THE PROBLEM OF "DEMOCRATIC DEFICIT" IN THE EUROPEAN UNION

Thesis submitted to the

Institute of Social Sciences

in partial fulfillment of the requirements

for the degree of

Master of Arts

in

International Relations

by

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July 2009

To my dear mother

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Thesis Subject   : The Problem of "Democratic Deficit" in the European

                                              Union

Thesis Date   : July 2009

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I hereby declare that all information in this document has been obtained and presented in accordance with academic rules and ethical conduct. This thesis contains no material which has been accepted for any award or any other degree or diploma in any university or other institution.

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July, 2009

ABSTRACT

Kübra Dilek AZMAN   **July 2009**

THE PROBLEM OF "DEMOCRATIC DEFICIT" IN THE EUROPEAN UNION

This study tries to understand the causes and effects of the problem of democratic deficit in the EU. The well-known approaches to the problem, namely "vertical, horizontal, efficiency and socio-psychological paradigms" are introduced to delineate the main dilemmas about democratic deficit. There is a multitude of reasons and solutions regarding the democratic deficit in the EU, which lead to complex interpretations. This study proceeds on a road map that sheds light on primary and secondary law that are relevant to an understanding of the problem of democratic deficit in the EU. This dissertation also looks into the democracy movement within the EU in a historical context. This study finally touches on the process unleashed by the Treaty of Lisbon to see if the discontent about democratic deficit is about to evaporate through ingenious formulations.

Key words:

Democratic Deficit, Democratic Legitimacy, EU Treaties and Democracy.

KISA ÖZET

Kübra Dilek AZMAN   **July 2009**

AVRUPA BİRLİĞİ'NDE "DEMOKRASİ EKSİLİĞİ" SORUNU

Bu tezin amacı, Avrupa Birliği'nin demokratik açıdan sorgulanmasının sebeplerini araştırmaktır. AB'de "demokrasi eksikliği" tartışmaları genelde yatay, dikey, etkinlik ve sosyo-psikolojik, söylemleri ve argümanları üzerine yoğunlaşmaktadır. Avrupa Birliği'nde "demokratik açık" sorunu bir çok yaklaşım tarafından incelenen ve farklı disiplinler tarafından çalışılan bir konudur. Bu yüzden teorik olarak bu konudaki argümanlar farklılık arz eder. Bu nedenle bizim yol haritamızı AB antlaşmaları ve tasarrufları baz alınarak yapılan incelemeler belirlemektedir. Avrupa Toplulukları Kurucu Antlaşmaları'ndan Lizbon'a uzanan süreçte Avrupa Birliğinde demokrasi, konumuzla bağlantılı olarak incelenmiştir. Son olarak da, Avrupa Birliği'nin, Lisbon süreciyle demokratik açık-kısıt, sorununda geldiği nokta değerlendirilmektedir.

Anahtar Kelimeler

Demokrasi Açığı, Demokratik Meşruiyet, AB Antlaşmaları ve Demokrasi

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LIST OF ABBREVIATIONS

CFR	Charter of Fundamental Rights
CFSP	Common Foreign and Security Policy
EAET	European Atomic Energy Community
EC	European Community
ECJ	European Court of Justice
EEC	European Economic Community
EMU	Economic and Monetary Union
EP	European Parliament
ESCS	European Coal and Steel Community
EU	European Union
IGC	Intergovernmental Conference
I. S. S.	Institute of Social Sciences
JHA	Justice and Home Affairs
MT	Maastricht Treaty
M. A.	Master of Arts
SEA	Single European Act
TEU	Treaty on European Union
YÖK	Yüksek Öğretim Kurulu (Higher Education Council)

ACKNOWLEDGEMENTS

INTRODUCTION

The European Union (EU) is variably described as "powerful economic and political union", "mighty voice in foreign policy", "sui generis model" and "democracy defender" in the 21st century. The EU, which has, in addition to being an economic union, become a political union in progress, has been a focal point of countless investigations as a *sui generis* model. The EU was composed of six countries in the 1950s. There have been many innovations and changes in many fields from the ECSC to the Lisbon process. The EU has expandad its authority in this period. Now, the EU has 27 member states and a population approximately of 500 million people. However nowadays the EU is criticized for lacking democratic structures although it keeps on expanding its authority.

Democracy is an important value for the European Union. However the EU has suffered for the lack of democracy, whilst most of countries are trust in respect of democracy in the EU. That is an interesting and significant issue for scientific research. I am attracted to this situation both as a student of international relations and a citizen of a candidate country -Turkey.

The European Union democracy debate seems rather vague. Its vagueness derives from the fact that the EU, as a polity, represents a unique case. The EU has evolved as a *sui generis* organization, on account of its unique system. The EU has supra-national institutions such as the European Parliament (EP), the European Commission, the European Central Bank, and the European Court of Justice (ECJ). For that reason, the EU is far from being a classical nation-state formation. On the other hand, the member states' possession of territory, the EU flag, common currency and anthem, and the EU citizenship bring the EU closer to nation-states.

Yet, until the 1990s, it was widely assumed that there was no urgent need to address the problems of legitimacy exercised by, then, the European Community

(EC). In this context, for more than two decades, the question has been raised whether the currently designed EU is a democratically legitimate system or not.

Here, the focal point will be the EU's democratic legitimacy. The new modes of governance of legitimacy have been questioned, such as the EU. The problem is how you can increase the democratic legitimacy credential there. The EU cannot be democratically legitimized by the model of a nation-state. Briefly, the European Communities have unquestionably been exercising governmental power for many years; there is thus a need for democratic legitimation.

As it was stated earlier, due to its own structure, the EU partly resembles a supranational as well as an international institution. The EU does not have legal personality: whilst it has capacity to have rights, it does not have or hold capacity to act on its own. It performs its actions through the first pillar, namely EU institutions. The EU performs its tasks, proceedings and activities in the first pillar with organs/apparatuses such as the EU Commission, the Council of Minister, the European Council and the European Parliament. Since these organs have to achieve certain degree of affectiviness in their activities, their internal structures and decision-making mechanisms become more and more stifled and complicated; and thus this characteristic of the institutions might overshadow or overweigh democracy.

I have mentioned about the EU's *sui generis* construction. This has crucial influence on EU's decision-making mechanism, too. The question of democratic legitimacy has to be understood within the context of the EU, which means constitutional framework of the EU. The problem here is whether the EU should be considered as an international organization of sovereign states and whether the EU should be seen as a federal state. In any case, the question of how decision-making process should be more democratic under this condition should be raised and asked. How should democracy be represented at the EU level? These concerns are the reasons why the EU suffers from democratic deficit. This problem has been

investigated and researched by many scholars who have different perspectives on this issue.

Many political scientists consider the EU as the first example of transition from an economic union to a political union. According to Marcus Höreth, the issues regarding democratic legitimacy gained visibility with the Single European Act (1987) and Maastricht Treaty (1992). These treaties forced the transfer of political decisions and attributions from the national to the European level. This has weakened the democratic influence and control at the national level without having been rewarded by equally strong democratic institutions and processes at the European level. Therefore, the EU is a new subject for theories of legitimacy which poses fundamental questions to the established principles and concepts of democratic theory.[1] In order to check the legitimacy and accountability of the EU institutions and to understand whether or not these institutions are to an adequate degree democratic and representative, Zweifel asks the following questions[2]: Can citizens use their votes effectively to choose lawmakers and/or dismiss them? Do legislative institutions in the EU empower citizens to influence lawmaking by means of voting? Is the separation of powers, which check and balance each other, a guarantee of the representative government? Are the EU institutions designed in a way that they end up being and acting in the EU citizens' best interests?

It is widely believed that the legitimacy of the inter-governmental union, which treats the EU as an international institution, derives from the member states' elected governments. According to this view, democracy can be sustained at the national level and the European Union's legitimacy originates and derives from individual nation-states. According to other supra-national views, apart from the

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[1] Katz, Richard (2000), "Models of Democracy: Elite Attitudes and the Democratic Deficit in the European Union, Competing Conceptions of Democracy in the Practice of Politics", *European Consortium for Political Research Joint Sessions of Workshops*, Copenhagen, p.1.

[2] İnanç, Hüsamettin, Güner, Ümit (2006), "Demokratik Yönetişim Nosyonu Bağlamında AB'nin Kurumsal Kısıtlarının Sosyo-Politik Analizi", *Dumlupınar Üniversitesi Sosyal Bilimler Dergisi,* Sayı:16 , p. 360.

ones mentioned above, the EU is an actor with its own governmental structures and with the ability to enter the international arena with its own new identity[3].

However the EU has observed that its supra-national aspects overweighed its democratic considerations. The international character of the first pillar stifled activities and decision-making proceedings relating to democracy, resulting in the undevelopment of democratic elements. Alternatively, democracy plays a pivotal and crucial role in the second and third pillars. This study will analyze the proceedings and activities and the role of democracy in the decision-making mechanisms within the first pillar of the EU. [4]

As argued before, it is normal that the EU's legal structure is far more complicated than other models. It represents a unique case in itself. By taking this example as a sole criterion, it would be wrong and unfair to claim that the EU is a non-democratic entity. The development and consolidation of democracy is the central concept and foundation of all politics within the EU. The beginning of the road to membership of the EU is the condition of the applicant state being a European country; the second condition is being a democratic state. In brief, democracy and democratic credential are very important for the EU. In addition, the EU is involved in the consolidation and establishment of democracy in the member states and third states with which it has signed agreements. The most visible aspect of this activity is the support given to elections in several countries through election monitoring. Towards the end of the 1990s, the EU developed several mechanisms and instruments to develop and instill democracy in several countries. For this purpose, the EU has been building partnerships and been engaged in persuasion and confidence-building both locally and nationally, in order to support democracy in these countries. In order to support non-governmental organizations (NGOs) and independent media, each and every measure is taken. For the "projects for democracy" project, there is a special budget under the European Initative for

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[3] Cıngı, M. Cahid, (2007), *Sosyopolitik Bir Analizle Avrupa Birliği'nin Demokratik Eksiklikleri*, Bursa: Alfa.
[4] Avcı, Fatih, (2008), Avrupa Topluluğu'nun Gelişimi ve Karar Alma Usulleri, Hazine Müsteşarlığı, p.1.

Democracy and Human Rights (EIDHR) initiative. It is necessary to analyze the democratic legitimacy of the EU within its own structure, since democracy is a core value for the EU as understood from its activities and proceedings.[5]

The aim of this thesis is to examine the reasons of democratic deficit in the EU. Besides, I want to reveal that which is implied when someone mentions that the EU's democracy and democratic credentials are insufficient: what do they really mean? Is there a commonly agreed definition of what democracy means? What should be the most meaningful approach to the EU's democracy deficit and democracy model, and to the meaning of the expression the "EU demos"? It is clear that the democratic cure is not miracle. Notions, such as "democracy" and "democratization" are open to lots of interpretations. In this dissertation, I will try to give an opinion about what democracy is and how democratization process can best be applied in the EU.

Hence, the first chapter deals with the critical perspective about democratic deficit in the EU. The argument regarding the democratic deficit of the EU institutions manifests integrated and deeply-seated political problems. There is a multitude of reasons and solutions regarding the democratic deficit in the EU, which leads to a complexity of interpretations.

The second and the third chapters deal with the democratic norms in the primary and secondary laws of the EU acquis. My aim is here to focus on democratization process in the primary and secondary law in the EU. For this reason European Communities founding Treaties, the Single European Act, the Amsterdam Treaty and Nice Treaty are examined under the issue of democracy.

The third and last chapter covers by the Lakean Summit, the Commision White Paper and the Draft Constitution and lastly the Lisbon Treaty. Currently, the academic debate regarding democratic deficit mostly concentrate on inadequate public participation and inadequate public representation, lack of transparency,

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[5] Yılmaz, Sait (2008), AB'nin Yayılma Stratejesi, http://www.isletme.biz/gundem/abnin-yayilma-stratejisi-2.html

inadequacy of accountability and controllability, and technocratic decision-making processes.

Since the constraint of democratic procedure has negative influence on the functioning of others, the questions regarding the formation of the EU's legal and institutional structures and the place of democracy in constitutive agreements and developments in these areas will be answered through a detailed investigation of the Lisbon Treaty provisions.

CHAPTER I

DEMOCRACY, DEMOCRATIC DEFICIT AND THE EU

1.1. THE DEFINITION OF DEMOCRACY

The word "democracy" comes from the Greek word *demokratia* which was formed by *demos* which mean "people" and *kratos* meaning "rule" or "power"[6]. It literally means rule by the people. However, in a detailed analysis, one can see that, *demos* and *kratos* trigger a series of substantial political problems and questions. The practices of democratic movement in Greece are very different from those of modern democracies"[7]. Giovanni Sartori claims that "the word *democracy* was invented by Greek but they did not provide it with a model and the Greeks had no idea or little idea of the right of individuals". In other words, more profound analyses of the concepts of demos and kratos have entailed serious problems. According to Sartori, the word demos can be taken to denote "everybody", "a lot of people", "lower classes", "an organic whole", "absolute majority" and "partial majority". On the other hand, the term "ruling" is also problematic to understand current democracies since, administration and ruling require two related elements as governed, or ruled, and governing, or ruler. Although the definition as "rule of the people" partly explains the practices of democracy in Greek Antiquity, it fails to explain modern and contemporary democracies. [8]

Meanwhile, the term "democracy" came into usage during the course of 19th century to describe a system of representative government in which the representatives are chosen by free and competitive elections. In our contemporary world, most common type of democracy is Western liberal democracy which

[6] Sartori, Giovanni (1987), *The Theory of Democracy Revisited*, New Jersey: Chatham House Publishers, p.278.
[7] Birch, Anthony H. (1993)*, The Concepts and Theories of Modern Democracy*, London: Routledge, p. 45.

appeared first in Europe and then in the USA. It is a a mode of governing, which depends on a consensus among public and is accountable to the ruled and governed for their actions. The formal definition of democracy is: "democracy is government by the people in which the supreme power is vested in the people and exercised directly by them or by their elected agents under a free electoral system."[9]

According to Robert A. Dahl, the fundamental democratic principle for an entirely and absolutely liberal democracy is,

> the right to vote, the right to be elected/eligibility for public office, the right of political leaders to compete for support and votes, free and fair elections, freedom of association, freedom of expression, alternative sources of information, institutions that make government policies actually depend on votes and other forms of (voter) preference[10].

In addition, Basu emphasizes that;

> Democracy entails many things—the existence of a variety of political andlegislative institutions, avenues for citizens to participate in the formation of economic policies that affect their lives and, in the ultimate analysis, a certain mind-set. Yet at the core of it and in its simplest form, democracy requires that (1) people should have the right to choose those who rule them and (2) the principle that the vote of each person should count as much as another persons. Even this simple principle runs into paradoxes and puzzles [11]

In as much as we are keen on interpreting democratic standards, to apply these standards to a society and to make the political claims and institutions emerge are not easy and smooth processes. Furthermore the concept of the EU democracy cannot be explained as definition of "nation-state democracy" as "the government *by* the people" thorough the citizen participation. Since the European Union (hereafter EU) is not a classical establishment or phenomena, it is not easy to decide according to which democratic standards this establishment should be evaluated.

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[8] Küçükalp, Derda (2001), "Westminster Modeli Demokrasi ve Sorunları", *İş Güç Endüstri İlişkileri ve İnsan Kaynakları Dergisi,* 3- 2.

[9] Defining Democracy, International Information Programs,
http://usinfo.org/mirror/usinfo.state.gov/products/pubs/whatsdem/whatdm2.htm.

[10] Dahl, Robert (2001), *Demokrasi Üstüne*, çeviren, Betül Kadıoğlu, Ankara: Phoenix, p.40.

[11] Basu, Kaushik (2001), The Retreat of Global Democracy, p.1
http://www.arts.cornell.edu/econ/kb40/Globaldemocracy.PDF ,(23.05.2008)

1.2. DEMOCRACY AT THE EU LEVEL

"Hence a form of government has been found which is neither precisely national nor federal; (...) and the new word to express this new thing does not yet exist".

De Tocqueville

"Real democracy is an idea".

Jean Jacques Rousseau

As Tocqueville remarks, an administration has a capacity to change. Administration is continuously renewed and the prior or previous political structures can always be criticized. For this reason, the definition of democracy cannot be a clear cut and precise one. In contemporary world, democratization is a very crucial subject. At the same time, it has been a very remarkable issue for political scientists and theorists since Greek antiquity. The discussions regarding the political order and, more importantly, systems were popular in terms of these political systems', as modes of governance, success and characteristics. From Aristotle's time to the present, humans have always been interested in social life, political life, equality, openness and fairness and have tried different forms of governance to attain the good and equal rights. In the mid-1970s, most nation-states were called authoritarian. Their percentage has fallen dramatically since and then democracies are growing rapidly. As the time passed, the concept of democracy has changed historically and thus it has been accepted as the most "suitable" regime of governance.[12] Although it is a widely shared belief that democracy is the most suitable regime over which there is a consensus regarding the desirability of democracy, the definition and content of the term democracy and its applications are always already questioned and thus its definition and content has changed, has been challenged and been transformed. That means the differences among the definitions and understandings as well as perceptions of democracy are not limited to the previous eras rather they are part of the contemporary debates about democracy.

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[12] İnanç, Hüsamettin (2007), "Rethinking Democracy in the EU", *Journal of Academic Studies*, 32:1.

In this vein, three big events transformed global meaning of democracy. The first of these important events is American Civil War. The second one is the French Revolution and finally the last one is Woodrow Wilson's Fourteen Points.[13] After the collapse of the Eastern Bloc in 1990s, the political scientists quickly responded to the transition and started to study the problems of transition of Eastern Europe to liberal democracy. In addition, democratization became an object of study in International Relations. Some scholars such as Robert Dahl (1994) and David Held (1987) also drew attention to the crisis of contemporary democracy.[14] Robert Dahl identifies the three waves of transformations of democracy: Dahl notes in referring to the first wave that the first signs of democratic practices were seen during the first half of the fifth century in Greek city-states where the people participated in law making and administration. Nevertheless there were many limits of this system as women and slaves were denied citizenship rights. The second wave is "nation-state model of democracy" and the third and the last wave transformation of democracy is insistence on the process of "transnational democracy". According to Dahl's third wave or third transformation of democracy, the spread of technology, telecommunications and intensification of financial transactions have eroded the nation state concept of popular sovereignty which was known as the central unit of democracy and legitimacy.[15] Nation-states' decision-making capacities and policy-making competences were so much transferred from the national to the transnational level[16]. Now, the concepts of transnational and supranational democracy have gained greater currency.

The latest developments in the EU show that the EU leaves nation-state structures behind. With Maastricht Treaty (1992), the EU adopted the name of the "European Union" instead of the "European Communities". With this treaty, new dilemmas for Nordic countries, which have relatively smooth representative

[13] Sağır, M., Öztoprak, Karkın, Naci, (2005), "Demokrasinin Güncel Sorunları ve Demokratik Paradokslar", *Akademik İİBF Dergisi,* 1, (10):7
[14] Attina, Fulvio (1997), "EU Democratization from Patch to Party Democracy", paper presented at the ECSA-USA, *5th. Biennial International Conference*, Seattle, p.2.
[15] Dahl, Robert, (1994) A Democratic Dilemma: Sytem Effectiveness versus Citizen Participation, Political Science Quarterly, Vol. 109, N: 1., p.26
[16] İnanç, (2007), p.4

democracy, and the rest of the European Countries has emerged. Among these dilemmas is the prevailing one of either making the system work more effectively or increasing participation.[17] Öztoprak claims that this choice is generally valid for Nordic countries since both citizens' confidence in the system and level of participation are much developed in these countries. Futhermore, the citizens of Nordic countries expect the satisfaction of their needs both in their countries and in the EU, and question less participation and/or less effective representative democracy. Furthermore, their choices regarding more participation in local and national levels can contextually change. This change and transformation, and its direction, will influence the EU and democracy in the EU[18].

The world system -international relations- has changed incredibly. Françis Fukuyama claims that maybe we are coming close to the "fourth wave" of democracy with the European Union case. The EU is an ideal type and primary example for this discussion because it is a new type of political system within the traditional parliamentary democracy[19].

Liberal political theory and its off shoot lie at the heart of the EU's democracy. The rule of law and its supremacy is the fundamental value of the system.[20] The dominant and hegemonic theoretical framework in liberal democracy is the limitation of the authority and the protection of rights under a constitution. The lack of a common constitution in the EU and the inadequacy of measures to limit the authority and power in decision-making process are common points of criticism, directed at the EU. According to Aristoteles, the reason of a state is its duty to maintain good social order and accordingly, this order can only be maintained with laws. Thus, does that mean that the EU lost the game without ever choosing to play? Can England be a model for the EU, since England is a well established democracy? Habermas, on this issue, claims that "democratic governance does not only mean the control of the bureaucratic modern state with the

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[17] Dahl, (1994), pp. 23-24.
[18] Öztoprak, (2005), p.12.
[19]Attina, (1997), p.2.
[20] Demir, Nesrin (2008), "AB'de Demokrasi", *SAGEM*, p. 5.

rule of law". The presence of the well-established public sphere, which maintains the control and access to decision-making structures for the lay people, is also a *necessary condition* to establish democratic governance between the state and the society. Thus, Habermas evaluates the state not only through laws, but through normative principles, operationalized by a communicative framework of rationality. This framework of rationality is established through the communicative actions.[21]

As Fulvia Attina argued, the EU is as an example of fourth-wave of democracy and since the EU has its own sui generis structure and formation as an institution it obviously has its own understanding of democracy. With its current form, the model of democracy in the EU does not conform to liberal parliamentary democracy or federal state, consensus, deliberative or corporatist models. Existing models of democracy (approximately 25 models of democracy) do not represent the EU democracy in a clear-cut fashion. Furthermore, a nation-state cannot be easily understood from the vantage point of democracy. However, the EU represents a prolific case, which strains the limits of classical understandings and perceptions of democracy. The EU is not a market or an international organization or conversely, a nation-state. The EU is supranational body and its democracy is different than others democracies. This is very important subject for political sciences today and its importance will grow in the years to come. Philippe Schmitter argues that "It is certainly arguable that the EU is already the most complex polity that human agency…has never devised."[22] In addition, as Katz claimed, the EU's structure represents a clear hope and a danger for the EU democracy. The EU stands for the transition to democracy and the stabilization of democratic establishment for ex-Iron Curtain and Eastern Bloc countries as well as creation. This is a clear example of a positive change, which is brought by the EU. On the other hand, the questioning of

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[21] Habermas. Jürgen, (2005), *Öteki Olmak, Öteki ile Yaşamak,* çeviren: İlknur Ak, Yapı Kredi Yayınları, İstanbul, p.24
[22] Chryssochoou, Dimitris N. (May, 1997), "Democracy and European Integration Theory in the 1990s", paper presented to the Fifth Biennial ECSA_USA Conference in Seattle, Washington, at the Workshop on the "EU Democracy in Global Perspective"p. 2.

the structure and process of the dynamics of integration, and the role of the cultural and social factors within this process represent an imminent danger for the EU.[23]

From 1990s onwards, the EU leaned towards being a politic unity rather than being a sole economic unit. This political renaissance brought the question "is the EU democratic enough to represent its members' interests?" The policy-makers and scholars claim that the EU suffers from certain shortcomings and deficits of democracy. In this vein democratic deficit has been defined as the gap or discrepancy between "ought" in theoretical sense and the "is", in terms of existing order, in the EU.[24]

In this context, several questions about the democratic legitimacy of governance and decision-making process have been raised. European Communities have been exercising governmental powers for many years. There is a need for democracy to legitimate unique situation called "Governance without Statehood."[25] Under these circumstances, how can political representation be realized? and how and who should carried out representation at the EU level? How the European citizens join the decision-making process in the European Union?[26] How much participation is necessary for a system to be democratic? These issues are not clarified in the EU. The key theoretical debate essentially focuses on the question of whether the EU is "just an intergovernmental organization or…an incipient federal state."[27] In fact, to define the ambiguous political and constitutional physiognomy, more than twenty definitions have been in circulation. The terms, concordance system, condominium, international state, market society, multi-layered society, half-state, proto-federation, regional authority, regulating state are widely used

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[23] Katz, (2000), p.2.
[24] Cıngı, M. C. (1996), "AB'nin Demokratik Eksiklikleri", *Yeni Şafak*,
http://www.yenisafak.com.tr/arsiv/2005/nisan/19/dusunce.html, (18 Nisan 2005).
[25] Shore, Cris (2006), "Government without Statehood? Anthropological Perspectives On Governance And Sovereignty in The European Union", *European Law Journal,* Vol.12, pp. 709 – 724.
[26] Norris, Pippa (1997), "Representative and the Democratic Deficit", *European Journal of Political Research*, 32, p.273.
[27] Crepaz, Markus M.L. (2002), "Consociational Interpretations of the European Union", *European Union Politics*, 3, (3, September): 375.

among others.[28] From this point, one may assume that without naming the EU's structural integration, the debates will hardly be resolved.

Thus, in order to refer and mention democracy in certain place is it necessary to observe a clear-cut and neat institutional concern about democracy? In order to answer this question, Touraine argues that democracy cannot be reduced to procedures or institutions. Democracy is a political and social power, which aims to *change* the state of law in accordance with the interests of the people.[29]

Alain Touraine's understanding of democracy champions not only material values but also moral and ethical values. For him, moral and ethical values strengthen the social integration.[30] From this point of view, when one questions the democratic ethos of the EU, he/she should not only focus on the complexity of its institutional structure. One must also perceive that, to bring a society a sense of belonging, is also an important step or notion in democracy. In this vein, the concept of the EU citizen is a very vital progress for the EU democracy and integration. Moreover, public recognition of what does it means to be an EU citizen and what are the entitlements (rights and responsibilities) of being an EU citizen constitute a good sense of belonging in the integration process. This can only be realized through the concretization of "transparency", "accessibility", "accountability", "equity" and "identity[31]" in the EU institutions. This will increase the EU citizens' degree of participation and consciousness, which lead to an active democracy in the EU. It is obvious that there is a deep division between the EU institutions and the EU's public sphere due to the institutions' complexity in the decision-making process.

The decrease of public interest in the European Parliamentary elections, rejection of the constitution and rejection of the Lisbon Treaty by the Irish people

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[28] Cıngı, M. C. (1996), "AB'nin Demokratik Eksiklikleri", *Yeni Şafak*, http://www.yenisafak.com.tr/arsiv/2005/nisan/19/dusunce.html, (18 Nisan 2005).
[29] Demir, (2008), pp. 3-5.
[30] Touraine, Alain. (1997), Demokrasi nadir?, çeviren: Olcay Kunal, *Yapı Kredi Yayınları*, İstanbul, p.26
[31] Jolly, M. (2003), "Debating Democracy in the European Union-Four Concurrent Paradigm", *Eight Biennial International Conference*, United Kingtom, p. 9.

show that there is a widespread public discontent with the EU institutions. In short, one may argue that, in order to eliminate the gap between the EU institutions and EU public, it is necessary to eliminate the complexity of the EU institutions and make the participation and involvement of the EU public in decision-making process. Some claim that structural reforms in the EU are required to achieve these results. The adherents of these views criticize the EU's structure as well as the EU's elite structure, elite decision-making process and lack of responsibility against lay people in decision-making in the EU. In addition, it is also common to criticize the EU decrees as obscure, which lead to peoples' aversion towards the EU institution, and thus disable people to participate in public affairs. Therefore, we turn to our initial question: What does democratic deficit mean and where should the EU start from to close this deficit?

1.2.1. What is Democratic Deficit?

The concept of democratic deficit is used in academic circles to connote and address different issues. Moreover, various scholars have appropriated the concept to signify diverse issues and problems. The usage of the word "deficit" echoes a negative connotation or meaning. Wincott suggests that there are two different interpretations of the word "deficit", which are extensively used in this context. The first interpretation drawns on "too little democracy" and the second interpretation drawns on an "over-shadowed democracy[32]". Dictionary defines *deficit*:"as deficiency in an amount, a lack or impairment in a functional capacity and disadvantage".[33] Thus, democratic deficit in the EU means the lack or discrepancy between "what is" and "what ought to be" in terms of democracy in the EU.

The term "democratic deficit", in a historical context, was firstly used by David Marquand. Marquand used "democratic deficit" to describe the weakness of the democratic legitimacy of the European Community institutions in the 1970s.[34] Since the Single European Act (SEA) and the Treaty on European Union (TEU), the

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[32] Jolly, (2003), p.7.
[33] http://www.merriam-webster.com/dictionary/deficit, (26.09.2008).
[34] Milev, M. (2004). *A Democratic Deficit in the European Union*, Master Thesis, I.H.E.I., p.5.

forcible transfer of political decisions and allocations from the national to the European level has weakened democratic influence and control at the national level without having been compensated by equally strong democratic institutions and processes at the European level. Thus, the European Union is a new heated topic for theories of legitimacy. This new topic poses fundamental questions to the established principles and concepts of democratic theory. [35] Then a question is raised as to whether democracy should be appreciated at national parliamentary systems level or not?

1.2.2. Democratic Deficit in the EU

Generally, academic literature on the issue of democratic deficit in EU relies on two opposing arguments. The majority argument is that there is democratic deficit in the EU; the minority argument rejects this view it. This study falls within the majority argument. The majority argument draws on the two dimensions of the EU. First argument asserts (institutional) that the EU's institutional design and structure is not democratic. Second argument (socio-psychological) claims that the EU is not capable of being a 'real' democracy in principle, since the structural and social prerequisites, on which democratic rule depends, are lacking at the European level[36]. After this two-tiered argument, it is possible to move on to the question whether or not "democratic deficit" in the EU can be solved? How can European citizens be included in the decision-making process of the European Union? Thus, the list of reasons and related inferences on the question of why EU suffers from democratic deficit, are as follows:

- European Commission is a non-elected institution. It enjoys too much political power. Although it does not take its legitimacy from the people, it has significant and effective role in the decision-making process.

- Although the EU Parliament is the only elected body, it is widely criticized due to the imbalance between the representation and power. Theoretically,

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[35] Höreth, Marcus (1998), "The Trilemma of Legitimacy Multilevel Governance in the EU and the Problem of Democracy", *Center for European Integration Studies*, p.4.
[36] Stavridis, Stelios (2006), "Why The EU´S Constitutionalization And Parliamentarization Are Worsening the Existing Democratic Deficit in European Foreign and Defence Policies", *Jean Monnet Working Papers in Comparative and International Politics,* Pittisburg, pp. 4-5.

representation and power should be proportional and imbalance between two institutions, where one is not commissioned to represent and the other is commissioned to represent people, cannot be greater. [37]

- The EU Parliament has relatively lesser power in law making with respect to EU Commission. This leads to a wave of criticisms as it cannot protect or guard people's rights and entitlements.

- EU's institutional design is complex. This design and structure is also perceived as distinguished and separate from lay people and their concerns.

- There is a lack of linkage between the logic of domestic politics—which is viewed as democratic—and the logic of the EU politics, which is viewed as elitist and technocratic.[38]

- People in the EU observe a democratic deficit, because in their view granting that the Commission's headquarters are in Brussels, the Commission appears to be remote and democratically unaccountable, and the national governments seemingly run the Community like a cartel.[39]

- The Euro-electorate simply does not have enough control over the process of decision-making in Brussels/Belgium.[40]

- There is too much delegation of authority to experts and bureaucrats.

- Extensive lobbying activities are sometimes considered as illegitimate. [41]

- In classical parliamentary system, people are represented by elected MPs. People use their constitutional right to vote to elect and un-elect MPs and the parliament. That means MPs, political parties and the parliament are responsible against the people. However, in the EU, people do not have such power.

- European Commission is not held responsible for its decisions. This leads to public dissent against the EU and apathy towards EU institutions, elections and other related issues.

- Those of take part in the EU instutions are not even indirectly elected. The European Council and the Council of Ministers are not directly elected for their role within the European Union. The members of the Council of Ministers

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[37] Demir, Nesrin (2007), *Avrupa Birliği'nde Demokrasi*, Ankara: Seçkin, p.41.
[38] Alberta M. Sbragia, (2003.) "Post-National Democracy: A Challenge To Political Science?", Paper Delivered as the Introductory Presentation Convegno Nazionale Della Societa Italiana di Scienza Politica (SISP), p.13.
[39] Richard Katz, (2000) p.5.
[40] Katz, (2000), p.4.
[41] Jolly, (2003), p.10.

represent the "national" interest rather than the "partisan interests" of their electoral constituency as done in domestic politics.[42]

▪ Another common criticism is that the European Court of Justice has continuously expanded its own power.[43]

▪ Council of Ministers and the European Council are not properly controlled and accountable[44]

▪ QMV(qualified majority voting) in the Council is undemocratic to outvoted publics

▪ Since there is no "demo" or "people" in the EU, there is no real democracy in the EU.

As I stated earlier, there are different criticisms raised by different disciplinary perspectives. Furthermore, there are also people who claim that there is no democratic deficit in the EU and people who assert that the EU cannot be questioned in terms of democracy. Obviously, the initial problem stems from the fact that there is no single definition of democracy. There are different concepts, different style and different policy prescriptions about the way in which the EU might or should be democratized.[45] According to Andrew Marovsick, hundreds, perhaps even thousands of scholars, commentators, lawyers, and politicians have analyzed this very problem. It is the first time in the history of international politics that such rich and varied intellectual resources have been brought to bear on an international political process—a discourse from which we can learn a lot.[46] Thus, it might be rather challenging to analyze the arguments of those who claim that there is a democratic deficit in the EU. In addition, criticisms are criticized and this leads to constant intellectual exchange about this issue among intellectuals. Jolly names them as paradigms, and divides them into four categories to analyze. Theorists, who claim that there is a democratic deficit, have different reasons. The first **vertical paradigm** argument draws on the "loss of democratic control via the EU". The

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[42] Alberta M. Sbragia, *Ibid.*, p.6.
[43] Jolly, (2003), p.10.
[44] *Ibid.*
[45] Newman, Micheal and Hoskyns, Catherine (2007), *Democratizing the EU issues for the Twenty-First Century,* UK.: Manchester University Press, p.5.
[46] Moravcsik, Andrew, (2004), "Is there a "Democratic Deficit" in World Politics? A Framework for Analysis", *Government and Opposition,* 39, 2:336-363.

second paradigm is **horizontal paradigm** which claims that "the EP has too little power with respect to domestic systems". The third paradigm is the **efficiency paradigm** which argues that "effective governance can supply some of the legitimacy lost on the input side". The last paradigm is the **socio-psychological paradigm** which asserts that "democratic deficit exists because there is no demo".[47]

In the **vertical democracy** paradigm, the main object is "**governing**". It draws on the relations between "the EU and member states". It focuses on the relationship between the EU and member states domestic political processes. In addition it seeks to propose for more effective democracy. However like other paradigms two different ideas exist in vertical paradigm. First group holds that legitimacy is ensured in the Council of Minister. The others claim that the EU has negatively affected democracy within member states? [48]

In the **horizontal democracy** paradigm, the main object is "**governing**" like the vertical paradigm. The difference comes from the differences of approaches. Vertical democracy paradigm sees the solution on the EU and members, whereas horizontal paradigm is based on the EU and its institutions, especially the EU Parliament. And they ask "What institutional measures should be taken at the EU level in order to fix the democratic deficit."[49]

The starting point of horizontal paradigm is the advocacy of improved democracy at the EU multinational government level. Furthermore adherents of this theory ask the question "How can institutional change at the EU level improve democracy?" They emphasize "about the future design of the EU system and divisions of power between EU's institutions". Horizontal and vertical paradigms treat the issue in terms of executive authority thus they make institutional analysis. On the other hand, efficiency paradigm focuses on the EU politics and their effects.[50]

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[47] Jolly, (2003), p.12.
[48] *Ibid.*, pp. 15-16.
[49] *Ibid.*, p. 24.
[50] *Ibid.*, pp. 12-24.

In the **efficiency paradigm,** the main object is "**policy**" under the integration process. They pay attention to the relations between efficiency and democracy. However two different kinds of ideas exist in that paradigm. The first group claims that efficiency and democracy are interconnected so that a high degree of output will increase overall legitimacy although the process may affect democracy in a negative manner. Others don't agree with it, they therefore deny it. They argue that, a high output necessitates a high input in order for governance to be democratic. According to the efficiency paradigm, the classical dilemmas in democratic theory are "how can we find the right balance between efficiency and democracy" and "should this balance be the same in any polity and all times".[51] Clearly they pay attention to the heaviness of applying democratic standards at the EU level. They interrogate issue with this point. And they ask the question: "How can we ensure that efficient governance does not become an elite-driven guardianship or even dictatorship."[52]

Socio-psychological paradigm bases its arguments and ideas on the nature of **"demos"** and its existence. That means representative government depends on the "demos"; thus this paradigm emphasizes much of governed and the ruled, rather than the governing activity itself. Furthermore, this view claims that democracy cannot exist or survive without people. This view claims that collective self is equal to collective determination. If there is a collective self, there can be collective self-determination. Two underpinnings of no-demos view are related with each other. The first underpinning states that since there is a lack of demos in the EU, than there is no real democracy in the EU. The second view claims that, with shared identity, belonging and consciousness, demos can be cultivated and thus this can lead to a democratic structure. Scharpf claims that without social structure, even fair and open elections to the EP will not be sufficient for legitimacy.[53] Referring to democratic deficit, Chryssochoou asserts that:

> The transfer of legislative powers and responsibilities from national parliaments to the executive branches of the EU, like the Council or the Commission, has not been matched by a corresponding degree of democratic accountability and legislative

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[51] *Ibid.*, pp. 12-14.
[52] *Ibid.*, p. 15.
[53] *Ibid*, pp. 20-22.

input on the part of the European Parliament, as the only directly elected institution at the European and international level [54]

Chryssochoou says that, "Major problem of democracy in the EU is the question of how to encourage EU citizens to participate actively in the integration process and to construct a demo based on civic values" The answer is that legitimacy concerns the acceptability of policy by the public.[55] According to socio-psychological paradigm, the real problem of the EU's democracy is non-participation by citizens of member states in the decision- making process. Since collective participation requires a "shared or common identity", the further advancements in collective identity will have positive influence on the integration process as well as democratization of the EU. The problem here is whether it is possible to create such demos.

If "EU citizens" came into being, according to this view socio-psychological problems regarding the EU, such as distrust and inattention, would be solved. However new problems emerge in this process. Would it be possible to create and form demos, and, is it desirable?

As these theoretical paradigms suggest, it is hard to produce one-sided or one-dimensional evaluation of the EU. The EU cannot be conceptualized solely by parliamentary nation-state terms and supranational or inter-governmental terms. In addition, to understand legitimacy in terms of institutions isolates the people-element or the notion of public. This is a negative factor in European integration.

Up to now, the problems, concerns and questions as well as criticisms regarding the EU in terms of democracy have been introduced. Those evaluations are generally made by institutionalist and social-paradigm theorists. Although they may agree that there is a democratic deficit, their purposes different interpretations and understandings. Briefly, these discussions and debates will not end until the EU finalizes its integration.

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[54] Chryssochoou, D. N., 2001, "Models of Democracy and the European Polity", University of Exeter Working Papers, no. 1/2001.
[55] Kodakçı, D. (2004). *Genişleme, Avrupa Birliğinde Demokrasi Eksikliği ve Çözüm Önerileri*, Unpublished Thesis, EU General Secretary, p. 18.

1.2.3. Democratic Legitimacy in the EU

The principal question of this thesis is to seek and analyze the reasons and points of criticism against the EU in terms of democracy. In this vein, the major and critical issue is the concept of democratic deficit.

The theoretical exposition of this concept and its underpinnings were presented above. The second critical exposition is the "EU's lack of legitimacy". Then, what is democratic legitimacy? Before moving into this question, it should be argued that the debates regarding democratic legitimacy and democratic deficit coincide with each other. This is especially important since they both focus on the sources of legitimacy in the EU in the name of democracy. The inadequacies of the only and sole legitimate body in the EU, namely the Parliament, in this matter entail and warrant the concerns of democratic deficit. Thus, by answering the question of what legitimacy is, one may start to discuss the topic. Legitimacy can be defined as the recognition of political system by the citizens.[56] Classical distinction is drawn between formal (legal) legitimacy and social (empirical) legitimacy. The notion of formal legitimacy in institutions or systems implies that all requirement of the law are observed in the establishment of the institution or system. Social legitimacy, on the other han,d connotes a broad, empirically determined societal acceptance of the system. A western institution or system satisfies formal legitimacy if its power structure was created through democratic process.[57]

The presence of a parliament, which takes the cultural, social, and political public values and secure these values under the rule of law, means that it enjoys social legitimacy. Political legitimacy, however, has many qualities and aspects. The sociologist Max Weber (1918) distinguished between substantive and procedural legitimacy: "acts of governments that are acceptable either for what they achieve

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[56] Milev, (2004), p. 18.

[57] Weiler, Joseph (1999), *The Constitution of Europe,* USA: Cambridge University Press, p. 80.

(substantive) or for how they do it (procedural)"[58] Likewise Fritz Scharpf (1997) claims that;

> Legitimacy can be won or lost either on the input or on the output side of government: democratic selection of office holders, electoral approval of programs, public consultation and so on are common ways of securing input legitimacy; meeting public needs and values, and ensuring that policy tracks public opinion, are sources of output legitimacy.[59]

The issue of legitimacy consist two kinds of approach at the EU level. First, legitimacy comes through the directly elected European Parliament and counter approaches dealing with EU legitimacy come from the indirectly elected national representatives in the Council of Minister and in the European Council.

At the level of the EU, the concept of legitimacy is generally illustrated with the EU Parliament. According to these approaches, "the EU Parliament clearly has played an important role in redressing the democratic deficit and addressing the problems of democratic legitimacy".[60] To put in a nutshell, the discussion about the "democratic deficit" either implicitly or explicitly focuses on the lack of parliamentary power at the level of the EU, the lack of an EU government formed by a parliament, and the continued influence of the governments of the member states[61] Many of the observes agree that, EU suffers lack of democracy or institutional crisis. According to them, the reasons lie on the legitimacy issue in twofold sense[62]:

> Common policies had diverged from voters' preferences (output legitimacy)[63] and that decision-making mechanisms appeared to lack the basic requirements of transparency, accountability and democratic involvement (input legitimacy)[64].

In addition they pay attention to the public support for further integration as a meaningful to cause of paralysis in institutional decision-making at the EU level.

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[58] Lord, Cristopher (2000), "Legitimacy, Democracy and the EU", *Policy paper*, p. 3.
[59] *Id.*
[60] Andersen and Eliassen, (1996), pp. 7-198.
[61] Attina, (1997), p.7.
[62] Micossi, Stefano (2008), "Democracy in The European Union", *CEPS*, 286, Winter: 3.
[63] In put legitimacy "government by the people".
[64] Out put legitimacy "government for the people".

The main problem is that the institutional arrangements and political practices of the EU fail to conform to a particular conception of democracy, which is ideally rendered as parliamentary democracy at the national level. Is it possible to adopt democratic credentials in classical democratic system within the "sui generis" character of the EU? The counter view argues that "this is an unrealistic expectation, while we assess EU within the nation-states traditional parliamentary system. Especially since the party-governments exist in the EU, there will need to be a dramatic shift in the institutional design of the EU (i.e. Simon Hix)."[65] In this way, Katz claims that, democratic deficit debate focuses on a model of democracy, popular sovereignty implemented through party government, that is not realistic and the critics of the EU recognize that national democracies' fall short of the ideal as well. Thus, it will be misleading to argue that there is a democratic deficit in the EU, solely on the basis of evaluating the European Parliament through the lenses of a nation state democracy. The gap between ideal and reality is very much greater at the EU level and that by transferring the power to the less democratic level, the overall degree of democracy in the government is going to be reduced.[66]

Although the source of the problem is the same, different disciplines and perspectives produce different and divergant interpretations on the subject. This means that the problem of legitimacy in the EU can be analyzed through federalist and inter-governmentalist and economic community terms. According to federalists, the substance of the legitimacy of the EU is people or public, and the symbol of the legitimacy of the EU is the European Parliament. Federalists claim that the solution lies in the enhancement of empowerment of the EU Parliament and its further authorization. This leads to open public debates and participation in decision-making. According to this view, supranational parliamentary democracy should be formed, which is akin to national parliamentary systems.[67]

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[65] Hix, Simon, and Follesda, Andreas, (2006) "Why There Is a Democratic Deficit an the EU: A Response to Majone and Moravcsik" *Journal Of Common Market Studies*, Volume 44, Number 3, September, pp. 533-562.
[66] Katz, (2000), p.2.
[67] Demir, (2007), p.92.

Inter-governmentalist perspective treats the issue with a realist perspective. According to this view, the EU inherits its legitimacy from nation-states, and thus for a powerful democracy, they pay attention to increasing the role of the national parliaments rather than the EP.[68]

The last, but not least, perspective comes from the model of economic community. This model claims that supranational level derives its legitimacy from economic efficiency and respect for individual liberties. The supranational level is represented by non-majority institutions like independent regulatory agencies. As the Economic Community is legitimized by the efficiency and liberty, there is no need for democracy at the EU level. They argue that "the economic effectiveness (substance) and efficiency (means) guarantee legitimacy/indifferent to EP empowerment as long as it does not hamper effectiveness and efficiency." [69] Since economic efficiency and concerns in the first pillar exceed the other concerns, model of economic community rules the debate of democracy out. Accordingly, democratic legitimacy is a political reality and it has remained at the national level. Due to a political character of economy and economic efficiency, this lies beyond the need for democracy.[70]

Obviously, one cannot evaluate the question of legitimacy in the EU solely on the basis of these three structures, since the EU is neither a federal state nor an economic alliance or international government. If one evaluates the EU in terms of society or legality, one might raise questions concerning the source of legitimacy in the EU. In other words, where does the EU take its legitimacy from, people or institutions? Does the lack of demos or institutional complexity of EU institutions create public negligence and disregard against the EU? Political system's in out put legitimacy related to its capacity to achieve the citizens' goals and to solve their problems[71]. In this vein, the EU citizens' rights and entitlements are protected by the

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[68] Rittberger, Berthold (2003), "The Creation and Empowerment of the European Parliament" *JCMS*, 41 (2): 210.
[69] Rittberger,(2003), p.211.
[70] Milev, (2004), p.8.
[71] Höreth, Marcus (1999), "The unsolved legitimacy problem of European governance", *Journal of European Public Policy*, 6 (2, June): 251.

EU institutions. As a step, the recognition on the part of the citizens may lead keen public interest towards the EU matters and issues. Thus, it leads to citizens' active participation in the integration process. One of the most important characteristics of participatory democracy is "transparency", "accountability" and "accessibility". If the citizens of the member states cannot find them in the EU, then public prefers to stay away from the institutions and deliver deeply-seated disregard toward the EU issues.Then the EU citizens cannot understand or recognize, or be informed about the structure of the EU and the EU integration cannot be achieved. Briefly, it is not clear which one should be corrected first; institutions or social structure? As it is obvious, the outcomes of these two perspectives are related with each other, and it is hardly possible to draw a clear-cut line between the two.

The democratic vicious circle in the EU, metaphorically speaking, can be taken as a labyrinth. That metaphor shows us how to cruise around the labyrinth to find our way to get out, which will take time and effort. In the same vein, Donald Paschal notesthe vicious circle in the EU, with the following remarks: "A group of blind men approach and touch an elephant in order to find out what it is. Each person investigates a different part and therefore they all come to different conclusions" [72]. Paschal provides a detailed explanation for our concerns here. In addition, As Mote Jolly claims "not only do scholars define the deficit differently but the result of looking at isolated parts often becomes that what one theorist would consider a reasonable solution to a particular problem, would worsen the problem as identified by another scholar".[73]

In this vein, I do believe that rather than engaging in a debate concerning validity of paradigms, focusing on what is done in the EU in the terms of democracy and analyzing which reforms exemplify which theories are more productive and beneficial for my research concerns. This is important since the EU highlights its own agenda as the protection and promotion of democracy rather than the creation of global democratic deficits. On the basis of this fact, it will be unfair to claim that

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[72] Kirchner, Emil J. (2009), "Thirty Years of the Journal of European Integration: Reflections and Outlook on European Integration Studies", *Journal of European Integration,* 31, No. 2, Winter: 159.

the EU is clearly undemocratic by looking at institutional deficits and problems, or obstacles at decision-making process, which are deemed to be undemocratic and non-participatory from procedural viewpoint. To achieve this, rather than producing a procedural and institutional analysis of the EU institutions, one should take into account the democratic reforms in the EU in public level. It is clear that, when one compares socio-psychological theorists' arguments with institutionalist' arguments, the latter can be confirmed and recognized easily. Because of this reason, firstly the institutions and legal structure of the EU will be analyzed in the context of democratic deficit debates. Another distinction on the issue of democracy in the EU is offered by the political theorist Beetham and Lord. They argue that there are three dimensions for legitimacy conditions in democratic societies: "performance, (institutions); democracy values (representation and accountability) and identity (political)".[74]

On the basis of this argument, in the following chapters, I will first analyze democratic structures in the EU institutions and agreements. Then, I will move to analyze what kind of influence or power the people or public enjoy in decision-making process. In the context of intertwined relations between the EU Council, the EU Commission and the European Parliament, the EU has developed **its own system of democracy**. In the scholarly literature, this is named as "**Europeanization of democracy**"[75]. In an ainstitutional sense, where this derives from is clearly stated above. So the question is what kind of influence does the Europeanization of democracy have on the people of Europe? Is this influence positive or negative? Are the people of Europe satisfied with the current decision-making structure?

In the following parts of this chapter, European people's thoughts and ideas regarding the EU democracy and its affects on the integration process will be analyzed and presented. Clearly, to evaluate these problems in popular or everyday

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[73] Jolly, (2003), p.3.
[74] Lord C., Beetham D. (2001), "Legitimizing the EU: Is there a 'Postparliamentary Basis' for its Legitimation?", *JCMS*, 39 (3): 445.

level, will be quite beneficial. Do European people have an influence or the power of sanctions on resolutions? How can they influence the decrees and resolutions? What do European people think about the source of legitimacy in the EU? Do they think the EU Parliament represent them effectively and adequately? Do they want to decrease or increase the power of the EU Parliament? It is possible to raise many questions. I have touched upon these issues in theoretical sense. However it is equally important to touch upon the content of democracy in the EU in a practical sense, and answer the question; does the EU accept its own democratic deficit? or the EU satisfied with its current structure? Do the institutions accept the debates of democracy within their own circle? I do believe that the questions which are posed here will provide powerful materials for this research. My aim is to answer these questions in this study.

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[75] Genç, Savaş (2008), "Lizbon Antlaşması Daha 'Yönetilebilir' Bir Avrupa Birliği Vaad Ediyor mu?", *Civilacademy*, 6, Summer: 162.

CHAPTER II

THE ISSUE OF DEMOCRACY IN THE EVOLUTION OF EU LAW

It is necessary to look at historical conditions and processes, through which the perception of democracy in the EU has been formed. In order to achieve this, one should firstly look at conventions and agreements and analyze the EU's role regarding these conventions.

2.1. FOUNDING TREATIES AND THE ISSUE OF DEMOCRACY

"We can never sufficiently emphasize that the six Community countries are the forerunners of a broader, united Europe…"

Jean Monnet, 1978

"Europe will not be built in a day, or to an overall design; it will be built through practical achievements that first establish a sense of common achievement."

Robert Schumann, 1950

Actually Robert Schumann Plan foresaw and predicted the establishment of a highly economical and non-political European Communities, based on relations of property. The EC organized its priorities and credentials among this belief and aimed to rely on its own bureaucratic and technocratic structure.[76] When one analyzes the founding conventions and agreements in general, it will be noticed that there is no clear reference to democratic legitimacy of the EC institutions. European Community institutions have not been structured to use their power in accordance with democratic principles. They also cannot be held accountable to the member states for the decisions they take. From its institution, one may call it "elite technocracy" or "elitist structure". Its elitist base, which is called as "Monnet

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[76] Genç, (2008), p. 162.

Method", is widely criticized from a democratic vantage point. From a different point of view, when one considers the context of the treaty after the WWII and the conflictual international environment, sovereignty was rescinded only for more sovereignty and power. In the aftermath of the war, all member states were carrying the post-war burden to establish and re-institute their social structure again. This major aim of the Community was to prevent parties from an immanent war. Thus, the major aim of the community is to secure people's lives rather than to institute democracy, and to establish social rights. According to Helen and William Wallace, the EU was not initially designed as democracy but as a harmless technocracy.[77]

Paris Treaty, **European Coal and Steel Community (ESCS)** was signed on 18 April 1951 between the Benelux, France, Italy and Germany. It was a six nations' international organization during the Cold War. French foreign minister Robert Schumann was the driving force behind the treaty establishment. The first aim of ESCS was to prevent any war between France and Germany. The second aim was to empower steel and coal industries, which were at stake as raw materials, after the WWII. [78] The Community was formed to secure economic interests, and it had no reference to human rights or democracy. Schumann considered the establishment as "the first step on the way to the establishment of European Federation, which was formed for the realization of peace in Europe". Furthermore, Schumann proposed "co-administration" with European Coal and Steel Community not "cooperation".[79] However, this co-administration would have an elitist structure *for* public but, ironically, away from the public. The technocratic element in its formation was heavily criticized. Usually, it has been argued that there is no democratic institutionalization in this "elite technocracy". The reason behind this lies in the ECSC's real power base, namely the **High Authority**. The technocrat members of the High Authority are not accountable any of the member states' elected governments or government officials, and they do not represent to any of the member states' citizens in their decisions and resolutions.

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[77] Kodakçı, (2004), p. 31.
[78] "Secretariat General for EU Affairs", http://www.abgs.gov.tr/index.php?p=3&l=1, (20.03.2008).
[79] Bozkurt, Veysel (2001), *Avrupa Birliği ve Türkiye*, Bursa: Uludağ Üniversitesi Güçlendirme Vakfı Yayınları, p.56.

After this treaty, the **Rome Treaty** agreements creating the **European Economic Community (EEC)** and the **European Atom Energy Community (EAET)** were signed in 1957 which was hoped to bring economic prosperity.[80] However, "Those who prepared Rome Treaty did not think of it as an economic document first. For them, it was just a step on the way to being a political union" as pointed by Henry Spaak. The founders stated that by signing such an agreement and putting it into effect, political union would be achieved as the final goal owing to the spill-over effect of economic integration.[81] The Commission members, who were appointed by the Council of Ministers, had very limited legitimacy since they were not elected. The decision-making process was exclusive and non-participatory. While the Commission used its power to start legislative issues, it did not request consultation by other institutions or member states. The Commission defended itself by arguing that it worked for the higher interests of the Community. The Council of Ministers, on the other hand, was an inter-governmental organization, as it consisted of delegates from member states. It usually favored the member states. Although the Council was the fundamental legislative power, its resolutions were not open to scrutiny of the Parliament.[82] As a result, the EEC suffered lack of adequate democracy. Since the Treaty of Rome was weak in this respect, a surge of questions about the Community institutions continued.

There were two overwhelming views about the future of the EEC in the context of Treaty of Rome. With this treaty, boundaries were exceeded and new economic alliances were established. Positive and influential steps were taken to realize the United European States, and these goals prevented a new war. The Treaty was an incredible feat of diplomacy that paved the way for European peace and the deployed of democracy. On the other hand, there were scholars who stressed the

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[80] Tatoğlu, E. (1995), *Avrupa Birliğinin Tarihsel Gelişimi (1951- 199*5), Unpublished Master Thesis, University of Ankara, p.16.
[81] Andersen and Eliassen, (1996), p.123.
[82] As of 1 July 1967, by a Fusion Agreement (An agreement that establishes a single Commission and Council for European Communities), three organs of European Community (European Economic Community, European Coal and Steel Community and European Atom Energy Community) were made united. The Commissions and Councils for each community were made just a Common one for all three Communities. European Parliament and European Court of Justice which has been common institutions for EEC and ECSC since their establishment were extended to EURATOM.

negative effects of the treaty. United Europe could not exist without common identity which included cultural and linguistic specialty. The EEC first and foremost aimed to promote economic cooperation by means of an undemocratic and unnecessary political institutions.[83] The institutions that were created were distant and unfamiliar. In their original form they allowed many decisions to be made behind closed doors thus discouraging open debate and participation.[84]

2.1.1. Growing Competence of the European Parliament

In general, the common idea about the European Parliament's democratic legitimacy is on the positive way and not be suffered lack of legitimacy. In addition, the European Parliament is the only body which can solve the problem of legitimacy. The first movement to give this body new rights and powers came with the Luxemburg Treaty (1970). The EP received competences in the field of Community Budget. Some powers of the national parliaments were transferred to the EP. However this caused an outbreak of disagreement such as the crisis of "the empty chair". In 1965, France disagreed about the empowerment of the Parliament or the enhancement of its scope of activity (That is to say, the parliament was transformed into a supranational assembly; more supranationality: this would result in the weakening of the domestic parliament, according to France).[85]

The Treaty of Luxemburg was signed in 1970 during the presidency in France of Pompidou who was the successor of Gaulle. This treaty holds that "all agricultural levies and customs duties will be paid directly to the Communities budget"[86]. Thus treaty provide for a reformed budgetary procedure. Member states signed a protocol on 22 April 1970 to expand the authorities of the Parliament in respect of the budget. The authority of the expansion of the Parliament consisted of the non-mandatory expenditures of the budget. Another important step for the parliament was the right to reject the budget in 1975. In the same year, the Council of Minister and the Commission cooperatives over advisory procedure establishment

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[83]Treaty of Rome, http://www.civitas.org.uk/eufacts/FSTREAT/TR1.htm, (20.04.2008).
[84] Andersen and Eliassen, (1996), p. 123.
[85] "The Treaties of Rome", http://www.historiasiglo20.org/europe/traroma.htm, (21.05.2008).
[86] Rittberger, (2007), p. 214.

was thought to be formed. Here the Parliament's effect in decision-making process about budget is increased. In short, while there was no legislative authority of the Parliament at the beginning, later the Parliament was given a gradually increasing authority related to the budget by the formation of financial sources.[87] In addition, I can notice that the EU used its authority in fovour of horizontal paradigm by increasing the EU Parliament legislative role.

2.1.2. Direct Elections to the European Parliament in 1979

As mentioned before, democracy is the sovereignty and power of public. Its applicability direct democracy in present day conditions is impossible. The governments preferred representative democracy to maintain a maximum of possible conditions. The representative democracy, which is also known as Modern Democracy or Western Democracy, in a way means that people have a right to elect their leaders with their free will. That the first European Parliament elections were held and people were given the right to elect, show that the EU tries to improve representative democracy in the name of democracy. The idea of direct elections of the Parliament, were first mentioned in Article 138 of the Rome Treaty. According to this article[88],

> The Assembly (European Parliament) shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States. The Council shall, acting unanimously, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements.

Though one can see the first activity in Dehousse Report in 1961, to achieve this purpose, it was not successful. Further resolutions on this issue were adopted by the Parliament in 1963 and 1969. Finally, by using its initiative, the Parliament offered proposals to the Council of Ministers, in 1976. These proposals were accepted by the Council of Ministers and the first elections were held in 1979[89]. For maintaining democratic legitimacy of the EC, the EC has since 1979 tried to sustain

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[87] Demir, (2007), p. 65.
[88] "Treaty of Rome", (1957),
http://eurlex.europa.eu/en/treaties/dat/11957K/tif/TRAITES_1957_EURATOM_1_EN_0001.tif
[89] Kodakçı, (2004), p. 29.

minimum representative democracy by giving chance to elect the Parliament members directly by general votes since 1979. There are two significant results of the elections which are considered to be turning points of the European integration process. The Parliament's election directly by people turned indirect legitimacy into direct legitimacy. In other words, through the Parliament, which is the only institution having direct legitimacy, a kind of legitimacy is maintained in the European Economic Community. Secondly, the democratic feature of the Community is strengthened by the participation of member state citizens in the decision-making process.

2.2. SINGLE EUROPEAN ACT AND THE ISSUE OF DEMOCRACY

The Single European Act (SEA) was adopted in December 1985 by the Foreign Ministers of the Member States on the basis of the political agreement achieved in the Luxembourg European Council[90]. The Single European Act was signed in 1986 and came into force in 1987. It is said of the treaty, that "apart from minor modifications, this Treaty was the first profound and wide-ranging constitutional reform of the EU since 1950s". [91]

The founding treaties of the European Communities did not make reference to human rights or related international topics. Such is were not seen until 30 years later with the Single European Act (SEA) which guaranteed political cooperation. The EEC's political cooperation, culture, basic human rights, democracy, social and economic rights and institutional changes in relation to democracy were mentioned. The definition of democracy and human rights in the SEA is as follows[92];

> **Determined** to work together to promote democracy on the basis of the fundamental rights recognized in the constitutions and laws of the Member States, in the

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[90] "The Single European Ratification",
http://www.unizar.es/euroconstitucion/Treaties/Treaty_SingleEA_Rat.htm, (28.02.2008).
[91] "The European Single Act", http://www.unizar.es/euroconstitucion/Treaties/Treaty_SingleEA.htm (17.02.2008)
[92] "The Sıngle European Act", (1986),
http://ec.europa.eu/economy_finance/emu_history/documents/treaties/singleuropeanact.pdf, (28.02.2008).

Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, notably freedom, equality and social justice,

Convinced that the European idea, the results achieved in the fields of economic integration and political co-operation, and the need for new developments correspond to the wishes of the democratic peoples of Europe, for whom the European Parliament, elected by universal suffrage, is an indispensable means of expression,

Aware of the responsibility incumbent upon Europe to aim at speaking ever increasingly with one voice and to act with consistency and solidarity in order more effectively to protect its common interests and independence, in particular to display the principles of democracy and compliance with the law and with human rights to which they are attached, so that together they may make their own contribution to the preservation of international peace and security in accordance with the undertaking entered into by them within the framework of the United Nations Charter,

Determined to improve the economic and social situation by extending common policies and pursuing new objectives and to ensure a smoother functioning of the Communities by enabling the institutions to exercise their powers under conditions most in keeping with Community interests.

As can be understood from the aforementioned, the EEC's aim of integration was confirmed by the SEA. Human right's protection in the Community was indicated. The protection of the rights of the citizens of the third states was also emphasized by referring in the Treaty to constitutions and laws of member states. European Social Charter (liberty, equivalence and social justice) was also mentioned. They one all important

Another important progress was made for the European Parliament by the SEA. EU's area of participation in the decision-makings was extended. For the first time, changes in the European attainments were made and a ground for the Maastricht was prepared[93]. In addition, it became a first by extending the authorities of the Parliament in EU democratic deficit debates. Now the decision-making process is going to be explained.

With the Single European Act; the EP was strengthened by obtaining a role in the decision-making process through the **co-operation** procedure. This enhanced the role of the European Parliament compared with the consultation procedure.

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[93] Kurt, A. (2004), "Avrupa Hukuku'nda İyi Yönetim Hakkı Çerçevesinde Ölçülülük İlkesi", *Danıştay Dergisi*, No: 108, pp. 85-104.

"Parliament can make amendments to the Council of Minister via common position, but unlike the co-decision procedure, the final decision lies with the Council alone".[94] This role enhanced the EP role in the legislation process. The EP had the power in the second reading of the procedure to adopt the correction which could lead to agenda change if the EU Commission supported it[95].

The other decision-making process is the **assent procedure**, introduced first by the Single European Act firstly. The procedure is the same as in the case of consultation, except that the Parliament cannot amend a proposal. Firstly, the Parliament approves or disapproves the instruments delivered by the Council the assent procedure means that the Council has to obtain the European Parliament's assent before some of the very important decisions are taken. There are certain matters in which the Council cannot legislate unless the Parliament gives its consent by an absolute majority of its members. The assent procedure, which resembles a right of veto granted to the Parliament, was originally intended to apply only to the conclusion of association agreements and the examination of applications to join the European Community"[96]. The assent procedure is usually used for agreements with other countries, including the convention allowing new countries to join the EU[97]

I tried to explain the SEA's significance in EU democracy agreement , in the social and institutional issues. Whereas some states support the enhancement of the authority of the Council of Minister and member states (vertical paradigm), others are of the opinion that the Parliament's authorities should be increased (horizontal paradigm). In this vein, there are two kinds of interpretations in the democratic deficit arguments. The first dimension is that, by the expansion of the authority of the Parliament, the deficit of democracy was being sorted out. This is because, as the only elected organ, the European Parliament was no more just an advisory organ,

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[94] "Process and Players",
http://eurlex.europa.eu/en/droit_communautaire/droit_communautaire.htm#2.3, (10.03.2008).
[95] "European Union Consolidated Versions", (2006), *Official Journal of the European Union*,
http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:321E:0001:0331:EN:pdf,
(15.01.2008).
[96] Demir, (2007), p.42.
[97] "Decision-making in the European Union",
http://eurlex.europa.eu/en/droit_communautaire/droit_communautaire.htm#2.2

rather it was made an effective body for decision-making. By taking human rights and social rights into its agenda, SEA became a first in this respect. This paved the way for the Maastricht Treaty which was a founding treaty of the EU. On the other hand, the contrary view is that the democracy deficit in the EU was formed by the SEA as the authorities given to the EP was expanded and the decisions were not taken at only the European Council level. That decision are not taken at the nation-state level, is a sharing of sovereignty in a classical sense; this causes representation and legality crises and paves way for the democratic deficit. This intergovernmental approach is based on the view that it is not on the parliament but the Council of Minister and European Council which protect the rights of the EU public.

Among the theories in the first section , the opinion that the democracy deficit in the EU can be removed only by strengthening the European Parliament was supported by the SEA in this respect. As will be seen in the following chapters, EU has been in favor of extending the authority of European Parliament in the agreements it has had. However whether this was in the expected amount will be seen later.

Democracy consist not only the separation of powers and the process of decision-making, but also consists of human rights and social dimensions. Moreover, The European Convention on Human Rights was also considered at the treaty level for the first time. The SEA made reference to democracy and human rights. Thus, it is important to note the EU's support for the enhancement of the authority of the European Parliament. The topics included in Maastricht Treaty since the European Single Act became a topic of discussion in 1985 are as follows:

- Proclamation against Racism and Enmity for Foreigners (Between the representatives of Member States and the Commission gathering within the body of European Parliament Council, 11 June 1986)

- Declaration Related to Human Rights (Foreign Ministers meeting with the frame of European Political Cooperation, 21 July 1986).

- Decision about the struggle to fight against Racism and Enmity for Foreigners (Council and representatives of member states meeting within the frame of Council, 29 May 1990).

- A Proclamation on Anti-Semitism, Racism and Enmity for Foreigners, Dublin, European Summit, (25-26 June 1990).

- Human Rights Declaration (Luxemburg, European Summit, 28-29 June 1990).

- Decision related to Human Rights, Democracy and Development (Council and representatives of Member States meeting with the body of the Council, 28 November 1991).

- The Proclamation against Racism and Enmity for Foreigners (Maastricht European Summit 9-10 December 1991

2.3. THE FOUNDING TREATY OF THE EUROPEAN UNION (MAASTRICHT TREATY) AND THE ISSUE OF DEMOCRACY

The Maastricht Treaty (MT) which is also known as the European Union Founding Treaty is politically the most important step in the formation of the Union. There are three important reasons that paved the way for a political union. First, within the scope of the integration of Europe, the initiations started in the mid-1980s to invigorate the European Unions in institutional and political respects. The international events that took place in that period, such as the collapse of the Berlin Wall, reunification of Germany in 1990, democratization of Central and East European countries in the wake of the collapse of the Soviet Union in December 1991 which affected the political body of Europe. While all these events were taking place, the European Single Act became inadequate. As a result of all these developments in Europe, the Community members increased their political pressures for an advanced unification. Second, though the economy of the European Communities was stable and had significant developments in the mid-1980s, it was needed to have financial and social coordination to define the Single Market. Hence, it was decided to organize an Intergovernmental Conference in the field of economic and financial unity. Thirdly, Member State citizens' dissatisfaction with the progress so far was a major factor. As a matter of fact, they were in favor of further integration that would have more successful results and thus they pressured their

governments. All these reasons affected the European Communities and the Union which was founded for economicl aims but united by political goals.[98]

If the text of the Treaty of the political structure was studied in respect of democracy, it is seen that the word 'democracy' is mentioned in the well-known 6th and 11th articles of the Treaty. However, in the entire Treaty, the word democracy was referred through human rights and through in social, economic and political rights. Besides this, 6th Article of the EU as the most well-known article referred to democracy as fallows;

Confirming their attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law,

Desiring to enhance further the democratic and efficient functioning of the institutions so as to enable them better to carry out, within a single institutional framework, the tasks entrusted to them.

The European Union's founding treaty was established on democracy and democratic credentials. A similar emphasise was made in the Common Foreign and Security Policies by **Article11** which stated: to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.

In short, the significance of democracy in regard to their values as well as its importance for the other countries was emphasized. Hence, members of the EU considered the spread and development of democracy in other countries as a common foreign policy and security policy. In this treaty, the European identity is defined by two major elements: the Euro and democratic values.[99] In this vein another innovation made by the Maastricht Treaty is democratic values which are called political criteria in the overall context of the Copenhagen Criteria:[100]

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[98] Tatoğlu, (2006), p. 30.
[99] "2009 European Elections", (2009), http://ec.europa.eu/public_opinion/archives/ebs/ebs_303_en.pdf, (16.08.2008).
[100] Accession criteria (Copenhagen criteria) http://europa.eu/scadplus/glossary/accession_criteria_copenhague_en.htm, (08.09.2008).

- **The Political Criteria**: stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;[101]

- **The Economic Criteria:** existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union;

- **The acceptance of the Community *Acquits***: ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

It might be beneficial to say this in respect of the topic; one of the criterium as part of the Copenhagen is the requirement of a democratic state. In other words, though EU receives criticisms for its structural design, it is an organization that pays attention to democracy in both within itself and its foreign policies.

The European Union consists of three pillars: The first pillar consists of the **European Communities** with which member states share sovereignty by means of the Community institutions. The second pillar establishes the **Common Foreign and Security Policy** (CFSP). This pillar consists of an intergovernmental decision-making process which largely relies on unanimity. The EU Commission and the EU Parliament play a limited role and the European Court of Justice has no competence in this area. The third pillar consists of the **Justice and Home Affairs** (JHA). The Union is expected to protect European citizens in the area of freedom, security and justice. The decision-making process in this area is also at the intergovernmental level. The EU, in these days, is criticized for focusing on the first pillar and showing no influence and effect on the others.[102]

The Treaty of Maastricht states its aim in the light of five points "firstly, **strengthening the democratic legitimacy** of the institutions; secondly, improving the effectiveness of the institutions; thirdly, founding the Economic and Monetary Union; fourthly, developing the Community social dimension; and lastly, establishing a Common Foreign and Security Policy".[103] We will focus on the

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[101] For the European Council to decide to open negotiations, the political criterion must be satisfied.
[102] Micossi, (2008), p. 3.
[103] Treaty of Maastricht on European Union
http://europa.eu/legislation_summaries/economic_and_monetary_affairs/institutional_and_economic_framework/treaties_maastricht_en.htm , (06.04.2009).

democratic legitimacy with formal and social dimension. In this study the Maastricht Treaty includes a social protocol too. It is important innovation for EU "demo" building so it should have important implication for the socio-psychological approach. That protocol's main points are "Promotion of employment, improvement of living and working conditions and adequate social protection, the development of human resources to ensure a high and sustainable level of employment; the integration of persons excluded from the labor market and social dialogue".[104] Social and cultural identity is important for common values. Common values produce the common identity. And the common identity, political – social dimension is important for EU integration process which is currently at a critical juncture.

Integration process gained a new impetus by the Maastricht Treaty. The first contribution which the Treaty made was its regulation of Economic and Monetary Union (EMU). The Euro would become the common currency of member countries. Indeed the Euro was successfully put into circulation as part of the Economic and Monetary Union (EMU). This is called the most important step of "deepening" in the EU. The second important development in the Maastricht Treaty is the progression towards political integration. In this frame, the first concrete steps towards the Political Union were taken by adding Common Foreign Affairs and Defense Policies, and Justice and Cooperation in Internal Affairs to the integration process in Europe.[105]

The Treaty of Maastricht's another innovation for democracy is no doubt the concept of European citizenship. According to socio-psychological approach, the legitimacy of an administration depends on the existence of its demo. EU citizenship concept is a significant step in regard to maintaining political union, expanding and deepening integration process, legalizing the decisions taken. The EU with its peculiar way of administration has now a peculiar citizenship concept. By having a peculiar citizenship concept, it has obtained greater legitimacy. Hence, there is no

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[104] The 2009 European Election, http://ec.europa.eu/public_opinion/archives/ebs/ebs_303_en.pdf , (06.05.2009).

more "EU and its Members" but, there is "EU and its citizens". The concept of European citizenship has been important in maintaining political union, expanding and deepening the integration process, and legalizing decisions. In addition, new social and political rights have occurred for Europeans, such as;

- the right to circulate and reside freely in the Community;

- the right to vote and to stand as a candidate for European and municipal elections in the State in which he or she resides;

- the right to protection by the diplomatic or consular authorities of a Member State other than the citizen's Member State of origin on the territory of a third country in which the state of origin is not represented;

- the right to petition the European Parliament and to submit a complaint to the Ombudsman[106].

These authorities strengthen the concept of the EU citizenship in the political sense. Rights such as residence permit; the right to elect and be elected and protection of diplomatic rights have thus been granted by the Treaty of Maastricht. The Maastricht Treaty was an important phase in standardizing citizenship from nation as it paved the way for the enjoyment by the EU citizens to join the regional and local elections. This law also emphasizes the importance of EU priority in membership to supranational organization. Therefore, while participation rights are refined from national objects, they can also be added to supranational organization.[107]

In addition, the institution of ombudsman was introduced by the EU in the Maastricht though it was available in individual European countries. The institution of ombudsman was a significant on the way to democracy, for it was an intermediary between the individuals and EU institutions. Individuals, who are affected by the EU decisions, have a right to submit their complaints to the related

[105] Tonus, Özgür and Baykal, Sanem (2003), *Avrupa Birliği Anayasal Antlaşma Taslağı Üzerine Değerlendirmeler* (An Evaluation of the European Union Constitutional Treaty), Anadolu Univesity IIBF dergisi, pp. 115-132.
[106] Treaty On European Union,Official Journal C 191, 29 July 1992
http://eurlex.europa.eu/en/treaties/dat/11992M/htm/11992M.html

authorities through the ombudsman. However, some complain about the fact that the decision it takes is not obligatory. Despite this, it is important for it closes the gap between individuals and the institutions. Thus, peoples' rights would be preserved and their confidence in the institutions would increase. In short, owing to this right, democracy would be mentioned at the supranational level. The Maastricht's another first is the "subsidiarity" principle which means taking decisions as close to the people as possible. It thus means, "Closeness to people in services". This principle presupposes that state organizations should be formed from bottom to top.[108] We have already asked whether the EU democratic deficit can be solved at the top level or at the level of people. By this principle, we can say that the EU tried to bring its elite structure close to public. There are some other changes made to supranational institutions through this agreement. Locality principle was so valued in this agreement that some people claimed that this principle "saved Maastricht".[109]

Subsidiarity principle, which was added to the Treaty by the insistence of the British, means taking the decisions which are directly about the citizens at the level closest to them. This means having layers of power and authority. For instance, the problems which can be solved locally must not be transformed to regional authorities, or the ones that can be solved regionally must not be transformed to nation or Europe levels. Thus, a problem of an EU citizen would be solved in a very short time. Subsidiarity principle was also among the basic principles of European federalism.[110] Some scholars comment that, locality shelters the will of supranational cooperation and adequate local control together similar to that of federalism. According to some, locality is a power distribution within the Union. To some others, it is not like a structure similar to that of federalism which used to have

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[107] Kadıoğlu, Ayşe (2008), *Vatandaşlık ve Siyasal Katılım,* İstanbul: University of Sabancı, p.11, http://research.sabanciuniv.edu/9021/1/OzbudunArmaganKADIOGLU.doc , (06. 01.2009).
[108] Apa, Ahmet (2006), "AB Mevzuatında Hizmette Yerellik (Subsidiarity) İlkesi" , Türk İdare Dergisi, 78, No: 450, p. 30.
[109] Apa, (2006), p. 37.
[110] Neculai, Florina-Laura, *Federal Bir Avrupa Nasıl Olurdu? Genç Nesil İçin Beyin Jimnastiği,* translated by Fatma Tuna, Florina: Mechelse Durukkerijen, pp.35-36.

long arms, but a structure that lets power distribution in a limited way.[111] This principle was also added to the European Constitution Draft. For the first time Maastricht was put on the agenda. The "Advisory Committee" that would strengthen EU citizens' connection to the institutions was also established in connection to them. Hence, a Committee of the Regions consists of the representatives of local and regional communities. [112] By this, EU citizens were given the right to have decisions and participate in the administration. The most important function of the Committee of Regions, which is responsible for giving advisory services to the Council and the Commission about the regional problems of the Member States, is to come close to the EU citizens in the process of decision-making[113].

In addition to other developments, if we analyze the decision-making process on the basis of the instutionalist approach, we observe that the duties and responsibilities of the European Commission were declared in Articles 155-163. They can be summarized as follows: To ensure the implementation of treaty provisions (This is why the Commission is also known as EU supervisor), the Council of Ministers and participation to the legislation process with the European Union and finally, it is authorized in budget related topics and represents the European Union. The articles 145 – 154 mention the tasks of the Council of Ministers. They can also be united in three headings: maintaining concordance in the economy policies of the member states, participation in the legislative process of the Union and supervision of the works of the Commission and assignment to the Commission to do researches in some topics. The first is the most important organ in the legislative process. No decision can be taken without the approval of the Council of Minister.[114].

The articles 137-144 concern the European Parliament. The competences were extended of the EP further by the Maastricht Treaty. Powers like participation in law-making, forming regulations and participating in legislation were added by

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[111] Apa, (2006), p.41.
[112] Demir, (1997), p.39.
[113] "Committee of the Regions", http://www.ikv.org.tr/sozluk2.php?ID=1003 , (15.05.2008).
[114] Kodakçı, (2004), pp.43-44.

the Maastricht to the approval and supervision authorities given by the Treaty of Rome. The procedure of "co-operation" was brought to take common decisions with the Council according to the expanded authorities of the EP. In this respect, the principle that we mentioned in the SEA for extending the authorities of the EP continued with the Maastricht Treaty[115]. In other words, the EU was used to its authority for enhancing the EP legislative scope. However, there are some complaints that it did not strengthen the European Parliament in as much as expected. Moreover, many claimed that the problem about the EU democratic deficit concept was due to the Maastricht Treaty.

The Maastricht Treaty received criticism by those who argued that it caused democracy deficit by increasing the authority and responsibility of the EU. However while strengthening it authority, it was argued great deficits were formedand no adequate response was given. This deficit literature was named as "democratic deficit". Though the Maastricht Treaty strengthens the powers of the EU within the frame of legislation, this was not a solution to get rid of solve the problem democratic deficit in the EU. This was a indeed very significant claim in Europe.

By giving larger authorities to the European Parliament in this Treaty, a step was taken to maintain institutional legitimacy (according to the horizontal paradigm). However it is claimed that there is still an imbalance between the legislative power of the Council, Commission and the Parliament despite the steps take in the Maastricht Treaty. While these innovations were made, no authority of the Council was limited. The Commission which had no democratic legitimacy (because the EU Commission president and members were not elected by the Parliament), had some significant legislative powers, and the workings of the Council of Ministers took place behind closed doors. Thus, the idea that no solution was brought to the existing problems was prevalent.[116] This is also interprets all these rights counter from the vertical paradigm supporters. The share of sovereignty is increased by the extent of Parliament's authority granted by Maastricht and the

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[115] Newman, Michael (1996), *Democracy, Sovereignty and the European Union*, New York, p. 174.
[116] Demir, (2007), p. 3.

formation to a three-pillared structure. This has paved the way to the effect of the decisions in the supranational organs (European Commission and European Parliament) level, not just in national parliaments (EU Council). In addition, vertical paradigm supporters have also said that the EU would not be able to protect the benefits of its public and increase its authority. For that reason democratic deficit problem increased.[117]. The common feature of these two opposite arguments is that the concept "democratic deficit" was brought to the table by Maastricht. The EU thus emphasized the increase of the EU Parliament's authority more. Therefore, beyond these debates, we will analyze the phases of the formation of the European Parliament's actions. The EP's authority has been increased gradually since its establishment. Thus in the process of decision-making, the importance of democracy has increased. Since the EP represents the EU public, in a sense, it means that people in the EU are given greater importance. This is an important step in the formation of representative democracy. That the importance of public has increased, gradually in the process of integration and the Eu has enjoyed a more dynamic structure gives us hope that an ideal way of administration would be built in future. The efforts to get rid of "democracy deficit" within the Union will continue. This is a significant process in the protection of the democratic rights of the peoples in the Union. However, there are still debates over the adequacy of the EU's democratic legitimacy.

2.4. AMSTERDAM TREATY AND THE ISSUE OF DEMOCRACY

The Treaty of Amsterdam was signed on 2 October 1997 and came into force on 1 May 1999. The Amsterdam Treaty did not replace the Founding Treaties but it was complimentary to them. One of the most significant topics mentioned in **Intergovernmental Conference** (IGC)[118] was the EU's comprehension and recognition by the public. Thus, the text of the Treaty should have been clear so that people could understand it better. Therefore, accountability, transparency, simplicity and the strengthening of the democratic character of the Union were

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[117] Newman, (1996), p. 179.
[118] IGC was conducting the preoperational phases before the Treaty was put into effect.

pronounced most during the process of the IGC. With the Treaty of Amsterdam, democracy was expressly introduced into the founding treaties as a fundamental value. We can summarize the aims of the Amsterdam Treaty under four headings:

- to insert the employment and the rights of the citizens into the centre of the EU;

- to remove the last barriers to the liberty of action and strengthen the security,

- to give chance to Europe to be more powerful in world affairs, by the participation of new member states,

- Make the institutional structure of the Union more effective. [119]

In so far, as the issue of democratic deficit is concerned, the basic changes in the Amsterdam Treaty include the following: For the first time, new conditions were set for membership of the EU. Member states ought to abide by fundamental rights and freedoms, and the compliance with the European Convention on Human Rights becomes a condition for full membership. The right to vote of the countries (in the Council of Ministers) that show a tendency to revolt to these principles may be suspended by the proposal of one third of member states and the (qualified) majority vote of all member states. These points to the significance attached to the principle of democracy in the EU and among members of the EU. In addition for the first time, in case of the breach of article 6, it was said that there would be a sanction against the breaching state as laid out in the following article 7. [120]

According to this treaty, a person is granted the authority to apply to the European Court of Justice if the fundamental rights are violated as a result of the actions of the institutions of the Community. As a contribution to the process of decision-making, members decidedd to unite the legislative system by expanding the application of co-operation process. The role of the European Parliament is extended not only in respect of Community policy, but also in the context of its role in the second and third pillars of the EU. Moreover, for the appointment of the Head of the

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[119] Coşkun, Can Aktan, "Amsterdam Antlaşması; Gündem 2000 ve Genişleme Kararı", http://www.sobiadacademy.net/sobem/e-ekonomi/avrupa-birligi/amsterdam.htm
[120] Rençber, Kamuran (2005), *Avrupa Birliği Mevzuatı*, Bursa: Alfa, p. 17.

Commission, the Parliament's approval is also made essential. This is an important progress as the Parliament gained some new powers.[121]

The EU institutions and new provisions on decision-making mechanisms are indications of the democratization of the EU and its activities. The Amsterdam Treaty provides a balance between these two organs that represent legitimacy (the Council of Minister and the European Parliament). It has thus been possible to involve the European citizens and their national parliaments in the democratic processes within the EU. People could integrate better by a more accountable EU[122]. The access to the documents prepared by the Parliament, the European Council and the Commission so as to increase the transparency of the Community activities is made easier. Though all these developments are positive advancements in the name of the removal of democratic deficit, there are also criticisms that it did not help removing this deficit in any significant way.[123]

- It did not solve one of the greatest pending problems of the Union: the adaptation of the institutions to a increasingly wider Community.

- Treaty was not a step courageous enough towards political Union. Community competences in spheres as common foreign and security policy (CFSP) or police and judicial cooperation were not enhanced.

- No advance was done to work out the so known democratic deficit of the Union. The negotiations that precede the Treaty continued being based on give and take between governments and States, with neither public participation, nor transparent and sufficient information. The European Parliament, the sole community elected institution; role has not been sufficiently boosted.

Though the Amsterdam Treaty aimed at solving the problem of democracy deficit, it could not have necessary actions. According to experts, the Amsterdam Treaty did not do away with the democratic deficit problem. The reason is that the real authority in decision-making is still not in the hands neither of the European Parliament nor of citizens. This means that neither representative nor participatory

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[121] "The Amsterdam Treaty", http://www.ikv.org.tr/sozluk2.php?ID=990, (20.11.2008).

[122] Demokrasi Açığı (Democratic Deficit),http://ikv.org.tr/sozluk2.php?ID=1060, (20.11.2008).

[123] The Treaty of Amsterdam (1997), http://www.historiasiglo20.org/europe/amsterdam.htm (14.11.2008)

democracy have been introduced by the Amsterdam Treaty. The European Parliament's role has not been sufficiently enhanced. In addition, this treaty has been criticized for being quite complex with its three parts, one annex and thirteen protocols. In fact, it is not easy for European citizens to understand this treaty[124].

2.5. NICE TREATY AND THE ISSUE OF DEMOCRACY

The Nice Treaty mainly mentioned the institutional adaptations required for the enlargement of the Union to 25 Member States. These issues had remained unresolved in the Treaty of Amsterdam. The Treaty was signed on 26 February 2001 and came into force on 2 February 2003.[125]

In general, the Nice Treaty focused on the number of seats and votes, enhanced co-operation and adopted the Charter of Fundamental Rights (CFR). These new arrangements were considered necessary in order to maintain the effectiveness and rapid pace of democratic decision-making in the EU. To ensure affectiveness as well as rapidness during the decision-making process was found necessary, beside the implementation of a democratic decision-making. During the preparation of Nice Treaty, the most debated topics were the determination of vote percentages and the number of seats. The qualified majority voting is used to prevent blocking in the decision-making process. The areas in which veto is permitted is narrowed to avoid possible blockage in the decision-making process. Regarding decision-making, in the Council of Minister the members decided to change from the unanimity rule to the qualified majority voting. Thus, veto would be prevented and the process would not be blocked. The aim was to limit the actions of individual member states taken by considerations of national interest and to emphasize the interests of the Union. In addition, the list of issues whereby decisions would be taken by the rule of unanimity was also defined. These are the sensitive areas in national provisions such as defense, border security, tax code and

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[124] "The Treaty of Amsterdam", http://www.historiasiglo20.org/europe/amsterdam.htm, (20.11.2008).
[125] "EU Constitutional Treaty, http://www.unizar.es/euroconstitucion/Treaties/Treaty_Nice.htm, (11.09.2008).

social security policies[126]. (In other words, the fields of second and third pillars were preserved). Another development which is about voting percentage's relation with the population in the Council is considered as a positive development.[127] The other change about the number of members was made in the Commission. It was decided that the number of Commission members will not exceed 27. This meant that the number of representatives of larger states would decrease. The change in the number of seats was valid for the Parliament too. It is as follows: The Treaty provided for an increase after enlargement of the number of seats in the European Parliament to 732. [128] In addition to this, the European Parliament's participation in legislation is humbly expanded.

The supervision of the countries' deviating from democracy is another issue discussed at the Nice Summit. Furthermore, the Convention for the Future of the EU was decided to be organized by this agreement. Therefore not only the opinions of the European Parliaments, but also the national parliaments' opinions are given importance as well. This idea of determining the future of the EU through close coopereation between member states and EU institutions is a tendency that would affect the confidence of the people in the EU and the EU institutions in a positive way. Another important point is the approval of "Social Agenda". This agenda which covers social ostracizing and poverty with its content is a positive development for the "EU demos".[129]

While looking into the Nice Treaty, one can observe that it did not represent big revisions unlike those of the Rome Treaty, European Single Act or Maastricht Treaty. Arsava states that, by this treaty, the Court of Justice of the European Communities, the Court of First Instance of the European Communities and the Parliament became more favoured. Moreover, the Nice Treaty created necessary

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[126] Demir, (1997), p.44.
[127] For a detailed examination of the desicion making process see in the EU Council of Minister:http://ec.europa.eu/comm/nice_treaty/summary_en.pdf and http://www.historiasiglo20.org/europe/niza.htm#El%20Tratado%20de%20Niza ()
[128] Kodakçı, (2004), pp. 60-61.
[129] Demir, (2007), p. 44.

conditions for the enlargement of the EU, but it did not take the required decisions.[130]

The purpose of the member states was only to solve the problems that could not be solved by Amsterdam Treaty. In this vein, it represents a moderate though important; step in the restructuring of the Union institutions. The most important topic in the Nice Treaty was European Union Charter of Fundamental Rights accepted. The Charter, for the first time in the process of the integration of Europe, is formulated in a way that integrated civil, political and social rights into a single text for European citizens or the people dwelling in Europe.[131] It is clear that the rights of the European citizens which were not given assurance with the later rejected constitution were perhaps guaranteed by this chapter. This is a very significant step on the way to enhancing the legitimacy of the EU from a socio-psychological perspective.

The adoption of the Charter of Fundamental Rights peculiar to the EU may remind us of a question: why was this draft needed while there was European Convention on Human Rights?. What is its difference from the Charter of Fundamental Rights and the ECHR? Arsava points out that this ECHR was important for EU citizens as this text would bring clarity to the status and rights of EU citizens and would inform them about their rights. This does not however mean that the ECHR is insufficient or deficient. But with this innovation, people will know their position in the European scene. This is actually an important innovation for citizens to know their rights exactly. Moreover, the rights, rather than belonging to a symbolic field, belong to the European fundamental rights system. In addition, this would pave the way for the enhancement of the social and formal legitimacy of the Union system.[132] Although the EU's own democracy is taken under guarantee by treaties, it receives many criticisms for failing to guarantee human rights by a constitution and to adopt a human rights document at the EU level. Therefore, the

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[130] Arsava, Füsun (2002), "Nice Antlaşmasının Getirdikleri", *Avrupa Çalışmaları Dergisi*, 2: 30.
[131] Demir, (2007), p.20.
[132] Arsava, Füsun (2005), "Temel Haklar Şartı", *Ankara Avrupa Çalışmaları Dergisi*, 5, 1: Winter, p.3.

Charter of Fundamental Rights bears great significance in fulfilling the content of EU citizenship. The legality of the authority of the sovereign in democratic systems can be maintained by the guarantee of basic human rights. The Charter of Fundamental Rights clearly spells the rights of the EU citizens. This condition will perhaps pave the way for underlining the democratic feature of the EU and bringing the EU citizen closer to each other. But the Charter of Fundamental Right is not yet legally binding. Thus, for the time being, it is not possible a part of the Community law.[133]

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[133] Ulutaş, Ahmet, "Bir İnsan Hakları Belgesi: Avrupa Birliği Temel Haklar Şartı", http://www.yayin.adalet.gov.tr/22_sayi%20i%C3%A7erik/Ahmet%20ULUTA%C5%9E.htm.

CHAPTER III

NEW EU TREATIES AND THE CHALLENGE OF "DEMOCRATIC DEFICIT"

3.1. LAEKEN SUMMIT

The debates on the issue of democracy in the EU have spread widely during the last two decades. This type of political structuring that represents the bizarre combination of the concepts of "international organization" and "supra-national federal government", has been tracked more closely than ever by miscellaneous parties. However, it is still hard to say that increasing interest in the issue is also being effective on the level of the peoples' life in the boundaries of the EU.[134] Public opinion polls conducted throughout the EU countries point to the citizens' discontent with membership, increasing distancing from the authorities, and the lack of alignment between the citizens and the EU.

The European integration process is necessary to enable effective solutions to be applied to common problems. In order to appease these sorts of concerns, the EU targeted to achieve solidarity among its members by Treaties of Amsterdam and Nice. The legal revisions appear to have been made for the purpose of solving the EU's institutional problems. The EU citizens' participation to the governance, the accountability, efficiency and transparency of the institutions could not however be assured sufficiently through the adoption of these treaties. Finally, in 2000s, democracy deficit and problems about citizens' participation in the decision-making process have become top topics in the European agenda.[135] Consequently, in this chapter, I will examine these revisions that were done by the EU in 2000s and explore the precedence of these debates in the European agenda. The revisions made in order to satisfy the EU citizens fell short of the mark; in other words, the revisions

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[134] Tuncer, E. Tayfun, "AB Anayasası: Ne İçin? Kimin İçin?", *Halkın Gazetesi Birgün,* (2004, 17 June), p. 6.
[135] Tuncer, (2004), p.7.

were far away from receiving the approval of citizens. Therefore, the EU decided to construct a new convention in order to eliminate the problems at the level of implementation and to avoid complications during the expansion of the union

3.1.1. The Convention on the Future of the EU

After the Nice Treaty, the EU adopted the idea of constituting a convention in order to determine and eliminate problems deriving from the practical implementation of the EU rules and issues which may occur after the enlargement process[136]. For this purpose the Council has performed "Convention on the Future of Europe" in the Laeken Summit on 2001, for "committing the Union to transparency, efficiency greater democracy, and to preparing a Constitution for European citizens".[137]

The question how to solve the democratic deficit issue was an essential element of the Laeken Declaration. The Convention was asked to draw up proposals on three subjects: "how to bring citizens closer to the European design and European institutions; how to organize politics and the European political area in an enlarged Union; and how to develop the Union into a stabilizing factor and a model in the new world order"[138] The Convention's aim is to actively involve the EU citizens' contribution to the framing of the Union's decisions[139]

3.1.2. The Commission White Paper (2001) and Democratic Deficit

The EU Commission White Paper's aim was to establish more democratic forms of governance in the EU. The White Paper, which can be evaluated as a positive progress, reveals the aim of the Commission –with reference to the democratic deficit debates- to be part of the solution rather a being part of the problem. Ideas on governance in the EU, in terms of transparency, participation,

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[136] Anayasanın reddi http://portal1.sgb.gov.tr/calismalar/diger_raporlar/avrupabirligininanelecegi.pdf
[137] "The Constitution Preparation",
http://www.unizar.es/euroconstitucion/Treaties/Treaty_Const_Prep.htm, (20.05.2009).
[138]"The European Convention", http://european-convention.eu.int/docs/Treaty/cv00850.en03.pdf
(21.05.2009
[139] "The European Convention", http://register.consilium.eu.int/pdf/en/03/cv00/cv00650en03.pdf,
(21.05.2009).

accountability, efficiency and compatibility have been declared by the Commission White Paper document. [140]

The White Paper is composed of four chapters. The first chapter answers the question of why the EU needs a reform for good governance. In the second chapter, the essential question is how to become more legitimate and how to establish governance that is closer to public and how to use the power given by the public. The issue of good governance is mentioned in the following chapters. Indeed greater effectiveness in the decision-making process in order to solve the problem of democratic deficit is mentioned in the third chapter. It is said that, in policy-making, the Commission aims to be in partnership and dialog with different partners through the formation of a systematic structure based on country, district, and local government. The fourth chapter deals with the scrutiny of relations between the EU governance and the future of the European Union[141]

The issue, as said before, concerns the reforms which are taking place in the White Paper and the necessity of public participation in the governance. Giandomenico Majone noticed that:

> All major policy decisions –from the Single Market project to monetary union and "big-bang" enlargement – were taken behind closed doors, without public debate, let alone participation, and even without any serious assessment of the risks involved, and of possible unintended consequences. At any rate, the Commission's ideas of openness and participation are rather idiosyncratic[142].

In addition, experts state that if the White Paper is read carefully, dynamism on materializing these reforms can not go beyond sole promise. They also observe that public participation is restricted in three ways. First, the participation is limited to organized interest groups such as NGOs, Trade Unions and employer

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[140] Wischik, M. (2002), "Is the European Union more concerned with the appearance rather that the reality of Democracy?", http://www.wischik.com/marcus/essay/eudemocracy.html, (12.03.2008).

[141] Okçu, Murat,(2007), "Yönetişim Tartişmalarina Katkı:Avrupa Birliği için Yönetişim Ne Anlama Geliyor? (A Contribution To Governance Discussions: What Does Governance Means to the European Union?) Süleyman Demirel Üniversitesi İktisadi ve İdari Bilimler Fakültesi, C.12, S.3: 301

[142] Majone, Giandomenico (2008), "The European Union's Democratic Deficit: Back to First Principles, The European Parliament: Towards Parliamentary Democracy in the European Union?", *EUROPEUM Institute for European Policy,* edited by Tomáš Nigrin, Věra Řiháčková, Tomáš Weiss, p.18.

associations. Second, participation could not go beyond consultation either. Participation doesn't have effectiveness, since it takes place in the pre-decision-making process. Thirdly, the European political parties are not included in this process. These attempts are therefore criticized for giving the sense of exculpation instead of solving democratic deficit problem. For this reason, the Commission's White Paper is criticized for consolidating its own situation rather than enhancing EU's democratic legitimacy and establishing its own technocracy.[143]

It is fair to say, however, that the European Commission pays attention to democracy discussions within itself. For instance, the EU is backing a 4.5 million Euro project named Democracy, "Plan D for Dialog and Discussion"[144]. Through this project, the EU has indicated its concern about the role of its citizens in the future of the EU. Probably the problem lies in the fact that the EU is not able to prepare appropriate base for the EU citizens to participate in the decision-making process. Instead, the EU chooses only to consult its citizens. One question comes to mind here: should "efficiency", "velocity" or "public participation" be considered as the prime goal in the decision-making process? This point requires further analysis here. The citizens' participation in the decision-making process in the EU is certainly important for the democratic construction of the EU. However, decision-making process maybe be more democratic by citizens' participation; but how can the EU provide speed and efficiency in the decision-making process?. In this context Mair noticed that the EU has a "permissive consensus" decision-making system. With this system, the EU has become stronger. In fact, the EU citizens have never shown interest in this complicated system.[145]

3.2. A "DRAFT CONSTITUTION" FOR THE EUROPEAN UNION

The idea of creating a constitution for the European Union is a much debated issue, even though the necessity cannot be denied. The reason why I have attention

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[143] Kodakçı, (2004), p. 18.

[144] "Plan D for Democracy, Dialogue and Debate",
http://europa.eu/legislation_summaries/institutional_affairs/decisionmaking_process/a30000_en.htm ,
(13.01.2009).

to the rejected constitution in this research is to find out what the EU's goal was. European peoples forwarded the EU an important message about looking at its imperfections. What is important here is whether the message is fully understood or not. The shock which the EU experienced through the long process about the constitution continued with the veto by the Irish people of the draft Lisbon Treaty. The EU's agenda was the 2009 Parliament elections, because the success of the Lisbon process partially depended on the results of the elections. The EU election process is going to be evaluated at the end of the research. Presently, I am going to evaluate the constitutional progress. There are some discussions about other areas of the constitution, but I am going to underscore the issue of democracy and effectiveness of the institutions over democratic mechanisms. The constitution defines the democratic foundations of the Union for the first time. The sixth title mentions about the democratic activity. These articles are:[146]

- Article I-10 : European citizenship
- Article I-45 to I-52 (title VI): The democratic life of the Union
- Article I-46: The Principle of representative democracy
- Article I-47 : The principle of participatory democracy (right of citizens' initiative)
- Article I-48 : The role of social partners
- Article I-50: Transparency of the Union's proceedings
- Article I-51: Protection of personal data
- Article I-52: Churches and non-confessional organizations
- Article II-99 to II-106: Charter of Fundamental Rights (title on citizenship)
- Article III-125 to 129: citizenship

Especially the newly appended Articles 47 and 48 are significant steps for the solution of the problem of democratic deficit which it has been discussing since the first chapter. The rights are affirmed by the constitution which was associated with European citizenship. The constitution defines the democratic foundations of the

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[145] Cıngı, (2007), p.46.
[146] "A Constitution for Europe", http://europa.eu/scadplus/constitution/democracy_en.htm, (21.02.2009).

Union for the first time. These are based on three principles: those of **democratic equality**, **representative democracy** and **participatory democracy".**[147] It attributes participatory democracy mainly to the area of lobbying and public relations in the traditional fashion. Article I-47 states (introduce the principle of participatory democracy) that the institutions shall give the citizens and NGOs the opportunity to make known their views, and obliges those institutions to maintain an open dialogue "with representative associations and civil society."

> The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society (47.2).
>
> The Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent (47.3). [148]

The important innovation is giving citizens a real right of initiative (47.4)

> Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Constitutional treaty. European laws shall determine the provisions for the procedures and conditions required for such a citizens' initiative, including the minimum number of Member States from which such citizens must come.[149]

That means, if the support of at least one million citizens from a "significant number of Member States is taken, this demand may be submitted to the European Commission"[150] In addition, Article I-46 stipulates that the very "functioning of the Union shall be founded on representative democracy" Article I-46 (3), states that every citizen "shall have the right to participate in the democratic life of the Union" and that decisions shall be taken "as openly and as closely as possible to the

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[147] *Id.*

[148] "The Future Of Europe" an NGO Brainstorming on the EU Crisis Brussels, Briefing For Participants, 6 October 2005, p.4
http://www.concordeurope.org/Files/media/internetdocumentsFRE/3_Sujets_traites/3_2_sujets_traites/3_2_11_futur_de_l_Europe/3_2_11_1_information_et_position/3_2_11_1_2_positionsetactivites/combustible.pdf

[149] *Ibid.*, p.5

[150] A Constitution for Europe", http://europa.eu/scadplus/constitution/democracy_en.htm, (21.02.2009).

citizen".[151] Citizens are given the right to propose legislation. The Constitutional draft treaty strengthens the exercise of representative democracy by giving citizens' representatives (European Parliament) a stronger role than ever. The EP's role has increased thanks to the co-decision procedure (49 new areas) in the legislative process. In addition, The Constitutional draft treaty increased the power of the EP to control appointments and the EP is given effective role in the preparation of the EU budget, which is "a key principle of modern democracy."[152] This can be considered as the beginning of a transparent, accountable and public-caring structure. Draft Constitution is a significant step towards bringing solution to the democratic deficit problem[153].

I have stated that fundamental rights are appended as the second title of the treaty. In the view of Habermas, "the Charter is an expression of the shared values of the European citizens".[154] Charter of Fundamental Rights creates a new European Project by passing beyond four basic freedoms (goods, services, capital, free movement of persons)".[155] So, the Charter is intended to increase the efficiency of the Union and to guarantee citizens' rights. The rights of the citizens are covered within the law concerning these freedoms. It is proposed that the EU citizens get close to the EU and EU policies and projects are told to the EU public better with the adoption of the Draft Constitutional Treaty. A more transparent and more democratic Europe is targeted by these efforts. So the EU Constitution will establish between the member states and their citizens an ever-closer Union.[156]

Constitutional Treaty emphasised the importance of either social legitimacy or formal legitimacy in the context of the European Union's future. In addition, the

[151] Köchler, Hans (2005), "The European Constitution and The Imperatives of Transnational Democracy", *Singapore Year Book of International Law and Contributors*, 9, p.p.,5-6
[152] The Future of Europe" an NGO Brainstorming on the EU Crisis Brussels, Briefing for Participants, 6 October 2005, p.6
[153] *Ibid.*
[154] Arndt, Felix (September 2001), "Habermas and the Preservation of European Modernity: Defining the Challenge For a European Constitution", *German Law Journal*, No. 14.
[155] Demir, (2007), p. 53.
[156] Tzeng, Jenny H.C.,(2005) "Adoption and Entry into Force of the EU Constitution-- Conditions and Consequences", *Seminar on European Constitution and Integration, organized by the European Studies Institute of Tamkang University*, p.4

Constitution is important for (global) multi-level governance legitimacy. By reason of the impossibility of direct legitimacy in global multi-level governance, the constitution was intended to enhance the legitimacy of the EU institutions.

This constitution represents a step on the path to political union of the member states. The three-pillar structure constituting the basis of the EU became into one pillar. Founding treaties of the EU and all amendments are integrated into a new and single text by this constitution. The Absence of three pillars of the EU in the Treaty on European Union within the a Draft Constitution and ending the separation of the European Communities and the EU are other significant achievements. Thus, the complexity of the pillars of the EU was brought to an end. Thus the Union's structure and mechanism became more simple and transparent. Considering the situation for the citizens, in fact, a simple and intelligible constitution would increase participation of the citizens to the EU policies. The closer the EU's institutional structure to EU public and values, the more effective is the citizenship in the EU. Besides, except for some details, the essential procedure is facilitated for the acceptance of Union laws. This should also have an effect on the transparency and the legitimacy of the Union. The Constitution more or less settled the problem about the mutual powers of the Union and member states. [157]

This Draft which makes a progress for democratic deficit and democratic legitimacy issues is criticized in some respects. The criticism is about the lack of clarity about the roles which each EU organ plays.[158] For instance, the Parliament hasn't enough authority to start the legislative process. Even the EU Constitution refers to the Europe Parliament's representational democracy.

I attempted to academically describe the interpretation of EU Constitution. So, what was the idea of citizens of Europe regarding this constitution? How aware and content were they about the constitution which was prepared for the EU and the citizens? Polls were made by Eurobarometer prior to the referendum. According to

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[157] Tezcan, E. (2003), *Avrupa Birliği Anayasa Taslağı Ve Öngördüğü Yenilikler (1)*, http://www.stradigma.com/turkce/eylul2003/makale_03.html, (15.05.2009).
[158] *Ibid*.

the result of these polls, number of people who were against the constitution and those who were unaware of the constitution was significant. For example, the rate of lack of awareness in Ireland was 67%, 50% in England, %42 in Czech Republic and 35% in France. These results have increased the doubts about the future of the constitution. Arguments of the people against the constitution include the following: "Anxiety of being dominated (37%)", "Euroscepticism (22%), "lack of knowledge (20%) and "Noneffective of the constitution (11%)"[159]

Negative results in the Netherlands and France, both in 2005, shocked Europe. During discussions about the constitution in the Netherlands, it is stated that there were anxieties about the democratic legitimacy of the constitution and of the EU. The discontent about the high contribution of Netherlands to the EU budget was also mentioned. Dutch voters' main reason for voting "no" was the lack of information (32%), followed by a fear of a loss of national sovereignty (19%)[160]. The situation was a little bit different in France: firstly, it was the "negative effect on employment (31%), the second reason was that people felt that the economic situation in France was bad (26%), followed by the belief that the Constitutional treaty was economically too liberal"[161].

Savaş Genç asserts that the crisis over the constitution is battering the EU, since the countries prefer solving internal issues within the EU-axis. In order to eliminate these issues, in his view, it is necessary to purify the EU mechanism.[162] The political elites of the Netherlands which held a referendum for the first time in the country's history are critized for not revaluating referendum campaign. Many reasons can be predicted, but the actual reason is the lack of knowledge as indicated by 32% of the respondents.[163]

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[159] Özler, Zeynep and Mindek, Can (2008), "AB'de Anayasa Süreci ve Lizbon Antlaşması", *İKV Yayınları*, İstanbul, No:218, , pp.16-17.
[160] "The Future Of Europe" an NGO Brainstorming on the EU Crisis Brussels, Briefing For Participants, 6 October 2005,p.2
[161] *Ibid.*
[162] Genç, (2008), p.163.
[163] Özler and Mindek, (2008), pp. 22-29.

The rejection of the constitution should be a chance to improve the EU's democratic legitimacy. Strictly speaking, after this rejection, the EU will take into account the priorities of the EU citizens. The rejection of the constitution will probably accelerate the efforts of the advocates of deeper integration in the EU. [164]

3.3. LISBON TREATY: A RECIPE FOR THE PROBLEM OF "DEMOCRATIC DEFICIT" IN THE EU?

Whilst the EU has been completing the enlargement and economic integration process successfully, though it could not even manage to construct a political integration in the wake of chaotic outcomes of several treaties. The democracy debates have kept on with matters such as a three pillar structure and the enlargement pressure on the EU's institutional structure.[165] The current framework of the EU has suffered much for its "slow and sometimes inefficient decision making process, democratic deficit, lack of coherence in external affairs (because of divided responsibility between the Council and the Commission)"[166]. Hence, the EU had to revise afresh its decision-making mechanisms and institutional operations.

The EU attempted to pursue certain policies by concluding agreements - namely the SEA, Maastricht, Amsterdam, and Nice - in order to solve the democracy problem- albeit facing some failure. In this respect, the Laeken Summit, Draft Constitution and Lisbon Treaty rank among the last leaps. The rejection of the EU Draft Constitution in 2005 by the French and Dutch has given rise to ongoing problems. Will the Lisbon Treaty be a solution to these problems? I will focus on this issue in this part.

The Lisbon Treaty was prepared after seven-year-long reform debates, formidable inter-governmental negotiations (IGC) and two referendums that excited the rejection of the constitution. The treaty closely deals with the institutional

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[164] Nil Karaca and F.Selda Bozkurt, (2005), p.11.
[165] Özcan, Mehmet, "Anayasa'sını Arayan Avrupa", USAK,
http://www.usakgundem.com/yazar/17/anayasa%E2%80%99sini-arayan-avrupa-i.html.
[166] The Treaty of Lisbon, Issue Briefing on,
http://www.vote2009.eu/content/CARE_Briefing_Lisbon.pdf

structuring and the policies of the EU. Maybe because of the rejection of the constitution, there occured a tendecy for not allowing this treaty to be a subject for referendum..[167] The Treaty was signed on December 12, 2007 (it was supposed to enter into force in 2009; but this process depended on the referendum results held in Ireland) and was framed to answer various concerns of the member states after the rejection of the constitution by the French and the Dutch.

The European Commission President Barroso explains the aim of this Treaty: "efficiency, greater accountability, giving people a greater say over what Brussels can and cannot do, giving Europe a stronger voice in the wider world".[168]Under these aims, very important revisions have been made. These revisions have been made in the following areas: "Leadership of the EU, the legislative process, controlling justice and home affairs, foreign and defense policy, protecting human rights". [169]

Democracy is the "big idea" of the Lisbon Treaty"[170]. In general belief, the Treaty of Lisbon "will bring more democratic accountability to the Union (through strengthening of the roles of the European Parliament and the national parliaments); enhance the rights of European citizens. [..].. and improve the effective functioning of the Union's institutions."[171]

The Lisbon Treaty will amend the EU's two fundamental treaties, the Treaty on European Union and the Treaty establishing the European Community. The latter will be renamed as the Treaty on the Functioning of the European Union. A major goal of the Lisbon Treaty is to grant legal personality to the EU. Thus, according to

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[167] Altınbaş, D. (2007), "Lizbon Anlaşması İmzalandı: Avrupa'da Demokrasi Sallantıda" (The Lisbon Treaty was signed Democracy in danger in Europe),
http://www.asam.org.tr/tr/yazigoster.asp?ID=1896&kat1=2&kat2=, (20.01.2008).
[168] Barroso, José Manuel Durão (2008), "At the Heart of an open Europe: Ireland and the Lisbon Treaty National Forum on Europe speech Dublin", *National Forum on Europe Speech*, p. 3.
[169] "How the Treaty of Lisbon will make the EU more democratic", (2007), *Federal Union*, http://www.federalunion.org.uk/europe/071220%20democracy%20briefing.pdf, (20.06.2009).
[170] "The Treaty of Lisbon: An impact assessment", (2007), House of Lords European Union Committee 10 th Report of Session,
http://www.federalunion.org.uk/europe/080313houseoflordsreport.pdf, (15.05.2009).
[171] "The European Parliament and the Lisbon Treaty", http://www.europarl.ie/lisbontreaty.html, (20.03.2009).

the Treaty of Lisbon, the term "European Community" is replaced by the term "European Union". In other words, the EU has not only attempted for a political identity but also for a legal personality.[172]

Moreover, the elements such as the symbols, European athem and slogans were deleted from the new agreement. However, Belgium, Bulgaria, Germany, Greece, Kingdom of Spain, Italy, Cyprus (Greek Administration), Lithuania, Luxembourg, Hungary, Malta, Austria, Portugal, Romania, Slovenia, and Slovakia had all formerly declared their fidelity towards the EU's symbols.[173] Actually, the elimination of the mentioned common values is regarded as pretty interesting. The report prepared for the Lisbon Treaty also reveals displeasure for the elimination of common values. Previously, I stressed the importance of these values.[174] The EU clearly gives a message that the aim is **united in diversity** (in varietate concordia)

The purpose of the Lisbon nearly was to create a more democratic and more effective EU image in the process of decision-making so as to overcome the democratic deficit problem. On the other hand, gaining a legal frame for the EU operations was another aim. An innovative aspect of the Lisbon Treaty is the much stronger role assigned for the national parliaments through the procedures for activating European policies and particularly the Union's legislative system (TEU/Lisbon, Art.12). The national parliaments' roles in the European Union, through new protocols on, and the implementation of, the principles of subsidiarity and proportionality have been increased: "it has introduced political and judicial procedures to keep in check the Union's competences".[175] The main aim is to strengthen the democratic control of the European Union with a powerful role for both the European Parliament and national parliaments.[176] Since the ECSC, the increase of the EP's participation in the decision-making process has been enhanced.

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[172] "The Lisbon Treaty, Cori Justice Policy Briefing", (2008), http://www.cori.ie/Justice/Publications/51-BriefingDocuments/530-briefing-on-lisbon-treaty, p.2.
[173] Lizbon Antlaşması, http://www.ikv.org.tr/sozluk2.php?ID=1798.
[174] The report had been prepared about Lisbon Treaty by Spanish Inigo Mendez de Vigo and English Richard Corbett who was member of EU and it had been accepted in EU Constitutional Affairs Committee in 23 January 2008.
[175] Micossi, (2008), p. 3.
[176] Lizbon Antlaşması, http://www.ikv.org.tr/sozluk2.php?ID=1798, (06.03.2009).

The sufficiency of the improvement in its competences has always been debated. The Treaty of Lisbon will enable member state parliaments to take place in the legislation process. Strictly speaking, the EU supported the vertical and horizontal paradigm assumptions by adopting this perspective.

The Treaty of Lisbon will increase the number of policy areas in the **"co-decision"** procedure; so it will be more actively involved in the EU legislative process with the directly elected European Parliament. Thus the treaty gives the EP more influence over legislation, including areas such as agriculture (LT para 49, TEU article 37(2)) and the budget (LT para 265, TEU article 272).[177] From now on, then, the Parliament will have greater strength and role to play in almost all decision-making process. It is an important innovation, because more powerful Parliament means more representative democracy in the EU.

The Treaty of Lisbon creates a President of the European Council who would be appointed for two and a half years. (LT para 17, TEU article 9C (9) and LT para 189, TFEU article 201(b)) The six-month presidency system is seen as too unstable and short. With this innovation, the European Council will serve for longer period under a single president and is supposed to be more successful. Indeed member states have claimed that few successes occur in short-term period because of possible rushed and bad decisions. It is said that "More continuity will enable the member state governments to have a more reliable input to European legislation".[178] It is assumed that permanent president gets closer to the EU. The citizens will thus be able to follow the period of European Presidency.[179]

A very important provision of the Treaty of Lisbon which is about the Council and its accountability and transparency is the following:

> the Council will meet in public whenever it is considering legislation (LT para 17, TEU article 9C(8)). At present, much of the debate and many of the decisions take place behind closed doors. Opening up the proceedings of the Council will enable member state parliaments to hold to account their countries' representatives much more effectively than they have been able to in the past. This has the potential to increase considerably the influence that member state parliaments have in the

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[177] "How the Treaty of Lisbon will make the EU more democratic", (2007), p.3.
[178] *Ibid.*
[179] Özler and Mindek, (2008), p.71.

approval of European legislation. In addition, it will become possible for the citizens to observe and influence the passage of European legislation in a way they have not been able to hitherto. Further, unlike in the past, for citizens, it will become possible to observe and impress the passage of European legislation.[180]

The EU system is a big one, and, in cases requiring unanimity, the decision-making process is not an easy one. It can be hard to create consensus about anything. The Treaty of Lisbon will extend QMV system to new policy areas. As a result, new decision-making rules make it easier for the Union to pass decisions.[181] Some claim that member states do not like the QMV policy areas because, if they find themselves in a minority, they will not be able to veto them.[182] However Barroso says: "We will have more qualified majority voting, which should help to speed up decision-making."[183] In the light of this analysis, it can be said that the Lisbon Treaty pays attention to the efficiency problem by establishing quicker decision-making system, trying to get more transparency, and bringing about better democratic control.[184]

The Lisbon Treaty brings an important innovation about the election of the EU Commission President. The president of the European Commission is elected by the European Parliament which is important in terms of gathering strength against the Commission and from the perspective of the Commission legitimacy.[185]

> The Treaty of Lisbon will provide a stronger and more coherent external voice for the European Union by combining the functions of High Representative for Foreign Affairs and Security Policy (LT para 19, TEU article 9E).[186]

The Treaty of Lisbon has contributed to the accountability and established a more clear distribution of powers between the EU and its members, "which will

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[180] "How the Treaty of Lisbon will make the EU more democratic", (2007), p.3.

[181] "Questions and Answers", http://europa.eu/lisbon_treaty/faq/index_en.htm#7, (15.03.2008).

[182] "Issue Briefing on the Treaty of Lisbon", www.vote2009.eu., (15.02.2008).

[183] Clausen, H. (2008), The Lisbon Treaty: The problem of democratic legitimacy, http://missioneuropakmartell.files.wordpress.com/2008/05/the-lisbon-treaty.doc, p.5.

[184] *Ibid*, http://europa.eu/lisbon_treaty/faq/index_en.htm#7 .

[185] "How the Treaty of Lisbon will make the EU more democratic", (2007), pp. 3-4.

[186] *Ibid*., p.4.

make it easier for the citizens to understand, who does what?"[187] Approximately 50 years since the Treaty of Rome was signed, there still exist criticisms about the widening gap between the EU and EU institutions on the one hand and the European citizens on the other. Many EU citizens have drifted away from the EU institutions, and they have no idea how decisions are made in Brussels, on what and why?[188] With the Treaty of Lisbon, the EU expressed its aim to make itself more transparent and apparent. If it can be successful in achieving these goals, it will fulfill important requirements for democratic restructuring.

The contrary arguments claims that, the Lisbon Treaty is making a weak democracy weaker. German EU Commissioner Günter Verheugen admitted: "If the EU were applying for accession here, we would have to evaluate it as "democratically insufficient". [189]

- The EU is centralistic / 80% of all new laws come from Brussels

- A weak EU parliament / insufficient separation of powers

- Civil servants with too much power / lacking democratic legitimation

- Non-transparency and secret diplomacy

The Lisbon Treaty will make it worse.

- The Lisbon Treaty creates more centralisation without sufficient democratic control

- Small countries in particular continue to lose influence

- The EU creates its own rules by means of the flexibility clause

- This is possibly the last Irish referendum on European matters

- Military policy without democratic and judicial control

- The Lisbon Treaty is barely understandable

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[187] Donnelly, Brendan and Jopp, Mathias (2009), *Democracy in the Eu and the Role of the European Parliament*, edited by Gianni Bonvicini, Rome: Istituto Affari Internazionali, p.23.
[188] *Ibid.*
[189] "The EU and the Lisbon Treaty, Making a Weak Democracy Weaker" (2008), http://www.indymedia.ie/article/87934

Czech President Vaclav Klaus noticed that "increasing the European Parliament's powers will not solve EU's **democratic deficit**, since the bloc's legislature does not represent any nation and allows for no political alternatives opposed to EU integration. In addition some of scholars against the Lisbon Treaty because they don't see it as a way forward to closing the democratic deficit and they consider the Nice Treaty as being more democratic than the Lisbon treaty**.**[190]

Besides, the EU Charter of Fundamental Rights, which was going to be accepted in Strasbourg one day before signing the treaty, based on bindings other Member States even though some Member States did not participate (United Kingdom, Poland). The Treaty of Lisbon increase on citizens' rights is emphasized by ascribing to the Charter of Fundamental Rights in the treaty.[191] That means the EU and its institutions guarantee the EU citizens rights based on binding law. These rights have six dimensions: "individual rights related to dignity; freedoms, equality, solidarity, rights linked to citizenship status and justice." When they implement the Union's legislation, the same obligations are due to the Member States. The European Court of Justice will guarantee that the Charter is applied correctly. [192]

The European Parliament represents the EU public directly. This has now been acknowledged in a clear manner in the Treaty of Lisbon, in new article 8A which reads (paragraph 2):

> Citizens are directly represented at Union level in the European Parliament. Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.[193]

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[190] "Nice treaty more democratic than the Lisbon treaty", http://www.teameurope.info/node/441, (15.04.2009).
[191] Lizbon Antlaşması, http://www.ikv.org.tr/sozluk2.php?ID=1798 .
[192] Question and Answers of Lisbon, http://europa.eu/lisbon_treaty/faq/index_en.htm, (04.05.2009).
[193] Micossi, (2008), p. 3.

The Lisbon Treaty introduces the European Citizens' Initiative which will allow one million citizens to "call on the European Commission to propose a change to European law".[194]

The Draft Constitutional Treaty that included in its title 'the democratic life of the Union' which contained both an article on "**representative democracy"** and an article on "**participatory democracy"**. What is the difference between them? The Lisbon Treaty does no longer mention the concept of 'participatory democracy'. It does not use the title of "participatory democracy". This concept has been removed from the text in order to exemplify the sensitivity around the question whether "participatory democracy" should be a normative model for European governance.[195] The notions of parliamentary democracy and participatory democracy which take place in every democracy argument are in fact a form of liberal democracy. Was the EU, which behaves in the direction of the empowerment of the EP since its inception, aiming for the parliamentary democracy? At this point, can we say that the EU has parliamentary democracy model? Tommaso Padoa-Schioppa claims that "The political role of the EP and its democratic legitimacy will be substantially strengthened. The norm of the Lisbon Treaty stating that the EU is a representative democracy (TEU/Lisb, art. 10. 1) will certainly further strengthen the EP's role".[196] The question about democratic deficit in the EU is this: does the EU represent the EU public?

The European Parliament is the only directly elected multinational parliament in the world, as well as the only elected institution in the European political system. Therefore, most people do not challenge its legitimacy in the context of the democratic deficit problem.[197] An empowered Parliament means

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[194] Lorca ,Francisco ,(2008)The Treaty of Lisbon and the Irish Impasse , Jean Monnet/Robert Schuman Paper Series, Vol. 8 No. 18, August, Published with the support of the EU Commission.,p.6 http://www6.miami.edu/eucenter/publications/LorcaFranciscoLisbonLong08edi.pdf

[195] Smismans, S., "Should participatory democracy become the normative model for EU governance?", http://www.re-public.gr/en/?p=481, (21.04.2009).

[196] Padoa-Schioppa, Tommaso (2009), Give European Citizens a Voice, Democracy in The Eu and The Role of the European Parliament, in Gianni Bonvicini (ed.), Rome: Istituto Affari Internazionali, p. 18.

[197] Lasan, Nicoleta (2008), "How Far Can The European Parlıament Correct The European Unıon's Democratıc Defıcıt?" *Romanian Journal Affairs*, 8, p.21.

empowered citizens. The European citizens will have a more direct say in the workings of the EU in this way. The EU is made actions regularly in order to strengthen the Parliament institutionally. That was meant to provide enhanced democratic legitimacy in the EU.[198] However, while, on the one hand, the EU authorities want to find solutions to the major problems of democratic deficit problem. On the other hand, the EU public is increasingly distrustful of institutions and politics or are simply not interested in them. Strictly speaking there is a negative correlation between the EU and its people. Although, the European Parliament was given new powers in the legislative process from the first European elections in 1979, the EU citizens or voters turnout has consistently fallen.

The question then is, why has the EU voters' interest in European elections fallen? Do they not believe that democracy exists in Europe? In addition, the right to vote and free elections are seen as one of the central mechanisms of any representative democracy.[199] Nigrin Věra and Řiháčková Tomáš Weiss mentioned this issue as follows:

> Enhancing the legislative powers of the European Parliament and the parliamentary organization of the EU system of governance has been seen for a long time as a means to face the EU democratic deficit. In reality, the expectations of providing a superior system of European government have not been met. The citizens' interest in European elections has been steadily declining since 1979. They can still barely identify a set of protagonists in the developments at a supra-national level.[200]

In addition, Stijn Smismans mentioned this issue in a paper entitled "**Should participatory democracy** become the normative model for EU governance?" According to the author:

> There is no European 'public sphere' in which citizens are informed on, and take part in, political discussions. There is no European media, communication on European issues is nationally colored and split into different languages. Interest groups may shift their action to the European level as well, but they remain mostly

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[198] "2009 General Appearance of the Europen Parliament Election", 2009 AP Elections and http://www.euractiv.com.tr/yazici-sayfasi/link-dossier/2009-avrupa-parlamentosu-secimleri-2009-genel-gorunumu-000075, (09.04.2009).
[199] Lasan, (2008), p.21.
[200] Majone, (2008), p.9.

national interest groups, the European ones being very loose federations. European political parties are weak and turnout in EP elections is uneven and low.[201]

As known, there was only one year between the (European) parliamentary election in 2004 and the rejection of the constitution in 2005. According to Didier Billion, this rejection is a reaction to the undemocratic structuring of the EU which is mostly technocratic and not concerned with public's desires. In the European Parliament election of 2004, low voter participation was a serious warning, while the rejection of the constitution was another clear warning only after a year.[202] If the result is "nay" for the constitution, it points out to the lack of communication, differences among European peoples and concern with lack of democratic legitimacy in the EU.[203] Now, the question can be raised about whether the low turn out in the 2009 EP elections can a affected the Libon Treaty ratification process. The EU decision-makers have begun to consider whether the Lisbon Treaty is going refarandum or not. According to Deniz Altınbaş, this issue is related to the way in which democracy is perceived by the EU. Escaping the referendums by reason of high probability of rejection is a perception that does not conform to the democracy agreement.[204]

What about the Lisbon process? Has the Treaty enough capability to change the percentage of participation? Has the Treaty of Lisbon enough power to resolve this issue. The participation rate in the European elections in 2009 can be a good indicator about what the public thinks of the Lisbon Treaty. Hence, what did the EU public think about Lisbon Treaty? Were they satisfied with the improvements? The purpose of our examination is whether there is a free election, right to vote, and means that the public can express their expectations, reactions or pleasures. The high participation rate in anywhere indicates that democracy is considered mutual. Hans-

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[201] Smismans, S., "Should participatory democracy become the normative model for EU governance?", http://www.re-public.gr/en/?p=481, (21.04.2009).
[202] Billion, D., "Lizbon Antlaşması Aceleye Geldi" (Lisbon Treaty done in a hurry), *Zaman*, http://www.zaman.com.tr/haber.do?haberno=659480, (03.03.2008).
[203] Türkyılmaz, M., "AB'de Demokrasi İlkesi" (The democracy principle in EU), http://www.turkhukuksitesi.com/makale_141.htm, (23.01.2009).
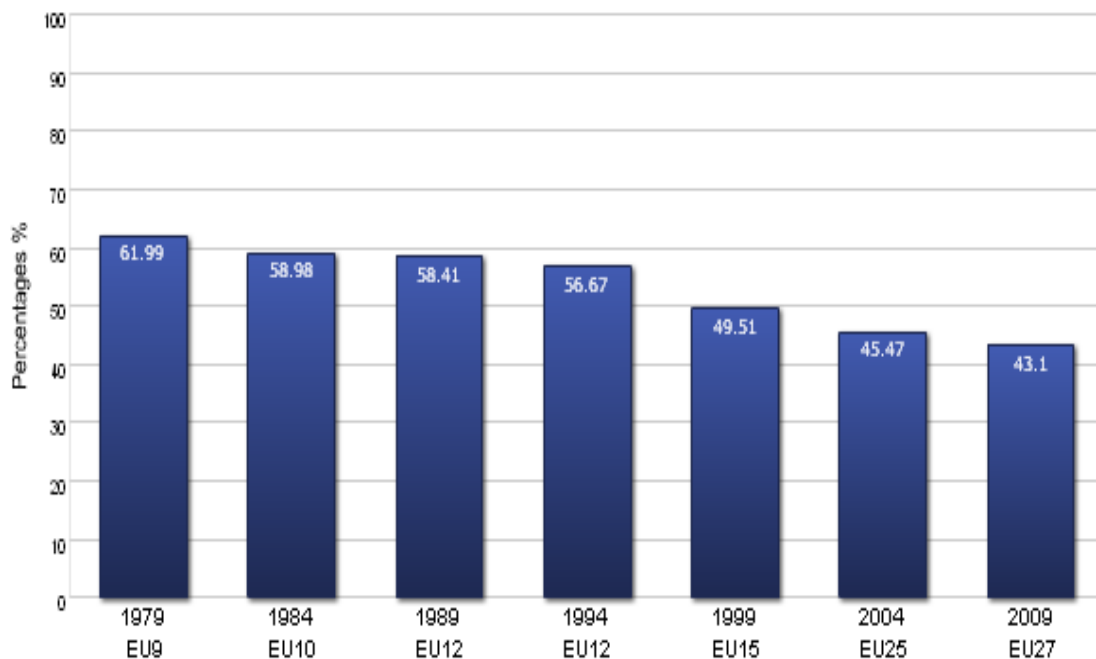[204] Altınbaş, (2007).

Gert Pöttering who was the former President of the European Parliament saw the June 2009 election as of "greatest importance". He says;

> In 1979, the European Parliament represented the citizens of the then nine Member States of the European Community. Today it represents approximately 500 million inhabitants from 27 European Union countries. Today our European continent is reunited and shares common values of peace, freedom, rule of law and **democracy**. In 1979 the European Parliament was basically a mere consultative body. Today the European Parliament is self-confident and powerful.[205]

European Parliament election of 2009 was concluded in the first week of June. To the horror of many, this revealed lowest participation rate among all European elections since 1979 with only % 43.1 of the electors voting. So, 2009 European Parliament elections results were performed under the expectation.

Figure 1: Rates of participation in European elections (1979-2004) [206]

[205] "1979-2009 Pöttering looks back at 30 years of European elections", http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+IM-PRESS+20081120STO42657+0+DOC+XML+V0//EN, (03.06.2009)
[206] Results of the 2009 European Elections,

According to Eurobarometer researches, the reason of disinterest is specified as the diminishing trust to the European institutions:

> The Eurobarometer poll asked EU citizens, "If you do not go to vote in the European elections of 2009, it will be because…." Out of the respondents, 60 percent stated that they "do not sufficiently know the role of the European Parliament." Likewise, 58 percent feel they are not informed enough to vote. In addition to a lack of information causing low voter turnout, many voters feel too distant from the EP. For example, 57 percent said that the EP does not deal with problems that concern them and 53 percent do not feel they are sufficiently represented by their MEPs. This perceived detachment that citizens feel from the EP in conjunction with a lack of information have created a divide between EU citizens and their institutions. [207]

Among electors, the prevalent view is that elections don't change anything. Most of them don't want to vote, because they don't notice any new power-sharing between EU institutions and the people which is more acceptable in the context of democracy.[208] The low interest is brought about owing to the lack of a competitive political system in the EU. However, the EU does not have a single electoral system in the context of the Parliamentary elections. The EP is elected according to 27 national laws. The same diversity is reflected in the lack of a unified EU policy and the absence of real European political parties.[209]

Jacki Davis from the European Policy Research Centre, talks about the non-effective parliamentary system in the EU and argues that the low rate of participation is caused by this situation. According to him, national subjects are taken to the parliamentary agenda; wheares there was nothing about the EU in the election campaigns in 27 countries. Politicians don't talk about the issues relevant to Europe. Electors vote to evaluate the government's performance on national issues, not on the basis of European issues.[210] Furthermore, Billion claims that political disinterest entertains a risk for democracy. Since we advocate real democracy, there

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http://www.elections2009-results.eu/en/turnout_en.html, (06.06.2009).
http://eucenter.scrippscollege.edu/pdfs/2009%20Conference%20papers/Megan%20Campbell.pdf
[207] Campbell, Megan Marie, (2009), The Democratic Deficit in the European Union, p.7
[208] İnanç, (2007), p. 3.
[209] Andersen and Eliassen, (1996), p.6.
[210] "AP seçimlerinde ne seçmen memnun ne seçilen" (Neither the elector nor the elected is content in the European Parliament elections), http://www.euractiv.com.tr/yazici-sayfasi/article/ap-seimlerinde-ne-semen-memnun-ne-seilen-005887, (01.06.2009).

should be real competition environment and operational and arguable structure in order to create alternative projects.[211] According to Dahrendorf, democracy expresses three things: firstly, change is possible without violence; secondly, there is a control system to be applied to power; lastly, there is a determinant interference in the process by the public. As typical expression of representative or parliamentary democracy, these functions are carried out by representatives who get authorization from electors. Such that, electors create politics and even governments, shape or change and use of authority in free elections and rigt to vote.[212] A responsible government does not directly come from the European Parliament as the member states parliaments. European Parliament is not accountable to the public. There is no decision-centre or structure to affect the public so that they go to the polls. The public would be willing to go to the polls through either appreciation or punishment. The lack of real and accountable parliamentary system can bring about disinterest in this present system. Eventhough the EU increased its power in the legislative process, the EU has no authority to legislate and also to determine the number of seats alone. Hans Peter Martin complains about the fact that the European Parliament has no authority to legislate and be obligated to discuss the proposals which are presented by the EU commission.[213]

In sum, the EU has aimed to institute more transparency and accountablity and an efficient democracy through the Lisbon Treaty. It had tried to strike a balance between among the representatives and the roles the EU institutions for more transparency, accountablity and participation. Therefore, the powers of the European Parliament powers have also been enhanced. But we can't say that the EU citizens

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[211] Bilion, Didier, "Avrupa Seçimlerin Gerçek Konuları (The real subjects of Europe Selections)", (2009, June 6), *Zaman*, p.24
[212] İnanç, (2006), p.361.
[213] Türkyılmaz, Murat, "AB'de Demokrasi İlkesi" (The Democracy Principle in the EU), http://www.turkhukuksitesi.com/makale_141.htm, (23.06.2009).

adopt the EU Parliament as much as classical parliamentary and democracy comprehension. It is not possible that EU and Lisbon achieve, propose in order to not establish a bond between decision-makers and the public.

CONCLUSION

The European Union, as a project, has an elitist foundation. This statement is one of the most widely acknowledged ideas about the EU. It means that, prior to the unification at the public level in Europe; an elitist structure has been formed by various institutional actors. Since the EU cannot be called a state, and is likely to be viewed as a "non-state" and "non-nation" entity, the EU and its predecessors face challenging problems of democratization[214]. Among these problems, is the current debate about democratic deficit.

Technocratic restructuring of the European Coal and Steel Community (ECSC), founded in 1951 as the precursor of the European Economic Community, is the source of major criticisms which the EU faces in the realm of democratic decision-making. The EU institutions have been established a from the public. Actually, the EU was not meant to be a democratic organization. The EU founders wanted to establish an organization reflecting common values and the benefits of cooperation in order to strengthen their economy and remove the affects of war. They focused on the economic benefits. The issue of democracy was not a major issue of debate in the 1950s and 60s. This does not mean, however, that the founders of the European Communities denied democracy.

However, this structure of the ECSC which was set up as "Monnet Method" and "Technocratic Restructuring" in the time of European communities, continued with the EU. The European Commission is a non-elected institution; it enjoys too much political power. Although it does not take its legitimacy from the people, it has significant role in the decision-making process. The Council of Ministers is an important decision- making organ. It never takes any decisions without the approval of the Council. Shortly, draft legislation is first taken up by the EU Commission; but the final legislation is adopted by the Council of Ministers. The Council takes its

decisions secretly. Public opinion is not involved in the decision-making process. Even they are indirectly elected for it; the European Council and the Council of Ministers are not directly elected for their role within the European Union. The members of the Council of Ministers represent the "national" interest rather than the "partisan interest" of their electoral constituency as done in domestic politics. Although the EU Parliament is the only elected body, it is widely criticized due to the imbalance between the representation and power. The EU Parliament has relatively lesser power in law-making compared to the EU Commission. The EU's institutional design is complex. This design and structure is also perceived as distinguished and separate from lay people and their concerns.

In my thesis, my argument is that the democratic examination of the EU based on only an institutional approach should be unfairness both content of democracy and EU's democracy philosophy. Was the EU, which behaves in the direction of the empowerment of the EP since its inception, aiming for parliamentary democracy? At this point, can we say that the EU has parliamentary democracy model? But it is hard to say that the EU democracy model overlaps with representative democracy, because present representative democracy in the EU doesn't completely represent the public, and there is no effective parliamentary system as that in nation-states. In this dissertation, the EU is examined in terms of classical parliamentary approach. However, the EU is not a nation-state.

The argument regarding the democratic deficit of the EU institutions reveals integrated and deeply seated political problems. There is a multitude of reasons and solutions regarding the democratic deficit in the EU, which leads to a complexity of interpretations. We might therefore come to the conclusion that democratic deficit is studied and researched from a variety of perspectives and scientific disciplines. Law, political science, international relations, economics and sociology have contributed to the scientific study of a democratic EU. According to Jolly,

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[214] Schmitter, C., Philippe, (2000), *How to Democratize the European Union...and Why Bother?*, Rowman&Littlefield Publish, p.1.

The danger lies in with many different angles, even within individual disciplines; the debate becomes unproductive, because theorists are all preoccupied with the areas that they have identified as the problem. So not only does disagreement exist about potential solutions but these disagreements are intensified by the fact that the "problem" has not been clearly identified"[215].

I have looked into the EU treaties in the second chapter of this dissertation. How important is the democratic deficit issue in the agenda of the EU? And what are the legal innovations designed to fix problem of democratic deficit? Have the revised treaties adequately solved the democratic deficit problem? The EU decision-makers have stated their aim of bringing about more transparency, accountability and representation, and participatory governance. The EU Parliament has gained new powers in the legislation process. So the EU Parliament has been strengthened against the EU Commission and the Council of Ministers. The EU has always taken care of the EU public and their preferences; so it has tried to give this message to the EU public. However its technocratic foundation does not allow for transparency and accountability. How can "technocratic accountability" with its elitist design become democratic? The democratic deficit issue in the EU is surrounded by this question: "How can a technocracy be redesigned to become a more democratic governance?" As said before, not only formal legitimacy, but also social legitimacy is important to be a democracy.

In addition, acceptance of the EU Charter of Fundamental Rights and the EU citizenship are important developments. The Draft Constitution for the EU and a guarantee of human rights for the EU citizens are important steps in this direction. The Convention regarding the future of the EU and the White Paper regarding European Governance are signs of significant progress, because it shows that the problems about the democratic deficit has entered the agenda of the EU. This has particularly been the case following the rejection of the 2004 Constitution by the referendums in France and the Netherlands in 2005. Will the Lisbon process be able to solve the democratic deficit problem? I have examined this subject in the third chapter of my thesis. EU decision-makers have always stated their aim for a more

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[215] Jolly, (2003), p.3

transparency, participation, and accessible management in order to strength the EU Parliament which represents the EU public.

The EU tried to establish participatory and representative democracy. It has given a right to the EU public to participate in the process of decision-making. National Parliaments will become more active in the process of legislation. Charter of Fundamental Rights will be binding. All of these are important developments for the democratic deficit issue. However, the Lisbon Treaty (as much as other EU Treaties) is also criticized for not ensuring the required environment in order to carry out its goals. The complexity of institutional structure, unclear of treaty sustainable had been continued to examine the democratic deficit issue in the EU.

The rejection of the European Draft Constitution, lack of public interest in the elections to the European Parliament since 1979 and, finally, failure of the ratification of the Lisbon Treaty have all brought the debate about democratic deficit into the heart of the EU: "What does a European citizen want?" "Are they pleased about these reforms or not?" However, these researches point out that the EU public is discontent on the issue of democracy in the EU context. Furthermore, there are different anxieties behind the reactions against the EU. While the EU authorities seek to find solutions to major problems, EU citizens increasingly distrust institutions. In addition, they do not have much interest in the EU politics. The EU Commission considers this issue as a "real paradox[216]".

In conclusion, we can say that the technocratic nature of the EU and its institutions on the one hand, and the heterogeneity of European citizens on the other, suggest that the **democratic deficit** in the EU is here to remain with us for many years to come.

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[216] Commission of the European Communities,Brussels, 25.7.2001,Com(2001) 428 Final European Governance http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0428en01.pdf

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