I have used Dahl's normative view on democracy. Dahl has designed a set of criteria for the evaluation of a democratic political order. These criteria are applicable on any democratic political association, be it a state or as in this case, a supra national organization (*Dahl, 2002: 105-106*).

Validity is another important methodological aspect which determines to what extent there actually is congruency between the theoretical concepts and the operational indicators. The question is if we are examining what we intend to examine (*Esaiasson et al, 2002: 20*). In order to conduct my study I have thus used five criteria for good democratic rule, set up by Dahl, which will be used to examine whether or not a multi level governance system is beneficiary to democracy. These criteria will be introduced later on in section 2. To further strengthen the validity I have separated some basic characteristics for multi level governance in the EU, the *policy process*, the *dispersion of power*, the *institutional design* and the strive for *regionalization*. These characteristics will be analyzed according normative democracy theory, using Dahl's criteria for good democratic rule.

This study is a theory consuming study as I will use Dahl's normative democracy theory more as a guide line than as an explanatory frame (*Esaiasson, 2002: 41*). This study is also a case study, investigating how a system of multi level governance may affect democracy in the European Union.

## 1.2.2 Delimitations

I will here mention some delimitation to this thesis.

The European political system is much more complex to fully be examined in this study. I have thus focused on some of the most basic multi level governance features in the European Union to be examined, while well aware of that I am thus leaving some areas out of the analysis.

The concept of multi level governance is rather new and this system's implications have accordingly been rather neglected in previous research (*DeBardeleben & Hurrelmann, 2007: 2-5*). There is thus no generic truth that explains the effect on democracy of a multi level governance system.

## 1.2.3 Generalization of results

This study is a study of multi level governance in the EU and how democracy is affected in this context. I don't mean for my findings to constitute a general rule or law for multi level governance, as there are other reassembling structures of politics that differ from the nature of the EU.

It may thus be the case that my findings are not applicable on other forms of transnational systems or polities, or IO: s. This is rather a discussion of the European context, to which I intend to contribute with my research.

## 1.3 Material

This thesis is based on secondary material, such as published research, online publications and official websites. The material I have obtained have been written and published by numerous authors of different backgrounds, and I have tried to include a variety of sources in order to avoid a unilateral and biased analysis and discussion.

It could have been interesting to also have included first hand material, such as interviews with European officials, and to get a deeper understanding of the proceedings of

the decision making process of the EU. This has unfortunately not been possible due to the lack of time and source proximity. I, however, find that the second hand material used in this thesis has aided me sufficiently in my research.

## 1.4 Structure of the study

In this section I will give a presentation of the structure of my study in order to give a clear overview of how the thesis will be conducted.

In the following section, chapter 2, I will present the theoretical framework for my analysis, explaining the theoretical approach.

In chapter 3 I will present the concept of Multi level governance, describing its main characteristics. This will be followed by a discussion of Multi level governance in the EU and its main features, where I will explain how and why the European Union can be regarded as a system of multi level governance.

Chapter 4 will be dedicated to the analysis. In will here analyze how Dahl's criteria for good democratic rule are being met in the European context.

Chapter 5 is dedicated to the conclusion of my thesis, where I will also try to answer the overarching question of this thesis.

The following, chapter 6 will be dedicated to my references that I have used for my study.



## 2 Theoretical framework

In this section I will present my theoretical benchmark, guiding the analysis of this thesis. I have chosen to use the normative democracy theory of Dahl, which will be presented in 2.1. The presentation will in 2.2 be followed by a presentation of Dahl's criteria for democratic rule which later on will be used in the analysis.

Dahl's theoretical approach has here been chosen as it seems to provide for a simple, yet complete and useful frame of interpretation and evaluation of democratic rule. The criteria set up by Dahl further supply a well developed, yet simplistic, tool for evaluating a political organization like the EU.

### 2.1 Dahl's normative democracy theory

Democracy literally means the rule by the people. This, in turn, means that the people are sovereign. But what does rule by the people really mean and what does it mean to say that people are sovereign? In order to rule, people must have some way of ruling, or in other words, a process of ruling. To answer these questions it is useful to proceed through three stages (*Dahl, 2002: 106*).

Firstly, since democracy is a political order, it can be said useful to set up the assumptions that justify a political order. This political order is normally created through the formation of an association, wanting to achieve certain ends. This association does not necessarily need to be a state, it can just as well be an international or national, political organization. In order to achieve its ends, the association or organization needs to adopt certain policies with which members of the same association or organization would be obliged to act consistently. Since members are obliged to obey the rules, decisions being made within the polity can be said to be of a binding nature.

As the association or organization does not need to be a state, nor does its government need to be the government of a state, and thus Dahl's theory of democratic rule

constitute a general theory, applicable to any political association or organization whether or not they constitute a state (*ibid: 107*).

The process of making binding decisions includes at least two analytically distinguishable stages; setting the agenda and deciding the outcome. Setting the agenda is the part of the process where matters are selected to be voted on. Deciding the outcome is the part where the process culminates in an outcome which in other words means that a policy has either been adopted or rejected. The first stage can be described as the first say, whereas the latter can be described as the last say, the matter of sovereignty with respect to the matter at hand (*ibid: 106-107*).

After having set up the assumptions for a political order, we would need to proceed with a discussion of the assumptions justifying the existence of a *democratic* political order. Dahl makes two principally important assumptions justifying a democratic political order. The first is that the good of each member of the organization is entitled to equal consideration, and the second that all citizens should have the right to decide on the matter that best suit their own interest. A member is thus considered a better judge of his or hers own interests that would be any other.

A third assumption states that, when making binding decisions, the claim of each member as to their preferences of the matter at hand, must be counted as valid, and more importantly, equally valid (*ibid: 107-108*).

If these assumptions are valid, so are the reasons for adopting a democratic order which further means that the process through which members are to arrive at its decisions should meet certain criteria for good democratic rule. Dahl has consistently set up five criteria for good democratic rule, which will be discussed in the following section.

## 2.2 Dahl's democratic criteria

An organization where the assumptions justifying a democratic order are valid, should adopt a *democratic order*. The process by which the demos is to arrive at its decisions should accordingly meet certain criteria or ideal standards for governing, against which the organization's political procedures should be evaluated (*Dahl, 1989: 108-109*).

Dahl presents a set of criterias which can be used in the democratic evaluation of a political organization, criterias that if all met set up the frame for a perfect political system.

The first criterion concerns *effective participation* and implies that the members of the political organization should have adequate and equal opportunity for expressing their preferences and opinions as to the final outcome. Citizens should also have the opportunities for placing questions on the agenda. If this right is denied the citizens, the public cannot be taken into account, and any decisions taken would suffer from a sever lack of legitimacy (*ibid: 109*). The denial of political influence for the citizens, further imply a limitation in the democracy (*Hadenius, 2006: 12*).

The second criterion is about *voting equality at the decisive stage*. This criterion implies that the opinion of each member should be measured equally and that each member is to be ensured the equal opportunity to express their opinion. At the decisive stage of binding decisions, only the opinions of the citizens should be taken into account. This criterion is based on the assumption that all citizens are equal, a basic demand for normative democratic theory (*Dahl, 1989: 109-110*). If not, citizens would risk potential inequalities in their influence over decisions where their expressed opinions would not be under equal consideration.

The third criterion is based on the right to an enlightened understanding, which means that each member should have adequate access to information in order to decide on the matter that best serve their interests. Each citizen should also have a full and complete understanding of the means and ends of the process, and of the expected outcome of the policy in question (*ibid: 111-112*).

Control of the agenda marks the fourth criterion for Dahl's perfect democratic organization. According to this criterion, each citizen should have the final control, or the final say, in the democratic process. They should in other words be sovereign. What this criterion really states is not that members should vote on every single matter, but rather have the opportunity to decide what matters to be voted on. This means that as long as members can retrieve any matter for decision for themselves, the criterion would be met (*ibid: 112-114*).

So far so good, but the even if all criteria above are met, we are still faced with further complications. The question of who should have a rightful claim to be included in the demos leaves us with further complications and give reason for yet another question namely that of who should be excluded? Certain limitations seem like a must, even in a

perfectly democratic organization (*Dahl, 1989: 119-120*). Determining who should be included automatically determines who should be excluded and thus the question if it is morally right to exclude in any case comes up. Some derogation could here to a certain extent be justifiable, like for example the restriction by age, where a limit downwards should be considered, but also the restriction according to citizenship. In some cases citizenship could be regarded as a criterion for participation in a democratic process (*Hadenius, 2006:10-11*). The principle of equality however helps to solve this dilemma. The *inclusion and the right to participate* thus constitutes the fifth and last of Dahl's criteria and states that the demos should include all adults subject to the binding collective decisions of the organization.

## 3 Multi level governance

This section will be dedicated to the introduction of the concept of multi level governance. I will provide for a presentation of this system's general features, followed by a presentation of the European Union, highlighting what makes this supra-national organization a system of multi level governance.

### 3.1 What is multi level governance?

The concept of Multi level governance was developed as a result from the study of the new, political structures that emerged from the Maastricht treaty, signed in 1992. The concept has its origins in the studies of European integration.

This type of governance, as a system of continuous negotiation between the government and different territorial actors at different political levels, was first introduced in the academic literature by G. Marks as a response to the increasing role given to sub-national governments in the EU's structural policy. The concept has however only been discussed from the perspective of supranational organizations, like the European Union, in recent years (*DeBardeleben&Hurrelmann, 2007: 2*).

Multi level governance highlights the new questions that have risen concerning the role of the state, allocation of power and authority. The state is no longer omnipotent and controlling the political power can thus no longer be equated with controlling the state or polity (*Bernard, 2002: 234*). This theoretical concept puts into light the more complex and frequent interaction between governmental actors and the increasingly important non-state actors that are mobilized in cohesion of policy-making and more generally EU policies.

Hooghes and Marks have identified some key features of the multi level governance system, some of the most important features being that the competences of decision-making are shared by actors situated at different levels in the political system, rather than being monopolized by national governments, and that the political arenas are interconnected with each other rather than being closed or nested. This results in a process for making binding

decisions that involves a multiplicity of independent, but at the same time interdependent, and differentiated actors. Participating in a process characterized by continuous negotiation, deliberation and implementation, these actors may situate themselves in the public as well as in the private sector (*DeBardeleben & Hurrelmann, 2007: 3-5*). Instead of a hierarchy of political authority, this way of organizing politics involves a vertical arrangement of power, a power which is constantly bargained for between a variety of differentiated groups, representing different interests (*Held, 1995: 227*).

The multi level governance model does not only describe the dispersion of authoritative competences across different territories and political levels but also emphasizes the interconnection of multiple arenas in the process of governing. In this process, state agents have to cooperate with private interest groups and actors in order to align the public policy-making to societal demands and in order to achieve efficient goals (*Wiener&Diez, 2003: 103-104*). What this “new governance” primarily draws upon is the idea of a linear, horizontal and non-hierarchical structure of power and social control. In place of layers in a hierarchical pyramid, with a top-to-bottom type of perspective, power is dispersed in a multiplicity of different sites, which together form “nodes” in a non-hierarchical network. Governance is thus multi level in the sense of bringing together different actors situated on a vertical axis like the EU as well as national, regional and sub-regional governments. At the same time multi level governance brings together actors across the public-private divide (*Bernard, 2002: 229*). In this way, multi level governance shifts the focus away from uniformity as a predominate feature of governing, which is rejected in favor of an emphasis on the heterogeneity of actor involvement according to the diverse nature of the policy problem. The diversity in actor involvement makes for a variable structure of the political control, and not constant, across policy areas (*Marks et al, 1998: 41*).

In this type of “new” governance, actors, institutions or arenas are not controlled in any manner hierarchically. Instead they form part of a much more complex and contextual process characterized by more “flatter”, non-hierarchical structures of power (*Bernard, 2002: 243-235*). Multi level governance is non-hierarchical in the sense that traditional hierarchical command and the control role of the state have been relaxed.

## 3.2 Multi level governance in the EU

The EU can be perceived as an interesting system of Multi level governance. As a political polity, the EU has gone from being compared to many other resembling international organizations like the IMF or the NATO, to being viewed as a unique system of making politics, mainly due to the fact that the EU shows more resemblance and shares more characteristics of national, political systems than of the above mentioned IO: s.

The type of multi level governance in the EU is characterized by a technocratic system that includes transnational, national and sub-national institutions, as well as a wide variety of public and private actors. The negotiations and networks among the multi level institutions are defined by informal relationships, where relations are not hierarchically defined but rather contextualized, both at vertical and horizontal levels. The multi level arrangement often deals directly with regional and local authorities, rather than expanding its inter-governmental practices. This has created stronger regional and local autonomous entities, capable of creating direct linkage with the transnational institutions of the EU (*Mitchell, 2005*).

Decisional authority in the EU is distributed among a variety of polities, each taking part in the elaboration and formation of the EU policies. The decisional authority and political power is dispersed into more or less autonomous layers of government at both national and European level. As such, the European system is organized in two or more layers of government with each layer retaining autonomous decision-making power vis-à-vis the other(s) (*Bernard, 2002: 2-6*). One example of this is the legislative process over which neither the Commission nor the Member states have exclusive control. Even though these actors are still important in the legislative process, there is no single locus of decisional power. These actors participate in the decision-making but do not control it (*Bernard, 2002: 10*). In the multi level governance it is central that in an increasing number of policy areas no single actor has complete competence. What we have instead, are overlapping competencies among multiple levels of government (*Marks et al., 1998: 41*). The institutional trade-off within a “zero-sum” game is thus replaced by an emphasis on the necessity of shared capacities in order to ensure effective problem solving.

Public policies, the area of the political output of the EU and also where the polity obtains the most of its public legitimacy, are made via complex and open political systems, often characterized by the participation of a variety of actors from different political areas participating in the decision-making process (*Lindblom, 1993: 7, 18*). The combination of regional, local and communal decision-making with an impressive policy area results in a deep entanglement of the national policy-making of the Member states with the policy-making of the EU which is one of the basic characteristics of the Multi level governance concept.

The EU is an extraordinary differentiated polity where actors can vary significantly between policy areas like regional development or trade policy. A policy process can thus be influenced by a number of actors that change according to the sector of the policy discussed. The multi level governance stresses this involvement of differentiated actors, private actors as well as public authorities (often in public-private networks), within governance mechanisms. This does not mean, however, that the state no longer counts as an important actor but rather that it no longer controls the policy process in totality. The state within the EU polity is thus only one among a variety of actors, acting in a radically changes political environment where it no longer has monopolistic control over the decisional power (*Marks et al, 1998: 41*).

Policy processes are further often characterized by a strong presence of experts with specialized knowledge. These policy processes are prepared by a complex labyrinth of committees that shape and present policy options before these policies are set up by overtly political decision-makers such as the council of ministers or the European Parliament (*Lindblom, 1993: 118-119*).

### 3.3 Multi level governance features of the EU

In this section I will give an account for the most characteristic features of the EU as a system of multi level governance, and also discuss their possible implications on democracy. I will focus on four areas, *the policy process, the dispersion of power within the EU, the institutional design of the EU and regionalization*.



### 3.3.1 The policy process

The policy process of the EU is characterized by complexity and by the participation of a variety of differentiated actors. The dispersed structure of the EU is in many ways responsible for the way decisions are being made and what policy outcomes look like (*Wiener & Diez, 2003: 101-103*). As demands for increased legitimacy in the EU policy-process have risen, the Commission has tried to involve public interest groups in order to get more individuals and organizations involved in the making of decisions. The argument has been that the involvement of interest groups and other experts would open up the policy process and make it more accessible for the public and thereby increase its legitimacy (*Nergelius & Zetterquist, 2006: 103-105*).

The fact that decisions are being made on multiple levels have been interpreted in many ways and different arguments have risen. On the one hand it has been argued that the process of decision-making has gained efficiency by the dispersion of governance across multiple jurisdictions, especially in comparison with the central state-model where the state government has monopolized the decision process. The spreading out of governance has also been said to improve its normative value as this form of organization better reflects the heterogeneity of preferences among citizens.

On the other hand, however, it has been argued that the informality and orientation toward objectives and outcomes rather than rules and formal government, something that has been said to characterize this model of organization, would lead to the abandonment of core values of democratic government. In a type of “Faustian bargain”, these values would be traded in, in order to reach deals and settlements, achieve consensus and to strengthen the image of the supposed efficiency in governance that this model effectively would lead to (*DeBardeleben & Hurrelmann, 2007: 15-16*). One key example of this bargain concerns the consensus nature of the decision making in the Council, which limits accountability and effectiveness in order to achieve a broader agreement. In this sense, institutional structures within the EU have become compromised, as decision making takes place within informal settings, creating a distance between the citizens and their EU representatives. The fact that decisions are being made on multiple levels has also been argued to produce dispersed and disjointed decisions, often incomplete in their implementation (*Wallace, 1996: 445*).

The complexity of the EU policy process combined with its lack of transparency has severe implications on the citizens’ linkage to the community. As the process of making

decisions often entails different actors acting on multiple levels, the complexity leads to the making of the policy process incomprehensible for the average citizen. The citizen thus has very little opportunity to get well-informed in the matter, as they cannot participate in the totality of the results that have led to the decisions. This may lead to the disaffiliation of the European citizens to the Community as the process of decisions is viewed illegitimate. The lack of legitimacy is rooted in the fact that the governance is not structured transparently to the citizens, an important precondition for the establishment of accountability (*Nergelius & Zetterquist, 2006: 68-69*).

The fact that negotiations are influenced by actors coming from so many different backgrounds can also have implications for the legitimacy. In first hand, many of these actors, may they be interest groups, NGOs or experts, are not elected in a democratic sense and therefore bear no representative value before the citizens. They are however taking part and influencing in the decisions affecting the lives of many European citizens within the community. Concerns have been expressed over the competition of ideas, marking these negotiations, bringing contentiousness rather than reason into politics (*Lindblom, 1993: 7-8*). The arrangements of multi level governance systems might lead to the fact that political decisions are being made by self-elected actors, rather than by actors elected intentionally by the citizens to represent them in a matter of interest. The opportunities for actors to participate politically have increased with the shift to multi level governance and effectively so has the involvement of different actors. This is a problem when it comes to representation, when deliberative policies are being made with unequal representation of citizens (*DeBardeleben & Hurrelmann, 2007: 6-8*).

### 3.3.2 Dispersion of power

Another typical feature of a multi level governance system is the dispersion of public power in separate governing levels. The multi level governance model describes the dispersion of authoritative competence across territorial levels and also draws attention to the interconnection of multiple political arenas in the process of governing (*Wallace, 2000: 103-104*). This is one of the key features in these types of systems and the result is an arrangement for making binding decisions that engages a multiplicity of independent, but otherwise

interdependent, actors in a complex system of negotiation spanning over all different territorial levels (*DeBardeleben & Hurrelmann, 2007:2-5*).

Studying the European governance, the question of dispersion of public authority almost immediately comes up. The European public power is organized into two or more layers of government, each of these levels retaining autonomous decision-making power in relation to the other levels (*Bernard, 2002: 2-3*).

In the European Union the decisional authority is distributed among national governments, supranational institutions (the European Parliament, the European Commission and the European Court of Justice), sub-national authorities (regional and local) and transnational and sub-national groups of interest, from the private as well as from the public sphere. The fact that the allocation of authority has been dispersed in the European system has stimulated a variety of different actors to go transnational and the EU is now strongly characterized by a strong representation of interest groups, EU associations, transnational public-interest groups, targeting both EU institutions and Member state governments, in a quest for influence in a complex, power-fragmented system. Public EU policies are being delivered through a process of negotiation and deliberation involving all kinds of different actors (*Wiener&Diez, 2003: 105*).

As shown, the EU is characterized by complexity and continuing evolution, a consequence of the shifting balance of power between national, Member state level and the European level, and also of the fact that so many political actors in the EU compete to establish strong positions within this still developing political system (*Nugent & Paterson, 2003: 105-108*).

The most obvious case of dispersion of power is that of the distribution of the legislative power, or control over the community law system. Neither the Commission, nor the European Parliament, nor the Member states and nor the European Court of Justice, control the legislative process. As stated before, this does not imply that these are no important actors but merely that they each hold an important role in a process without a single locus of power.

This loss of a central power has been perceived as a loss of the contents of law, as law is becoming less the expression of a given program of government than the results of interaction between multiple actors. The result is a decline in the Community law's organizing capacity. If legitimacy in the institution of government is low, the acceptability of binding legislative measures is also going to be low.

Since the actors involved are different, as is the relationship to time and space, it is no longer possible to formulate a general and abstract rule on the basis of common experience (*Bernard, 2002:11-12*), which may lead to a weakened legitimacy. Within community law, the Member states act as intermediary between their own citizens and the Community, as by means of implementing the Community law, a link between the union citizens and the Community is created.

Constitutions regulate how power is distributed and organized, how important decisions are being made and how public actors can be held responsible for their decisions. The European constitution has never been validated by a European constitutional demos, and does therefore not enjoy the same kind of authority and legitimacy as in other federal systems. As the EU lack a constitutional demos, it has to rely on its Member states for indirect input legitimacy, as no other channels are to be found. Output legitimacy on the other hand is reached through the process of the European integration which is premised on the need for common action on a number of different issues, as the Member states in order to secure maximum economic and social welfare of their own citizens can no longer act separately. There is thus a disjunction between input legitimacy and output legitimacy (*Bernard, 2002:7, 21-23*).

### 3.3.3 The institutional design

The dispersed character of the EU's institutional framework can be said to influence largely in the EU's democratic deficit. This institutional architecture promotes a type of circular process of making decisions, which permits little or no input from the public sphere. The informal nature of the negotiations that so often characterize the processes of decision making is also deepening the situation as this leads to little insight and an almost non existing transparency in the policy making process.

Power influence within the EU structure is divided, although somewhat disparately, between the European Parliament, The Council of Ministers and the Commission. These political bodies are designed to check and balance each other. The institutional design of the EU is characterized by complexity, and its inter-institutional linkages often leave the citizen unaware of their political rights. The institutional environment can determine the extent of democratic participation (*Hadenius, 2006: 48*).

In national democracies, the citizens normally have a clearer view of their part in the decision making. Institutional linkages are normally more clearly defined and supported by constitutions.

In contrast, people in the EU's multi-tiered system are represented by an assembly of officials who seldom ask the public in matters that affect them. The closest a citizen gets to influence a policy decision is through their elected representative in the European Parliament. This has been referred to as "the permissive consensus", as a process of that takes place because the EU is too complex to be of any concern of ordinary voters. The result is the creation of a decisional elite (*Mitchell, 2005*).

On the other hand it has been said that the institutions of the EU act as stabilizing forces. While the process of governing are influenced by a great number of different actors, the EU remains a formal decision making system in which there exists a clear institutional path through which policy making progresses. The policy making does not occur on an ad hoc basis, but is instead controlled by the established institutional route. In this sense the institutions stabilize the policy process in a complex political environment that is the multi level governance (*Awesti, 2007: 7*).

### 3.3.4 Regionalization

The increasing role played by regional governments in the European Union decision making process is central for the understanding of the European multi level governance. The European landscape has seen the increased sub national mobilization through the establishment of regional offices, not at least in Brussels, inter-regional associations, the Committee of the Regions and the article 146 of the treaty on European Union, allowing sub national governments the access to the Council of Ministers. Sub national governments have thus become involved in the policy network, acting alongside other actors at all different levels within the EU's governance structure (*Awesti, 2007: 6-7*).

The European Council has adopted a convention concerning communal self governing. This goes in line with the EU's principle of subsidiarity which states that decisions should be taken at a lower level politically (*Hadenius, 2006: 137*). This principle is an important symbol in the struggle for increased citizen presence in European politics. It has been pointed out that besides the effect it would have on bringing the decisions closer to the citizens, this principle would also increase efficiency as the decisions would be made with

less complications, due to the proximity factor. From a democracy perspective, this idea has been given a great importance as a political potential (*Jerneck & Gidlund, 2001:169*)

This vertical power sharing, in place of horizontal structure is further said to counteract a possible concentration of power and thereby the abuse of it as the central power is limited.

It has, however, also been mentioned that power concentrations can arise regionally and locally as authoritative enclaves seize the power. Another concern has been that this kind of regionalization leads to a duplication of administrative, political structures and also to a lower grade of professionalism with the decision makers. The empowerment of regional autonomy can further lead to an unequal treatment that possible differences between different regions can bring, which in itself creates a problem for democracy (*Hadenius, 2006: 134-136*).

Giving more importance and increasing the regional influence in the decision making process has also been argued to have a calming effect on political conflicts over issues. As the political system becomes more transparent, the political struggle becomes less polarized, with more people getting engaged and taking part in the process of making decisions (*Hadenius, 2006:137*).

## 4 Analysis

In this section I will analyze the extent to which the criteria, previously mentioned in chapter 2, are being met in the multi level governance system of the EU. Each criterion will be analyzed and discussed separately. I will also here analyze the prospects for democratic rule in a multi level governance system, using the previously presented criteria as operational instruments for democratic evaluation.

A discussion on my findings and explicit conclusions will be presented in the following chapter.

### 4.1 Democracy in a multi level governance system

#### 4.1.1 The criterion of effective participation

As stated above, an organization's institutional design may determine the extent of democratic participation. The EU's institutions play an important role and are central to the understanding of this type of political network. The European institutions structure and coordinate the interaction between different actors situated at different political levels (*Peters & Pierre, 2004: 79*). They act as central nodes around which the variety of actors involved in this system cluster. The institutions thus create an arena in which non-hierarchical and interconnected relationships can form. The institutional design of the EU thus facilitates participation by constituting the organizing political body. We can thus conclude that there seem to be many options for interest groups to influence at EU level, but while this is true, political participation for non-organized citizens remains largely limited (*DeBardleben & Hurrelmann, 2007: 122*). Democratic processes are being undermined by the growing interdependence of nation and international institutions and organizations, which results in fewer possibilities for the European citizens to influence the political development (*DeBardleben & Hurrelmann, 2007: 17*). The criterion of effective participation is thus suffering as the members of this political organization, the European citizens, has little

opportunity to affect any outcome of the policy process, especially when non-organized. While the arrangement of multi level governance might lead to increased opportunities for organized actors to participate, the institutional design of the EU promotes a type of circular processes of making decisions which permits little or no input from the public sphere. As effective participation in this sense cannot be ensured, the public opinion cannot be taken into account, and thus the principle of equal consideration of interests remains unfulfilled (*Dahl, 1989: 199*). Without effective participation from the people, measures that impose obligations on us as citizens cannot be sanctioned by the approval of a majority and are thus suffering from lack of legitimacy. As the political power is being fragmented and dispersed over a multiplicity of sites, the forms of citizen participation must also become plural and more diverse.

Even though the multi level institutional design of the EU may hamper effective participation, the increasing importance of regions and their influence may tell another story. The increased decisional power for the regions is seen as beneficiary for the democracy as it moves the process of making decisions closer to the citizens. This, in turn, may lead to more opportunities for influencing and participating in the process and is moreover said to stimulate further involvement and participation, as the opportunity for actually making a difference is seen as more possible. The inclusion of regional authorities in the decision-making process thus facilitate a more effective participation for the citizens as well as an enlightened understanding of the matter discussed, as the whole process becomes more open to the public (*Hadenius, 2006:134*). As mentioned above, the EU has adopted the principle of subsidiarity which in this context is an important symbol for an increase of citizen presence in the European politics. This principle is not only seen as an instrument of efficiency and deregulation, but also as a powerful tool for bringing the decisions closer to the citizens (*Jerneck & Gidlund, 2001: 169*). The results of the European regional integration process is however yet to be seen.

#### 4.1.2 The criterion of voting equality

With the effective participation hampered, so is the criterion of voting equality, stating that the opinion of each citizen should be measured equally and that each citizen should be ensured an equal opportunity to express their opinion. As stated above, the European citizens have little possibilities of influencing the policy making of the EU.



With the dispersion of power come a greater number of actors involved as decision are being made on multiple levels. As more actors get involved in the decision making process the process has a strong capacity for solving common problems, but weak sanctions for unpopular or failed policies. Problems of accountability arise when many of the actors taking part in the policy making process are not elected by the citizens. As they do not represent the citizens in any direct way, nor can they be tied to their preferences in any way. Even if channels of electoral input would exist, the complexity of the multi level governance system makes it difficult to secure the accountability of the decision makers. These problems of accountability also generate problems of legitimacy, in this case primarily input legitimacy meaning the difficulty of calling leaders into account for failed policies. In the EU it is especially hard to identify which actors are responsible for which decisions and to hold them accountable for their actions (DeBardeleben & Hurrelmann, 2007: 6-8, 122). In this way, collective, binding decisions are not being made in a way that is responsive to the stated preferences of the ones being “governed”. Thus with a weak accountability, the criterion of voting equality is suffering as to the fact that citizens have little possibilities of expressing their opinion.

Another factor affecting the voting equality is the fact that the European citizens in the EU are being represented by actors that are not elected by them. This presents us with another problem, namely that of representation. As a shift to multi level governance has meant an increase in access points for organized political participation, the number of actors involved has increased dramatically.

The argument that interest groups and expert involvement are improving the quality of the deliberative policy process has been supported by the opinion that policy making in the EU should increase its legitimacy. To win public acceptance, the Commission has tried to involve public interest groups in particular, also as a way for opening up the policy process to the public and for getting more organizations involved (Nergelius & Zetterquist, 2006: 103-105). However, as this measure would certainly improve the deliberative qualities of decision-making procedures, the basic normative criterion of voting equality would run a risk of being seriously distorted (DeBardeleben & Hurrelmann, 2007: 8).

#### 4.1.3 The criterion of enlightened understanding

This criterion states that all citizens should have adequate access to information in order to decide on the matter that best suits their interests. What this means is that the process of making decisions ought to be open and transparent to the public.

The dispersion of power, and especially to lower regional levels, implies, as stated above, that power is distributed across different territorial levels which results in an arrangement involving a multiplicity of independent and interconnected actors. What we have in other words is a fragmentation of the public sphere, which is being defined as a network of intermediary actors and institutions, which enables the exchange of information and opinions with the citizens. This form of network is seen as crucial to democracy as, without it, there would be no political forum for deliberation where citizens could form their political opinions or debate policy proposals for example (*DeBardeleben & Hurrelmann, 2007: 123-124*). Even though the institutional design of the union makes it hard for non-organized citizens to participate effectively, there is still a possibility to debate and become enlightened through organized political activity. This feature of the multi level governance meets not only the criterion of effective participation, but also that of enlightened understanding of the matter of decision, as the possibilities for (organized) citizens to influence the policy process and get a greater understanding of the actual policy discussed, are greatly increased by the dispersion of decisional power.

#### 4.1.4 The criterion of control of the agenda

Control of the agenda implies that each citizen should have the final control, or the final say, in the democratic process of making decisions.

EU policies are often made in a complex process of negotiation, involving a multiplicity of non-elected actors, influencing the outcome of the process. The decision making process is further characterized by complexity and a lack of transparency. This complexity combined with the involvement of a variety of different actors often lead to the fact that the policy process becomes incomprehensible for the average citizen. As a result, European citizens have very little possibility to influence the outcome of the decision making process.

The complexity of the European Union's institutional design also affects this criterion, permitting close to no access for the public sphere. As a result, European citizens

have little possibilities to influence EU policy making. The fact that policy process are prepared on beforehand by a complex labyrinth of committees that shape and present policy options combined with the informal nature that so often characterizes these process, leads to little insight and an almost non-existing transparency in the process (*Hadenius, 2006: 48-49*). As mentioned previously, citizens are as a result often left with little knowledge of their political rights.

#### 4.1.5 The criterion of inclusion and the right to participate

Discussing democracy in a European context, the “no-demos problem” is an important issue to include in the analysis, mainly as this problem has been mentioned as one of the biggest obstacles to democratization in the EU. If the European citizens do not see themselves as part of a cohesive political community, the possibilities for self-governance can not be guaranteed. The same argument goes for the ensuring of effective participation of all citizens in political decisions (*Hadenius, 2006: 123-124*). An often cited argument against the potential of European Community as a political society has been that without a European demos, since there exist no European nation, neither can there be European political society (*Nergelius & Zetterquist, 2006: 304*). The lack of legitimacy, in this case due to the absence of a European demos, can further delegitimize the European institutions as they in turn suffer from a lack of input-legitimacy from the people. However in spite of this, there has been marked reluctance to concede the control or to develop mechanisms that would allow the citizens of Europe to take an active part in the shaping of the EU polity (*Bernard, 2002: 214*).

The absence of a European demos has led to the fact that the new form of transnational democracy at EU level had remained an elite phenomenon. Advocates of transnational democracy have however argued that in this new context of a transnational, multi level democracy, the notion of a demos as something territorially bound is no longer valid nor tenable (*McGrew, 2002: 280*). According to this, democracy has to be rethought on the assumption that it has no primary locus and no single demos, and that the state has to share its power with a multiplicity of various actors, be they sub-national, public or private organizations, NGOs or other international organizations or forms of supra-national governance (*DeBardeleben, & Hurrelmann, 2007: 5-6*).

In the light of this argument, skeptics have posed the question of who or what agency should in fact decide exactly how the demos is to be constituted and upon what basis? Without a clearly constituted demos, one could further pose the question

whether a reinforced channel between the European citizens and the Community, e.g. by empowering the parliament through a change of the decision-making process, necessarily would lead to a higher level of democracy in the EU. If political proceedings are to be ruled by a majority, then firstly we would have to determine what majority we are talking about.

## 5 Conclusion

The purpose of this study was to critically analyze and discuss the implications on democracy in the EU of a system of multi level governance. This “new” form of governance has been analyzed in the European context where the implications of multi level governance have shown to be significant, according to the normative democratic criteria developed by Dahl.

The use of normative democratic theory has shown to be useful for the understanding and highlighting of the institutional and political conditions that are necessary for an effective democratic governance. The overarching question posed in the beginning of the thesis was: *How does a system of Multi level governance affect democracy in the EU?*

To answer this question I have used five criteria for democratic rule in order to evaluate the political system of multi level governance democratically.

The findings that I have made indicate that the complexity of the European political arrangement around a system of multi level governance has led to the fact that most of these criteria are not being met in a sufficient way. There are other indicators that have yet to show themselves effective for democracy, e.g. regionalization and the dispersion of power. The democratic dilemmas that characterize the multi leveled EU seem to suggest certain trade-offs that are unavoidable in the effort to realize democracy in a multi level governance system. For example, this system implies the extending of the decisional power, while it endangers its social preconditions, it increases effectiveness but reduces accountability and it enables deliberation but weakens equal representation and participation. Because of this, the normative legitimacy discussed of above of multi level governance arrangements could be questioned.

The European citizens thus have very little possibilities of influencing the policy process that in so many ways affect them in their personal lives. This situation could change however, were the system to undergo certain reformations.

It seems important to restore the democratic principle in the policy process, that have been stretched too thin in order to accommodate a variety of differentiated actors. Equal representation of all participants could be ensured through the creation of a legal framework, such as for example the constitutional process afoot. Equal representation of citizens in the

EU's multi level governance system would effectively mean a clearer role for the EU's institutions to the public.

Next, the decision making process should be formalized, as opposed to the process' informal character today. Less powerful actors should be provided with guarantees to ensure their equal representation. Considering the lack of access to the political system many citizens have, due to the complex nature of the European institutions, empowering the less powerful citizens seems especially important.

Finally, as noted before the lack of a constitutional demos pose a complicated obstacle to the democratization of the EU. The transnational nature of the multi level governance system brings together a variety of not only political actors, but regionally separated citizens as well. The creation of a public sphere diffusing information about EU issues and procedures could help to create a sense of togetherness in the EU community. This would further strengthen the enlightened understanding for the citizens. Without this public sphere, the representation of majority interests seems unlikely. According to the Maastricht Treaty, the EU citizenship gives the citizens of member countries the right to vote in elections in any other member country, the right to protection in third countries and the right to address the European Parliament. However, the EU citizenship does not have the same strength as national citizenship, mainly because it unites citizens from different member-states and is therefore less cohesive than national citizenship (Scheuer, 1999:25). There is no doubt that a European political community exist, but the question is whether the European integration have been able to create a legitimate political community in which there is a sense of trust, identification and 'we-feeling' among its members.

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