

REGIONE TOSCANA



Consiglio Regionale

Premio tesi di Laurea

“David Sassoli”

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L'Editore, il Consiglio Regionale della Toscana, dichiara che la pubblicazione dei contenuti della presente opera persegue finalità senza scopo di lucro, inserendosi nelle attività istituzionali di interesse pubblico e di divulgazione e condivisione della conoscenza in ambito scientifico, giuridico e letterario.

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Presentazione

La scelta del Consiglio Regionale della Toscana di dedicare un premio di laurea a David Sassoli è un piccolo modo per tenere viva la memoria di tutto ciò che ha rappresentato nella sua vita.

Il Premio Sassoli non è soltanto un tributo all'eccellenza accademica, ma anche un omaggio all'immenso impegno di un uomo che ha dedicato la sua vita all'ideale dell'integrazione europea.

David è stato un politico appassionato, leader leale, rigoroso, ha saputo nutrire con la sua cultura un'iniziativa politica al servizio delle persone e delle Istituzioni. Un uomo del dialogo, sempre alla ricerca del bene comune, ma fermo nel difendere i valori della solidarietà e della libertà. Sassoli ha saputo avvicinare l'Europa alle cittadine e ai cittadini e questo senza dubbio rappresenta una delle sue più importanti eredità.

Oggi l'Unione Europea, grazie anche al suo contributo, rappresenta una dimensione essenziale, irrinunciabile per la nostra democrazia e per la libertà di ogni cittadino europeo. Senza le istituzioni europee i singoli Stati sarebbero impotenti di fronte alle sfide globali del nostro tempo: dai mutamenti climatici ai fenomeni migratori, dalle dinamiche demografiche a quelle geopolitiche condotte da attori di dimensione continentale fino ai poteri economici e finanziari che travalicano i confini e condizionano i mercati.

La nostra Europa non è perfetta, ma è la migliore garanzia per tutti i nostri cittadini.

Pubblicando le tesi vincitrici del premio, vogliamo tenere insieme il ricordo di David offrendo anche una prospettiva futura che solo i più giovani, coi loro occhi e il loro studio possono offrire per aspirare all'Europa della speranza tanto cara al Presidente Sassoli.

Spero, dunque, che questa collana possa ispirare ulteriori ricerche e riflessioni su questi temi cruciali, contribuendo a costruire un'Europa più inclusiva, solidale e democratica, proprio nel solco tracciato da David Sassoli.

Dobbiamo guardare all'Europa come luogo delle opportunità, come sogno per realizzare il proprio futuro, come orizzonte per le nuove generazioni.

L'Europa unita è l'eredità che Altiero Spinelli ci ha lasciato col suo "Sogno Europeo" nato sull'isola di Ventotene. Un sogno e un patrimonio di libertà di cui oggi noi dobbiamo essere non solo testimoni ma, soprattutto, custodi.

Antonio Mazzeo

Presidente del Consiglio regionale della Toscana

Prefazione

È con grande soddisfazione che salutiamo la pubblicazione di questa tesi che ha conquistato uno dei riconoscimenti assegnati nell'ambito del premio di laurea intitolato a David Sassoli.

Si tratta di un'iniziativa che abbiamo fortemente voluto come Commissione Politiche Europee e Relazioni Internazionali del Consiglio Regionale della Toscana, trovando pieno e fondamentale sostegno da parte dell'Ufficio di Presidenza della nostra Assemblea a partire dal Presidente Antonio Mazzeo.

Valorizzare le idee e le proposte delle giovani generazioni ci è sembrato il modo più bello ed emozionante per ricordare ed onorare David Sassoli.

Un'esperienza che nel giorno della consegna dei riconoscimenti tiene insieme emozioni contrastanti, quali il dolore per una scomparsa tanto rilevante e al tempo stesso la gioia nel vedere evidenziato il lavoro delle ragazze e dei ragazzi, guardando soprattutto alle prospettive di un'Europa che deve essere rafforzata e costruita partendo proprio dalle idee delle giovani generazioni. Ed a questo David Sassoli teneva moltissimo.

E noi teniamo tantissimo anche al supporto che abbiamo ricevuto dal mondo delle Università toscane e vogliamo ringraziare le docenti ed i docenti che hanno accettato di far parte della commissione che ha scelto le tesi da premiare, perché, con la loro competenza e passione, hanno dato un valore aggiunto a questa nostra iniziativa: una commissione presieduta da Jacopo Cellini dell'Istituto Universitario Europeo e composta da Benedetta Baldi dell'Università degli Studi di Firenze, Edoardo Bressanelli della Scuola superiore Sant'Anna di Pisa, Massimiliano Montini dell'Università degli studi di Siena, Manuela Moschella della Scuola Normale Superiore di Pisa, Luca Paladini, dell'Università per Stranieri di Siena, Saulle Panizza, dell'Università di Pisa.

E la pubblicazione che state per sfogliare rappresenta anche un altro obiettivo che abbiamo fortemente voluto e che porterà alla creazione di un'apposita collana all'interno delle pubblicazioni del Consiglio Regionale della Toscana. Queste tesi resteranno dunque segno tangibile di un impegno che guarda all'Europa ed anche di un'iniziativa che è stata inserita, per volontà unanime, tra le attività istituzionali del Consiglio Regionale della Toscana e che dunque affidiamo anche alle colleghe ed ai colleghi che arriveranno dopo di noi.

Ma tutto questo non si sarebbe potuto realizzare senza lo straordinario impegno e lavoro dei componenti della "Commissione Europa" che ho avuto l'onore di guidare. Una Commissione di cui, in questa XI Legislatura, hanno fatto parte Giovanni Galli (vicepresidente, Lega), Anna Paris (vicepresidente segretaria, PD), Irene Galletti (M5S), Valentina Mercanti (PD), Fausto Merlotti (PD), Massimiliano Pescini (PD), Marco Stella (FI), Andrea Vannucci (PD) e Gabriele Veneri (Fdi).

È tutto loro il merito dei risultati raggiunti, di chi c'era all'inizio e soprattutto di chi continua a fare parte di questa Commissione con una passione ed una competenza davvero uniche. È a loro che va tutta la mia riconoscenza che estendo a tutti gli uffici ed al personale che ci hanno accompagnato in questo percorso.

Mi sia concesso di ringraziare il mio gruppo, il PD, per un supporto che è stato totale e costante ed anche il gruppo di Italia Viva che, seppur non rappresentato in Commissione, non ha mai fatto mancare stimoli e sostegno. Ma è a tutti i gruppi, di maggioranza e di opposizione, che va la mia più profonda gratitudine per un lavoro che, grazie alle commissarie ed ai commissari, stiamo portando avanti insieme, costruendo una modalità di dialogo e di confronto che è un elemento di vanto ed orgoglio.

Un lavoro, quello della Commissione, che proseguirà con iniziative e progetti legati alle Giornate dell'Europa a cui si aggiunge una volontà di approfondimento dei vari temi, contando anche sulla disponibilità della Giunta guidata dal Presidente Eugenio Giani con le assessore e gli assessori che ne fanno parte.

In conclusione mi sia permesso di rivolgere un affettuoso pensiero ai familiari di David Sassoli che, in questi anni, hanno sempre dimostrato grandissima attenzione a questa nostra iniziativa: a loro va un abbraccio fortissimo, unito all'impegno che vale per l'oggi e per il domani e che è quello di tenere sempre vivo il ricordo di un uomo come David che ci ha fatto sentire orgogliosi di essere toscani, italiani ed europei.

Francesco Gazzetti

Presidente Commissione Politiche Europee
e Relazioni Internazionali del Consiglio Regionale della Toscana



Università degli Studi di Firenze
Scuola di Scienze Politiche «Cesare Alfieri»

Corso di Laurea Magistrale in
Relazioni internazionali e Studi europei

The EU's Quest for Democratic Legitimacy
An Analysis of the Conference on the Future of Europe

Candidato: Francesco Boroletto

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Welcome, my son

Welcome to the Machine

What did you dream?

It's alright, we told you what to dream

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List of abbreviations

AI: artificial intelligence

CJEU: Court of Justice of the European Union

CoFoE: Conference on the Future of Europe

ECB: European Central Bank

ECP: European Citizens' Panel

ECSC: European Coal and Steel Community

EEC: European Economic Community

EFSF: European Financial Stability Facility

EMU: Economic and Monetary Union

EP: European Parliament

ESM: European Stability Mechanism

EU: European Union

HR/VP: High Representative of the Union for Foreign Affairs & Security Policy/Vice-President
of the European Commission

MEP: member of the European Parliament

MLG: multi-level governance

NATO: North Atlantic Treaty Organisation

OMT: Outright Monetary Transactions

PR: public relations

QMV: qualified majority voting

RoP: CoFoE's rules of procedure

SEA: Single European Act

SGP: Stability and Growth Pact

TEU: Treaty on European Union

UK: United Kingdom

US: United States

USSR: Union of Soviet Socialist Republics

Introduction

In the following pages, I will investigate the European Union's decade-long quest for democratic legitimacy. Why choose this theme in the first place? Answering this question brings me to recall a rather intense experience I made between October 2021 and May 2022, while I was carrying out my traineeship as a journalist writing for an Italian news website, itself headquartered in the European Parliament's pressroom in Brussels. During those months, I had the opportunity to cover an unprecedented, ad hoc participatory initiative promoted by the bloc's institutional actors to engage directly with citizens and collect the latter's ideas and proposals regarding the political priorities to be addressed by the Union in the short-medium term. This transnational deliberative experiment was called the Conference on the Future of Europe (CoFoE) and saw the active participation of some 800 European citizens working side by side with institutional representatives from virtually all levels of the Union's architecture, i.e. local representatives, member states governments and EU institutions. As a journalist then, I followed most of the Conference workings, documenting them as they unfolded and keeping track of both citizens' and policymakers' reflections. As a student of EU politics, I thought this could constitute an interesting subject matter for my thesis, allowing me to bring together theoretical analysis and empirical observation; and, incidentally, a rather personal one, given my direct participation in the Conference itself.

So what is the theoretical framework within which to place CoFoE? To be sure, this initiative can be considered from many different, if related, conceptual perspectives: Thus, for instance, one could analyse it in relation to deliberative theories of democracy, as well as referencing previous examples of large-scale participatory experiments that took place across Europe and beyond in the past few decades. However, since my academic interests are more explicitly linked to the EU itself, I thought it could be more pertinent to consider the Conference in the context of the Union's never-ending struggle to (re)assert its democratic legitimacy. Indeed, it has been widely documented how, especially since the entry into force of the Maastricht Treaty

thirty years ago, the bloc has been stained by a democratic deficit that severely hampered its aspirations to become a full-fledged transnational democracy. Following this kind of accounts then, it is straightforward to understand the Conference as the latest attempt on the part of the EU to enhance its democratic credentials, in the belief that involving citizens in a participatory conversation would strengthen the Union's own legitimacy. This, at least, will be the basic line of my argument.

Now, the issue of democratic legitimacy is extremely complex, being one of the most fundamental notions in the whole conceptual history of political thought. Therefore, it appears necessary, in order to investigate it, to circumscribe the perimeter of my analysis. To this end, I selected a specific theoretical framework and applied it to understand the EU's current legitimacy dilemmas, as aggravated by the successive crises occurred in the past few years: Namely, the systems-theoretic model as developed by Fritz W. Scharpf (who himself built on the classic formulation by David Easton) and later updated by Vivien A. Schmidt. In particular, while Scharpf famously established the distinction between input- and output-oriented legitimacy arguments, Schmidt introduced a third element, throughput legitimacy, which relates to the procedural quality of the processes transforming the political inputs into policy outputs. When more thoroughly examining the Conference, I will thus make use of the criteria proposed by Schmidt herself to assess the procedural legitimacy of one out of four European Citizens' Panels, which I elected as my case study.

In order to provide a certain degree of internal coherence to my reflection, I structured it as follows. The first chapter will serve as a general introduction to the concept of democratic legitimacy, recalling its historical development as an artefact from Western political modernity, forged through epochal revolutionary ruptures. Additionally, it will provide a sort of conceptual map to navigate through the theoretical maze that is the academic literature on legitimacy. In the second chapter, I will explicitly detail the analytical framework that will constitute the conceptual bedrock of my thesis, that is, the systems-theoretic model for democratic legitimacy: I will first briefly consider the classic contribution by Easton, and subsequently examine both Scharpf's theorisation and Schmidt's notion of throughput, giving as comprehensive as possible an illustration of its various dimensions. The object of the third chapter will be the EU's legitimacy predicament, that is, the rather bleak state in which the bloc's democratic legitimacy finds itself today. By referencing the so-called 'normative turn' in EU studies, I will address the question of the Union's democratic deficit(s) and the very peculiar dilemmatic constellation produced by the bloc's multilevel architecture. Subsequently, I will go through Europe's 'age of crises', pointing to the successive shocks that have been squeezing the continent since the outbreak of

the global financial crisis in 2008, and will reflect upon the consequences of the European version of ‘emergency politics’ to see how it impacted on the EU’s already weak legitimacy. The fourth chapter will be devoted to investigating the bloc’s tentative (and arguably insufficient) response to the palpable loss of legitimacy, through the launch of a public debate on the ‘future of Europe’, one that calls into question the very teleology of the integration project but had very limited concrete results (if any). I will point to some of the most problematic aspects of the EU’s original Monnet method, that is, the so-called ‘primacy of process’, and show how it translated into de-politicising strategies that have largely backfired as early as the mid-2000s. As hinted above, I will place CoFoE in this context and will proceed to describe its rationale and grand design, while also reflecting upon some selected issues that emerged during its workings. In the fifth chapter, I will introduce and discuss my case study, that is, an assessment of the Maastricht panel. After having detailed to a greater extent the role and activities of the Conference panels, I will present the results collected through an online questionnaire of my compilation, and eventually analyse them. Finally, I will wrap up my discussion in the conclusions.

1. Democratic legitimacy in political theory

Political theory is full of notions and concepts around which unanimous agreement is close to impossible. As a matter of fact, these notions and concepts are in most cases as fundamental as they are controversial: Indeed, most probably, they are controversial *in that* they are fundamental. ‘Democracy’, for example, is one such notion. It represents one of the most central bed-rocks of modern political theory, and yet (or, rather, as such) it is hardly one around which ultimate conceptual agreement is easily found. ‘Legitimacy’ is in its own right another such notion. It is so vast that, where not further specified by an accompanying adjective (e.g. democratic legitimacy, procedural legitimacy, electoral legitimacy and so forth), its conceptual usefulness to describe an object (its *heuristic usability*) is severely, perhaps even irremediably compromised. Gráinne de Búrca’s (1996: 349) remark, that it constitutes ‘a difficult and ambiguous [concept] which eludes easy definition’, can be safely considered an understatement.

It is then in order to clarify the boundaries of my investigation at its very onset. My interest here is with democratic legitimacy in the European Union. To deploy it to this specific context, however, I shall first provide an elucidation of what is to be meant by democratic legitimacy *qua* object of conceptual inquiry. In other words, I shall put the notion at hand into theoretical perspective. This will be done, in this chapter, through a two-fold line of analysis: On the one hand, I shall review the key junctures in the history of political legitimacy that ultimately yielded the modern concept of democratic legitimacy, which is so evidently linked to the notion of popular sovereignty. This will be the content of section (1.1). On the other hand, in section (1.2) I shall attempt at gauging the degree of ‘essential contestedness’ of the concept of political legitimacy. To this purpose, I will dwell on some influential theoretical accounts that have been put forward to understand legitimacy, qualifying it as one of the most fundamental questions of the political domain in general and of democratic regimes in particular.

One final note. It seems plain to me that the dizzying variety of definitions, typologies and categorisations of our object of study is largely ascribable to the fact that, time after time, thinkers, philosophers and intellectuals were not only (most definitely) coming up with different answers but also (and most crucially) asking different questions. The contingent nature of the problems at their hands, whether practical or theoretical, deeply influenced the perspective from which legitimacy was explored at any given time and place. This, I believe, is one unavoidable consideration upon which the analysis that will unravel in the following pages is necessarily to be premised. If we do not depart from here, our capability to make sense of such an extensive assortment of variegated points of view, each defending a specific understanding of the very same term, risks ending up severely curtailed.

At any rate, the aim of this first chapter is merely expositive: Here I will only collect a selection of what I find to be the most interesting and/or compelling elaborations of political (and, markedly, democratic) legitimacy. In no way is such a selection to be intended as exhaustive of all the approaches identifiable throughout a literature that is exterminated to say the least. Ultimately, I shall not take any 'sides' here, in terms of selecting one specific theoretical framework for my thesis, as this operation will be undertaken in the second chapter.

1.1 Understanding democratic legitimacy

Normally, any analysis should start with at least some tentative definition of the very object it sets out to investigate. In our case, this means putting forward a necessarily loose, preliminary description of the notion of political legitimacy. However, as will become evident throughout the present chapter, even providing a minimal definition is anything but easy, and any such definition would be far from uncontroversial anyway. We could say, at a very general level, that political legitimacy is a *normative property* that pertains to the justification of political power's very validity, or rightfulness, in a given regime. To be fair, political legitimacy can indeed be a quality, or property, of virtually any political object: a regime, of course, but also an institution, a deliberative process, a decision, law or policy, and so forth. As a matter of fact, scholars have been debating extensively whether such a conceptualisation of legitimacy is appropriate, making for the essential contestedness of the notion.

Before ascending to the heights of theoretical lucubration, therefore, I think it is more suitable to first inspect the notion at hand through the prism of its historical development. It is not my intention to embark here on a genealogical exploration of said notion, nor to accurately trace

each and every contribution that has been put forward in roughly twenty-four centuries of theoretical speculation over the question of legitimate political power in its many forms. Rather, I shall succinctly recall the ‘evolution’, if we will, of its democratic variant. One effective way to grasp such evolution is, I suggest, to consider the relevant junctures in Western political philosophy that can be framed as full-blown, epochal ruptures in the very understanding of political legitimacy. Let us call them legitimacy’s Copernican revolutions: I shall go through them in paragraphs (1.1.a) and (1.1.b). They coincided with the adoption of the theological standard of legitimacy for political authority (rule by divine right) and with the embrace of the principle of popular sovereignty respectively.

According to the expositive strategy I follow here, scrutinising them will be instrumental to more fully apprehending the peculiarities of democratic legitimacy, inextricably tied to the modern principle of popular sovereignty. Political modernity was most definitely shaped above all by the revolutions that occurred in Britain, France, and the fledgling United States. Yet again, there is little use in examining them in greater detail, given the nature of my analysis. We are interested in these historical developments because of what lay at the core of the ‘political program’ of modernity, which will be the object of paragraph (1.1.c): The fundamental, and seemingly irreconcilable, tension between the liberal and republican traditions of democratic political thought, which also imbues the conceptualisation of democratic legitimacy itself. Let us proceed with order.

1.1.a The first Copernican revolution

The first revolution in the interpretation of political legitimacy coincides, at a historical level, with the epochal juncture that marked the passage from antiquity to the Middle Ages. In that transition, Europe witnessed both the crisis and eventual demise of the Roman Empire and the steadfast expansion of Christianity. Until then, there had been fairly little formalisation of legitimacy discourses into full-fledged theories: That is to say, there was no explicit reflection on the conditions for, and the attributes of, legitimate political power. The two major political *œuvres* of the Greek tradition, Plato’s *Republic* and Aristotle’s *Politics*, for instance, never directly engage the abstract notion of ‘legitimacy’.¹ Still, if one considers the implicit problem both philosophers set out to address, it becomes clear that they were striving to answer the fundamental

¹ Some commentators, however, beg to dissent. Benjamin M. Studebaker (2022), for one, submits that albeit Plato never codified a full-fledged theory of legitimacy, he did in fact implicitly elaborate one, if under-formalised. The Athenian-born philosopher, on this account, resorted to the twin concepts of justice and moderation,

question of ‘who should rule’ (Zelditch, 2001): According to Plato, the ‘best’ should rule, whereas Aristotle endorsed a republican constitutional settlement combining features from both aristocracy and democracy. For him, ‘the many’ should rule with a view to pursuing the ‘common advantage’. On both accounts, however, the answer to the question was to be found in the *virtues of the rulers*, be they the *aristoi* or the *demos*.

But this situation was not meant to last: As recalled by Karl Popper in a 1988 op-ed in *The Economist*, Constantine the Great can be regarded as the initiator of a radically new phase in the legitimization of political authority (The Economist, 2016). Although the Austrian-born intellectual is admittedly wary of what he dubs the ‘vicious’ principle of legitimacy, he is right in pointing at this particular event as the trigger of a major tectonic movement in Western political history. Indeed, at that time the need for a ‘more authoritative’ legitimization of imperial political power was becoming urgent: Therefore, the rapidly spreading Christian monotheism provided the emperor with quite an effective solution: from then on, ‘the ruler ruled *by the Grace of God*’ (*ivi*, emphasis added).

To characterise this juncture as a veritable Copernican revolution, I believe, is hardly to overestimate things. On the contrary, failing to do so would mean overlooking the dramatic implications that a similar paradigm shift would produce in pre-modern political thought and practice. Political power (*imperium*) on earth was thus no longer to be legitimated by an earthly, immanent source (the virtue of the ruler) but by an unearthly, transcendent one. Throughout the Middle Ages and well beyond them in early modernity, then, the legitimization principle of political authority became that of *divine right*: God was the ultimate ruler and ruled on earth through the mortal body of His legitimate human representative(s).

Deriving the right to rule from a divine source meant, concretely, that the former could only be adequately transmitted by *hereditary succession*: Consequently, the progressive development of canonic law had the corollary of intertwining the questions of political and dynastic legitimacy, associating both notions to the same semantic area of marriage, birth and lineage. As observed by Pedro Magalhães (2020: 6), who engages in a philological reconstruction of the political scope of the term ‘legitimacy’, it retained throughout the medieval and early modern age ‘[its] primary link to the sphere of family law, and political consequences were, in a way, merely superimposed upon the latter’. In Christian Europe, then, the offspring-related concept of (il)legitimacy acquired ‘a tremendous political significance’ when applied to kings’ and

or harmony, as ‘external’ (normative) and ‘internal’ (psycho-sociological) criteria, respectively, to defend the legitimacy of Kallipolis, the ideal city where the ‘guardians’ rule.

queens' heirs, and was resorted to in order to settle (often bloody) disputes over succession to royal entitlements.²

1.1.b The second Copernican revolution

It was precisely this understanding of hereditary divine right that was to be substantially challenged in the second Copernican revolution, sparked by those epochal events that ushered into what I shall call *political modernity*. Again following Popper, I shall identify the fratricidal struggles collectively known as the English Revolution as the moment when a new paradigm of legitimation for political power overtly came to the fore. The first, radical phase of 1648-49 climaxed in an unprecedented act in Western history: the trial of a sitting king by a court of law and his subsequent public beheading (a fate that was later to haunt Louis XVI of France as well). According to the emphatic utterance commonly attributed to the soon-to-become Lord Protector, Oliver Cromwell, the British revolutionaries symbolically undertook to 'cut off his head with the crown on it': They did not merely kill the king, but dealt a mortal blow to the *legitimation principle* that the monarchy, in the person of Charles I, embodied. As Michael Walzer (1973: 622) keenly puts it, 'divine right itself was killed at Whitehall and the Place de la Revolution'.

It was not, as is well-known, an outright rejection of monarchical rule *per se*: To be sure, in the wake of this traumatic episode kingship was abolished and the republican Commonwealth established. Eventually however, following the degeneration of the Cromwellian dictatorship, the monarchy was restored, together with its 'protestant legitimacy' (The Economist, 2016), incidentally by the very Parliament against whose forces the 'royalists' had been fighting. Popper is right in underlining the religious dimension of the Crown's legitimation: Indeed, the so-called 'Glorious' Revolution was sparked not only by the attempt of James II to rule by decree (thereby side-lining the assembly), but also – perhaps especially – by the threat his Catholicism was perceived as posing to Anglicanism and the whole British society. At any rate, the Bill of Rights of 1689 unambiguously asserted the primacy of Parliament, thereby enshrining the principle of *popular sovereignty* in British constitutionalism. It substantially entailed, in this early formula-

² It is generally assumed that the distinction between 'legitimate' and 'illegitimate' sons, and the consequent exclusion of bastardy from inheritance and royal titles, stretches back to the eleventh century and that the original motives for such a development are to be ascribed to the Church and its canonic law, imbued with the 'horror' for extramarital intercourse as well as a secular 'greed' for political power. However, there is no definitive agreement in scholarship. For a critical perspective, see McDougall (2017).

tion, that the monarch was no longer afforded political authority by the 'Grace of God' (*via* hereditary lineage) alone. Now, legitimately to rule, the Crown would have to heed the determinations of the assembly, representing the people of England.

In more abstract terms, this development signalled a disruptive mismatch between what Joseph Weiler (1992: 19-20) terms 'formal' and 'social legitimacy', i.e. a regime's official 'legality' and its broader societal acceptance. In the English and, even more dramatically, French revolutions, societal support towards the formally legitimate monarch was effectively withdrawn while appeals were made to a new standard of social legitimacy for authority – namely, *popular sovereignty*. One hundred years before the storming of the Bastille and the framing of the US Constitution, political modernity was thus endowed with its very own *legitimation story*: This implied a switch from a vertical to a horizontal vector of legitimacy, by which sovereignty and the related normative authority were transferred from the ruler(s) to the ruled (Laborde, 2004: 52). According to Jan Pieter Beetz and Enzo Rossi (2017: 27-28), the logic of popular sovereignty entails that the people be the source of all political authority: A 'bond of collectivity' is thereby forged, which effectively creates the people 'out of a diverse multitude', setting the standards for legitimate democratic rule, i.e. collective self-government.³

To be sure, the interpretation of popular sovereignty defended by the British parliament differed sensibly from that given by revolutionaries toppling the *Ancien régime* across the Channel, or the one envisioned by the Founding Fathers gathering in Philadelphia. Each of these events shaped political modernity through its very own peculiar contribution, the implications and corollaries of which varied widely (including, *inter alia*, very different solutions of institutional engineering for transposing popular sovereignty into reality).⁴ Be that as it may, notwith-

³ The authors submit that the success of popular sovereignty as a legitimation principle depended on the fact that it is an 'attractive political value': On the one hand, it provides a valid justification for rule even in socially heterogeneous polities; on the other, it constitutes a solid normative basis for the exercise of coercive power. Furthermore, popular sovereignty 'made sense' to citizens that were grappling with 'modernity's disenchanted cosmology' (*ivi*, 28-29).

⁴ Consider, for instance, representative government. Its importance for the American 'patriots' is impossible to overlook (consider the formula 'no taxation without representation'), as had previously been the case for 'parliamentarians' in Britain. The French experience, on the other hand, tells us an entirely different story. One of Europe's oldest nation-states, France had burgeoned under absolutist monarchical rule. Its feudal structure, the *Ancien régime*, had long known corporatist representation through *les états généraux*. It then comes as no surprise to read passages like the following: 'Sovereignty [...] cannot be represented; it lies essentially in the general will, and will does not admit of representation: it is either the same, or other [...]. The deputies of the people, therefore, are not and cannot be its representatives: they are merely its stewards, and can carry through no definitive acts' (Rousseau, 1973 [1762]: III, 15). The principle of representation was eventually incorporated

standing their peculiarities, the ‘Great Revolutions’ of the Enlightenment era represented a watershed moment in the history of Western political thought, after which things could never be the same – and one which would also open the door to countless new conceptual problems. Among the rest, the principle of popular sovereignty implied the problem of identifying (i.e. delimiting) the *demos*, the new holder and source of the *krátos*: So much that, according to Ernesto Laclau (2005), the social construction of ‘the people’ represents the political act *par excellence*.⁵

From Magalhães’ (2020: 6) linguistic-analytical perspective, then, ‘the language of political legitimacy is thus a distinctly modern artefact’, born out of the ‘bitter ideological struggle’ between the champions of the Revolution and the reactionary *intelligentsia*.⁶ Attesting to the ‘striking parallelism’ between the antagonistic principles of popular and divine sovereignty, some other scholar ventured as far as suggesting that, upon closer inspection, everything the revolutionaries did was merely to *displace the source* of legitimate political authority, while leaving substantially unaltered the latter’s basic characteristics (e.g. its indivisible, absolute and inalienable nature). On such accounts, the cultural and philosophical legacy of 1789 amounted then to little more than a ‘secularised theology’ (e.g. Jouvenel, 1972; Riley, 1988).⁷

by the *Assemblée nationale constituante* in both the 1789 *Déclaration des droits de l’homme et du citoyen* and the short-lived 1791 Constitution.

⁵ As a matter of fact, the *demos* has been understood in many different ways. Yves Mény and Yves Surel (2000) suggest that it can be intended politically (the sovereign), economically (the class) or ethnically (the Nation). On top of this, additional linguistic nuances can be distinguished: The *people* is the aggregate of citizens, a mere arithmetical fact not implying any predetermined common will but, rather, encompassing different, even conflicting interests (weighed equally in the ballot box). *Peuple* refers to citizens voluntarily founding the political community by means of a contract. Here, the polity transcends the *citoyens* (but it is the latter who forge the former) and encapsulates the *volonté générale*. Finally, the *Volk* is no longer an association but an exclusionary organic entity which is prior to the individuals: Citizens only exist as members of the ethnic group (which transcends them completely) and inherit therefrom exclusive and reciprocal bonds of blood.

⁶ Magalhães (2020: 6-8) shows how *légitimité* as a markedly political word was ironically introduced by French reactionary thinkers in opposition to the revolutionary idea of popular sovereignty. These intellectuals defended the nexus between dynastic and political legitimacy: It was the former to ground the latter *via* divine sanction (the ‘seal of legitimacy’), whereas any inversion of this chain constituted a moral and ethical aberration.

⁷ A related, yet not perfectly overlapping controversy also emerged within the so-called German ‘secularisation debate’. Karl Löwith (1949) maintains that the modern philosophy of history (with its celebration of progress) was not really secular but had its presuppositions in medieval theology: It merely ‘robbed’ Christian-Judaic eschatology of its substantive content, while disavowing its transcendental character. Hans Blumenberg (1966), by contrast, defends the ‘legitimacy’ of modernity and its central concern for progress. For him, mankind needs periodically to ‘reoccupy’ the space created by answers to fundamental questions. Modernity therefore strove to fill in the vacuum left by the crumbling of previous (and increasingly unsatisfactory) cosmologies; yet, even these new answers are only tentative, open-ended, non-definitive.

Still, as intriguing as such allegations may be, they need not obscure the central fact that the legitimization principle, i.e. the *normative justification* legitimately to wield political power, had now changed irrevocably, violently uprooting its heavenly antecedent. Whether the new principle was generated *ex nihilo*, or merely consisted of a re-adaptation of the old one, is of marginal importance for our aims. In fact, it could even be argued that popular sovereignty is political modernity's only plausible legitimization story.⁸ From this perspective, accessing political modernity (a gradual yet irreversible development also crucially marked by the 1648 Westphalia treaties sanctioning state sovereignty) implied the dethronement of God and the parallel enthronement of 'the people' as the ultimate source of legitimate authority. Or, following Claude Lefort (1986), it could be more properly argued that, for democratic legitimacy to remain intact, the throne must remain vacant. According to the French philosopher, monarchical legitimacy symbolically located legitimate power in the physical body of the monarch. By contrast, in democratic regimes

the image of popular sovereignty is linked to the image of an empty place, *impossible to occupy*, such that those who exercise public authority can never claim to appropriate it. Democracy combines these two apparently contradictory principles: on the one hand, power emanates from the people; on the other, it is *the power of nobody*. And democracy thrives on this contradiction. (*ivi*, 279, emphases added)

On a final note, we should furthermore consider that, as remarked by Vivien A. Schmidt (2020a: 26), it is democratic government that must be premised upon the legitimacy principle of popular sovereignty, whereas the contrary is not necessarily true: 'Legitimacy may exist without democracy, but democracy cannot exist without legitimacy, since it is by definition based on citizen consent'.

1.1.c Modernity's political program

Let us now consider one last element before proceeding to analyse more formalised theoretical elaborations: Namely, what I called political modernity, and which Shmuel N. Eisenstadt (1988: 212-18) refers to as the '*political program of modernity*'. The Israeli sociologist suggests that the unfolding of Western modernity was structured along a number of antinomies between

⁸ As a matter of fact, even the most anti-democratic regimes of the twentieth century (i.e. totalitarianisms) purported to exercise legitimate political power by claiming to rule in the name of the people.

different conceptions about the key dynamics that elicited the very transition into it. The program of modernity, as the author convincingly illustrates, had both a cultural and a political dimension: Culturally, it strived to bridge the gap between pre-modern ‘metanarratives’ and the modern cosmology which had ousted God from the centre of the universe. Politically, modernity essentially revolved around the ‘crystallization’ of the principle of popular sovereignty (sedimented through painstaking processes of nation-building), eventually giving rise to the redemptive belief whereby political action could ultimately bring about the ideal social order and realise ‘utopian, eschatological visions’.

Now, among the tensions at the core of modernity’s political program is the one between alternative ‘*modes of legitimation*’ of the democratic political order: A ‘procedural’ notion, institutionalized through the rules of the constitutional game, *versus* more substantive, ‘primordial’ bases of legitimation (*ivi*, 216). For Eisenstadt, this dialectic lies at the origin of the ‘great dividing line’ within the modern political discourse separating ‘pluralistic’ from ‘Jacobin’ conceptions of politics, society and the state – a formulation similar to Michael Oakeshott’s (1996) distinction between the ‘politics of scepticism’ and ‘politics of faith’. This pattern, in turn, echoes the all too familiar dichotomy between the two so-called *pillars of democracy*: the procedural/constitutional/pluralist and the substantial/participatory/populist one, or, in the terminology of Margaret Canovan (1999), its ‘pragmatic’ and ‘redemptive face’. For Jürgen Habermas (1994: 2-6), the two faces of Janus-like democratic theory are remnants of traditional metaphysical legitimations (both religious and secular), whose ‘residue left behind’ morphed into the normative categories of autonomy and self-realisation through the ‘filtering’ of post-traditional *moral and ethical discourses* of reflection and justification. The reference, in other words, is to the vestigial traces of Eisenstadt’s pre-modern metanarratives.⁹

In this vein, Fritz W. Scharpf (2012: 3-13) zeroes in on the two philosophical traditions that most prominently feature in the *legitimacy discourses* of democratic theory: republicanism and liberalism. The former is rooted in Aristotle’s political legacy (materialised in the Roman Republic and the *comuni* of the Italian *Rinascimento*) and conceives the political community as prior to the individual, itself seen as a *zoon politikon*: Thus the emphasis on good government and virtuous rulers, as the *common welfare* of the polity assumes an overriding importance. Lib-

⁹ The very assumption that liberalism and republicanism are consubstantial to democracy is far from undisputed, however. According to Chantal Mouffe (2000), for instance, these political-philosophic traditions are not necessarily related to each other: Rather, the modern ‘democratic paradox’ is the (historically contingent) articulation of two otherwise independent ideological positions.

eralism, on the other hand, postulates what Norberto Bobbio (1995: 126) calls the ‘the axiological primacy of the individual’ over society: As a consequence, the rule of law (*Rechtsstaat*) and institutional arrangements (e.g. ‘checks-and-balances’ and separation of powers) are of utmost importance, as they are designed to protect *universal human rights* and civil liberties from the arbitrariness of governmental power.¹⁰ Society, in this view, is conceived as posterior to the individual, which is seen primarily as a *homo economicus*: Accordingly, the political domain itself is interpreted through an analogy with the market, and interests pluralism is defended as the fundamental characteristic of an open society. Both traditions are indebted to a very long list of intellectual contributions, which is of little use enumerating here.

Let it be noted, however, that both schools of thought have their own degenerations, themselves defended by eminent authors. Thus, if taken to its most uncompromising consequences, the republican view can bend into radical egalitarianism: Highly sceptical of any mediation of the popular will, it demands that the *krátos* be in the hands of the *demos* undivided. Like Jean-Jacques Rousseau (for whom the *volonté générale* is by definition superior to the *volonté de tous*), it sees factional interests as threatening the common good. Similar orientations may also result in the plebiscitarian/totalitarian democracy considered by Carl Schmitt (1985 [1923]). Radical liberalism, on the other hand, exacerbating the ‘economicist’ approach of Joseph Schumpeter (1942), is upheld by libertarians and market fundamentalists advocating to ‘roll back’ the state to its minimal functions, as professed e.g. by Margaret Thatcher (1988). But the classic dichotomy described above is not universally accepted in the literature. On their part, Koen Abts and Stefan Rummens (2007) propose an alternative three-strand model: Constitutional democracy, which realises ‘diversity-in-unity’, represents thus a precarious balance between the two opposite (and equally illusory) degenerations of ‘unity-in-itself’ (the centripetal populist move to suppress pluralism) and ‘diversity-in-itself’ (the centrifugal exasperation of liberalism, resulting in social fragmentation and hyper-atomisation).

¹⁰ Every mentioned element has a thick cultural background. Take the rule of law: In essence, it posits that a polity is best governed by laws than it is by men. However, as insightfully noted by Bobbio (1995: 175 ff.), this can mean different things. Governing *sub lege*, ‘under the law’ in the sense of abiding by its precepts, is not the same as governing *per leges*, ‘through laws’ in the sense of emanating general and abstract laws. Thus, whereas the former effectively constrains absolutist power (which is *legibus solutus*, i.e. unfettered by legal obligations), the latter dimension is functional to attain other objectives. General and abstract norms (as opposed to case-specific commands or decrees), in fact, maximise at once equality (preventing privilege and discrimination), security (allowing predictability of everyone’s conduct), and liberty (both in positive and negative terms).

1.2 The theoretical conundrum

After having inspected, in general terms, the complex story behind the origins of democratic legitimacy, we are now equipped for a more conceptual investigation. Again, this cannot be, nor is intended to be an exhaustive analysis; my only aim here is to shed some light on the veritable conundrum that is the theoretical discussion about political legitimacy. In a formulation that wittily attests to the inherent difficulties of capturing its ‘essence’, our object of study has been depicted as ‘the political scientist’s equivalent of the economist’s invisible hand’ (Bekkers and Edwards, 2007: 37). It seems logical to me to start by distinguishing between the two main branches, or camps, among which political theory is conventionally split: Political science and political philosophy. On the one hand, political scientists have traditionally adopted an explicitly descriptive perspective. The *social-scientific approach*, which I will analyse in paragraph (1.2.a), is eminently preoccupied with uncovering the concrete dynamics underlying ‘real-world’ political regimes, often relying on empirical research to assess the extent or degree of their (il)legitimacy, as subjectively evaluated. On the other hand, political philosophers are interested in *normative assessments*, often resorting to purportedly objective criteria or ideals, external to the political regime under investigation (or even the political domain itself). The normative school will be dealt with in paragraph (1.2.b). Lastly, a third approach has emerged more recently, challenging the traditional contraposition between ‘facts’ and ‘values’: *Political realism*, in a nutshell, undertakes to bridge such gap, aiming at reconstituting an integral conception of political theory as a discipline that takes into consideration both empirical reality and normativity. I will discuss it in paragraph (1.2.c).

In highlighting the main tenets of said perspectives, I will reference some key contributions that shaped them. To be sure, the following discussion will not exhaust the bewildering variety of approaches, but it will suffice for the aims of my analysis. What matters noting here is that each of these schools of thought defends a rather specific *epistemic methodology* for the study of political legitimacy, which makes for the ‘essential contestedness’ of the latter *qua* object of conceptual inquiry. At any rate, distinguishing between them hardly keeps us off the hook for long: For, within each school, a startling variety of perspectives has been stacking up in a virtually infinite number of diverse accounts, focusing on different aspects of legitimacy – such as its dimensions, preconditions, implications, dynamics and so forth. As I noted at the beginning of the chapter, however, one must be reminded that for the most part all these categories, typologies and definitions are not easily overlapping or comparable, lest stretching notions and concepts to

the point that they lose their heuristic originality. Let us bear in mind, then, that there are potentially endless ways to construct a taxonomy of political legitimacy, since there are countless ways to separate the various aspects of this polysemic object, which in turn depends on the particular theoretical viewpoint one adopts. Any effort at generalisation, thus, is inevitably bound to (over)simplification.

1.2.a The descriptive school

Let us begin with the descriptive camp, in which most political scientists are normally schooled. Max Weber, one of the noble fathers of sociology and modern social-scientific analysis, is commonly regarded as the initiator of this approach. Following in his footsteps, generations of social researchers (not necessarily empirically oriented) have understood political legitimacy in *sociological terms*, i.e. in relation to the ‘beliefs’ held by the relevant social actors about the rightfulness of a given system of authority. In a fairly approximative formulation, then, interpretive sociology focuses on understanding social actions in terms of the subjective meaning that actors ascribe to them (Weber, 1978 [1922]: 4). Therefore, Weber’s ‘sociology of domination’ (*Herrschaftssoziologie*) beholds the ‘belief in legitimacy’ (*Legitimitätsglaube*) to be the decisive indicator: Rule is only legitimate insofar as its subordinates *believe it to be so*, whether consciously or not. If this is the case, then the orders issued by the ruler(s) will be considered binding by the subordinates, who will voluntarily comply with them (*ivi*, 31 ff.). In Weber’s (*ivi*, 946) own words:

the manifested will (*command*) of the *ruler* or rulers is meant to influence the conduct of one or more others (*the ruled*) and actually does influence it in such a way that their conduct to a socially relevant degree occurs as if the ruled had made the content of the command the maxim of their conduct for its very own sake. Looked upon from the other end, this situation will be called *obedience*. (emphases in the original)

This formulation bears two important and interwoven implications. First, it depicts legitimacy as a *relational concept*, coherently with the premises of interpretive sociology. In this vein, political scientists have consistently treated it not so much as an objective quality of a given regime (something which inheres, as it were, to its very essence), but rather as a matter of the *subjective evaluation* of some given social actors (e.g. Scharpf, 2012: 2; Tallberg and Zürn, 2019: 586). However, as straightforward as interpreting both political authority and its legitimacy as relational in nature may be, the relevant actors considered by social-scientific analysis (at least

in the traditional context of national states) have most often been the subordinates, i.e. those on the weaker end of the very power asymmetry that structures political regimes. Thus, for instance, Juan Linz (1988: 65) proposes a 'minimalist' definition: For him, legitimacy is 'the belief that in spite of shortcomings and failures, the political institutions are better than any other that might be established, and therefore can demand obedience'.

The consideration that the political regime will be regarded as legitimate 'in spite of' its failures takes us to the second implication. That is, the belief in legitimacy functions as a *stabilising device*: Something which a system of domination will seek to 'establish and cultivate' in order to secure a 'sufficiently reliable basis' for its stability (Weber, 1978 [1922]: 212-13). The Weberian lesson is almost slavishly followed, to cite but one classic example, by Seymour Martin Lipset (1959: 86), according to whom legitimacy 'involves the capacity of a political system to engender and maintain the belief that existing political institutions are the most appropriate or proper ones for the society'. In his seminal analysis, Lipset twins legitimacy with effectiveness (the 'actual performance' of the system), the pair jointly providing for the regime's overall stability. It is indeed beyond dispute that legitimacy is more steadily conducive to compliance on the part of the subordinate than other reasons for obedience like mere expediency, personal advantage, fear of sanctions, affective bonds, custom and so forth. On this account, legitimacy allows the system to weather even severe (short-term) performance failures without collapsing.¹¹

On top of this, Weber (1978 [1922]: 215 ff.) also famously puts forward a three-fold account of 'pure types' (*Idealtypen*) of legitimate domination, based on the grounds upon which their claim to legitimacy is laid, i.e. of different *legitimacy sources*: While (a) traditional authority is legitimised by long-standing custom, (b) charismatic authority is based on the leader's personal qualities, and (c) legal-rational authority resides in the office itself, rather than the office-holder. The German academic maintains that the most common version of legitimate rule in the modern age is the third, whereby 'obedience is owed to the legally established impersonal order', and extends to the authorities (including the ever-expanding statal bureaucracies) 'by virtue of the legality of their commands'. This element is clearly echoed, for the sake of example, in Weiler's (1992) category of formal legitimacy discussed above.

¹¹ The logical implication is that prolonged performance failures will eventually erode legitimacy: 'Unsolved structural problems [...] undermine the efficacy and, in the long run, the legitimacy of the regime' (Linz, 1978: 54). This can occur notwithstanding a regime's democratic credentials, the ill-fated Weimar Republic being a case in point: Its inability to govern (to alleviate people's dire plight and to guarantee a minimum degree of political stability) ended up irreparably weakening an already fragile democratic sentiment. As a matter of fact, if a government is incapable of efficiently solving collective problems, its ability to demand voluntary compliance (i.e. its legitimacy) shrinks proportionally (Risse and Kleine, 2007: 74).

What markedly distinguishes Weber's account, at any rate, is that by focusing on inductive social-scientific observation (rather than deductive theoretical lucubration) he purposefully circumvents the 'troubled, normatively loaded waters of political philosophy' (Magalhães, 2020: 21). Needless to say, a similar conception of legitimacy is therefore readily operationalisable, which makes it particularly palatable for field researchers. This 'anti-normative bias', as it has been called (Peters, 1999: 13), was explicitly professed by heralds of the so-called behavioural turn that revolutionised political and social sciences in the 1950s, aiming at founding a new, *value-free analytical science* focusing on causation.

Admittedly, however, Weberian legitimacy also yields significant theoretical implications. Several scholars have striven to defend it (and the descriptive-analytical paradigm in general) from the manifold critiques levelled against it from different angles. Magalhães (2020: 23-25) lists three main lines of criticism towards Weber's model. For one, a *moral critique* comes from normatively-oriented political philosophers: According to them, evaluating the legitimacy of a given regime not relying on (purportedly objective) external conceptual benchmarks ends up distorting the very notion at hand. A second strand of objections is the *politico-legal critique*, whose advocates lament the dilution of distinctively political and legal concepts into sociological, actor-centred logic. Lastly, the Weberian model has been challenged on *methodological grounds* as it ultimately leads to a conceptual conflation between the stability of a given power relationship and its (subjectively perceived) validity.

Here I shall only recall two contributions that illuminate different grounds on which the validity of a Weberian account of legitimacy has been vindicated. Rodney Barker (1990: 26-27), for instance, alleges that normatively-oriented 'reductionists' generally misconceive the task of descriptive analysis: They have other purposes in distinct 'speculations', and effectively wish away the goal of social-scientific investigation – namely, assessing the degree and articulacy of legitimacy without burdening it with expectations of adherence to abstract notions that are external to the political context at hand. He concedes that legitimacy is inherently political (as opposed to sociological) a notion, yet upholds the central role played by belief within a relational model involving the government (claiming its right to rule) and the subordinate (validating said claim through voluntary obedience). On her part, Amanda R. Greene (2017) tries to show that Weberian legitimacy possesses in fact a 'moral significance' and can be intended as a 'normative standard' devoid of any substantial, if implicit, reference to contingent (read 'Western') ideal standards for justification of political power. An evaluative approach should thus allow us to

consider ‘stable civic alignment’ (i.e. regime stability) as ‘an instance of dependent non-instrumental value, because its value cannot be reduced to other values, but it nevertheless may be conditional on them’ (ivi, 320).

1.2.b Normative conceptions: A taxonomy

It should come as no surprise that among the staunchest opponents of Weberian accounts are normative scholars. Political philosophers, in fact, consistently demand that at least some reference be made to *substantial, objective principles* when formulating a model of political legitimacy. Theirs, if we will, is a value- or principle-first approach, characterising legitimacy as ‘the normative justification for political authority’ (Thomassen and van Ham, 2017: 6). In the words of Robert Grafstein (1981: 456), legitimacy ‘should properly signify a normative evaluation of a political regime: the correctness of its procedures, the justification for its decisions, and the fairness with which it treats its subjects’. Accordingly, a notion like *Legitimitätsglaube* is deplorable as it distorts the very essence of the object at hand – either by casting the latter down the obscure abyss of relativism or by transforming it into a Machiavellian mask cloaking power’s ‘real motives’.

Moreover, from a logical standpoint, collapsing legitimacy into a belief thereof is a recursive procedure which fails to provide a way out of the conceptual *impasse*. John Schlaar (1969: 284) rejects Weberian definitions as they ‘dissolve legitimacy into belief or opinion’. According to Hanna Pitkin (1972: 283), ‘Weber in effect made it incomprehensible that anyone might judge legitimacy and illegitimacy according to rational, objective standards’. Habermas (1988 [1973]: 97-102), on his part, notes how Weber’s pure type of legality (intended as procedural correctness) cannot be sufficient *per se* as an ‘indication of legitimacy’: For while adherence to rules can legitimate specific decisions, the very system of authority stands in need of a more substantial justification, only provided by ‘*unconstrained normative validity*’. Lastly, Grafstein’s (1981: 456) charge is that, in Weber’s hands, ‘legitimacy no longer represents an evaluation of a regime; indeed, it no longer refers directly to the regime itself. Rather, it is defined as the belief of citizens that the regime is, to speak in circles, legitimate. Legitimacy becomes, for Weber, *simply a matter of fact*, the fact that citizens hold a certain belief’ (emphasis added).

At any rate, the normative school is hardly preoccupied solely with the rebuttal of descriptive models. Indeed, while this task was taken up only relatively recently, this theoretical camp can boast an outstanding philosophical tradition with solid and far-reaching historical roots, its formative phase roughly coinciding with the Enlightenment era. For my purposes, it will suffice

to mention only a handful of contributions that will be instrumental to mapping out a tentative taxonomy of the boundless debate, even at the risk of oversimplification. At a first level, which Fabienne Peter (2020) identifies as that of ‘first-order normative considerations’, different *objects of legitimacy* are detected, i.e. answers to the question of ‘what’ is being legitimised. Traditionally, legitimacy theories have purported to justify either political authority or coercive power *tout court*. Both accounts were originally elaborated within the social-contractualist theory,¹² but of course extended well beyond it.¹³

A second question pertains to the *sources of legitimacy*, i.e. what ultimately grounds it. Peter (*ivi*) calls this the ‘meta-normative level’, cutting across first-order distinctions, and identifies three possible sources of normativity: If actors’ attitudes are not involved, legitimacy is warranted by (a) normative facts. Otherwise, legitimacy is to be based on either actors’ (b) will or (c) beliefs. Factualism grounds legitimacy on pure criteria (normative facts) to which political action ought to conform. Will-based conceptions consider *adjudication* between potentially conflicting claims by citizens as the key legitimating factor of a political system and the decisions taken therein. Their common premise is the attachment of normative significance to the first-personal standpoint, i.e. they consider individuals as ‘self-originating sources of valid claims’ (in Rawlsian fashion). There are several variants of such conceptions, including (i) consent theories; (ii) public-reason theories; and (iii) participatory ones. Consensual theories take political decisions to be legitimate if they attract (near-)unanimous consent, actual or hypothetical: A paradigmatic example is Rousseau’s (1973 [1762]) conception of the *volonté générale*. Public-reason conceptions, best exemplified by John Rawls’ (1993) neo-Kantian account, ground political le-

¹² Thomas Hobbes (1994 [1651]) and Rousseau (1973 [1672]) both regard political authority as being established by the social contract itself. In order to protect the subjects from the *bellum omnium contra omnes*, the sovereign resorts to coercion: *Coercive power* is thus legitimate insofar as it provides for such protection, consequently creating an obligation upon the subordinate to abide by the state’s laws. For Locke (1990 [1690]), on the other hand, individuals in the state of nature are already endowed with *political authority*. Therefore, the contract is merely a transfer of such pre-existing authority from the subjects to the civil state. The latter, in turn, is only legitimate until it does not overstep natural law, which it has been created to uphold.

¹³ Arthur Ripstein (2004) contrasts ‘sanction theories’ inspired by John Stuart Mill (postulating that the state’s claim to political legitimacy takes priority over that to legitimate coercive power) with an alternative Kantian account (insisting on the inextricability of the two planes). In the former instances, the ‘primary normative question’ is about the moral limits of the state’s authority. An unbridgeable gap thus opens, according to the author, between justification (the defence of the state’s claims to morality) and legitimacy (the authorisation coercively to enforce such claims). In Ripstein’s reconstruction, the fundamental question is when the use of coercive force is legitimate: Starting from the patterns of interaction between private parties, he asserts the state’s legitimate power not only to tell people how to behave but also coercively to enforce rights.

gitimacy on justifications that should be accessible to all reasonable citizens. Participatory theories emphasise citizens' participation as a prerequisite for legitimate decisions. Within this strand, a further dimension distinguishes, *inter alia*, deliberative (Manin, 1987; Eriksen, 2009) from egalitarian approaches (Buchanan, 2002; Pettit, 2012). Lastly, belief-based conceptions (Raz, 1988) reject the premises of will-based ones (that individuals originate valid normative claims and that adjudication between conflicting claims is necessary). Instead, they focus on the epistemic question of *recognising normative authority*, to which legitimate political decisions must be responsive.¹⁴

Of course, the relationship between political legitimacy and democracy has been investigated by different perspectives as well. To cite but a couple, let us consider democratic instrumentalism and proceduralism. The former basically reduces democracy's normativity to the quality of the outcomes it produces (Arneson, 1993): Democracy, thus, is instrumental to the attainment of legitimate outcomes, which are established *ex ante* and exist independently of the democratic process (and may also be realised through non-democratic procedures). Therefore, democracy is not a necessary condition for political legitimacy. Pure proceduralism, on the other hand, holds political decisions to be legitimate only when reached through appropriate processes. Of course, procedural correctness is defined variously: For instance, from an aggregative or pluralist perspective (Dahl, 1956), appropriate procedures entail fairness in the sense of giving equal weight to all interests; whereas in deliberative accounts legitimacy rests upon the quality of deliberative decision-making procedures (Christiano, 2011). In these visions, in contrast with instrumentalist ones, political legitimacy is not warranted by adequate outcomes of decisions but by correct decision-making procedures instead. Finally, there are also mixed visions, such as rationalist proceduralism, where the conditions for political legitimacy relating to both outcomes and procedures are considered together. A classic example is Habermas' (1996 [1992]) deliberative-democratic model, whereby effective deliberation is only able to produce

¹⁴ Peter (2020: 374-85), however, is unsatisfied with single-factor explanations. Factualism faces the '*accessibility objection*', premised on legitimacy's primary function, that of settling judgments. Now, settlements should be based on intelligible criteria; but normative facts may well be inaccessible, which renders factualism unsustainable. Will-based conceptions are charged with an '*arbitrariness objection*', as they end up supporting undue arbitrariness in decision-making and adjudication processes. Finally, pure belief-based theories are dismissed on the grounds of the '*epistemic underdetermination objection*', given the difficulty of unambiguously establishing the relevant normative authority. For the author, a sustainable conception of political legitimacy should be mixed ('disjunctive'), and salvage the best intuitions from both will- and belief-based versions: Essentially, it relies upon different grounds for legitimacy in different circumstances, assigning priority to normative authority criteria supplemented, where needed, by adjudication mechanisms (*ivi*, 385-89).

rational outcomes insofar as it fosters fair processes of argumentation, reason-giving and will-formation.

1.2.c Political realism: Beyond facts and values?

Last but not least, one promising contemporary theoretical current is that of political realism. From an epistemic point of view, self-styled realists generally aim at going beyond the traditional dichotomy between fact- and value-centred perspectives, following in the footsteps of scholars like David Beetham. In a now-classic work, Beetham (1991) explicitly deplores such separation, setting out to bridge this gap with a multi-dimensional conceptualisation of political legitimacy. The latter is thus structured by three qualitatively distinct levels: (a) *legal validity*, or conformity with established rules; (b) *normative justifiability*, relating to both the validity of authority's sources (including the 'rules of the game' themselves) and the advancement of the general interest; and (c) evidence of actions expressive of *consent* on part of the subordinate (*ivi*, 15-25, 64-99).¹⁵ Its normative structure, however, does not relegate legitimacy to the abstract world of ideas: On the contrary, the British academic insists on its *social construction*, occurring within the specific power relationship of a given regime.¹⁶ His solution, then, is at once 'universalist' and 'contextualist': It provides a general framework applicable to virtually any regime, while the specific content of its categories are to be 'filled in' with the peculiar elements of a given regime, at a given time and place.

Following Beetham's influential account, contemporary realists also challenge the fact/value distinction, although not all to the same degree. At a general level, nevertheless, we can consider political realism as a normative theory, as illustrated by Enzo Rossi and Matt Sleat

¹⁵ Beetham (1991: 16-19) also illustrates the erosions of legitimacy in each of these dimensions. Where legal validity is violated or absent altogether, *illegitimacy* arises. When normative justifiability deteriorates, the regime is faced with a *legitimacy deficit*. Lastly, the withdrawal of consent by the subordinate produces *delegitimation*. In point (b), Beetham also convincingly contests Weber: 'A given power relationship is not legitimate because people believe in its legitimacy, but because it can be *justified in terms of* their beliefs' (11, emphasis in the original). The difference, the author maintains, is the one between an assessment of a regime's legitimacy and a mere 'report' on citizens' beliefs.

¹⁶ There is a *self-confirmatory circle* between the rules regulating power relationships and the ongoing process of their legitimation (Beetham, 1991: 100 ff.). The maintenance and reiteration of legitimacy do not occur independently of (but rather *within*) the very structures that they are legitimating. The imbalance of power is continuously reproduced by these very rules, and this in turn reinforces the dependency of the ruled on the rulers. There are two accounts for how power structures influence their own legitimation: One focuses on the activities of the rulers, who directly influence the subordinate through a *pervasive ideology* (as in Marx). Beetham defends an alternative (more Gramscian, if we will) perspective, emphasising the *expectations of the subordinate*, shaped through complex social processes to which the ruled themselves take part.

(2014). If anything, it must be intended as a *critical theory* (in the sense popularised by the Frankfurt School), or as an ‘immanent critique’ of ideology that is ‘locally normative, but not normativistic’ (Prinz and Rossi, 2014: 362). Realist criticism is primarily directed against what they contemptuously dub ‘political moralism’, i.e. excessively ‘normativistic’ political philosophy (especially its Rawlsian, neo-Kantian version). However, it is important not to misplace such criticism: For it is not aimed at demolishing normative theorising *per se* but rather, as it were, to save it from itself by making ‘political philosophy *more relevant* and *less ideological*’ (Rossi and Sleat, 2014: 689, emphases added). The aim, in other words, is taken at those accounts that make ‘the moral’ prior to ‘the political’, failing to reckon with actual social realities. In Raymond Geuss’ (2008: 9) terms, realism

must start from and be concerned in the first instance not with how people ought ideally (or ought ‘rationally’) to act, what they ought to desire, or value, the kind of people they ought to be, etc., but, rather, with the way the social, economic, political, etc., institutions *actually operate* in some society at some given time, and what *really does move* human beings to act *in given circumstances*. (emphases added)

Thus, the utmost epistemic objective of contemporary realism is the reconceptualisation of the political as *an autonomous domain*, devoid of moralising temptations but characterised instead by its own, specific dynamics – operating, that is, according to inherently political rules and criteria.¹⁷ Politics, from this perspective, is first and foremost shaped by *disagreement and conflict*, and cannot therefore be grounded in universal (i.e. uncontroversial) moral ideals (Sleat, 2014: 317).

This is why the question of *legitimacy* becomes central in realist accounts (as opposed to political moralists’ preoccupations with justice): In the political domain, the state must ‘settle through authority and law what cannot be settled through reason or morality’ (Rossi and Sleat, 2014: 692). Indeed, in Bernard Williams’ (2005) path-breaking elaboration, this issue is treated as the most fundamental political issue. For Williams, the ‘first political question’ is the Hobbesian ‘securing of order, protection, safety, trust, and the conditions of cooperation’ (*ivi*, 3-4). But

¹⁷ For Rossi and Sleat (2014: 690), ‘political theory should begin [...] not with the explication of moral ideals (of justice, freedom, rights, etc.), which are then taken to settle the questions of value and principle in the political realm but in an (typically interpretative) understanding of the practice of politics itself’. There is no rejection of normative explanations as such: Rather, realism accuses political moralism of failing ‘to appreciate the complexity of the causal *and* normative relationship between morality and politics’ (*ibid.*, emphasis added). Its defining feature, then, is ‘the attempt to give autonomy to political normativity and political theorising through a *fuller understanding* of the sources of normativity in politics’ (*ibid.*, emphasis added). Realists, in other words, look for a middle ground between moralism and *realpolitik* (Sleat, 2014).

a *satisfactory answer* to the latter question can only be one that simultaneously meets the ‘basic legitimisation demand’ (BLD), as this is what effectively distinguishes legitimate from illegitimate power (*ivi*, 4-11).¹⁸ Moreover, power’s satisfactory legitimisation must ‘*make sense*’ to its subjects, i.e. it must be understandable to them (*ivi*, 10-11). This latter category, which echoes Beetham’s concern with regimes’ responsiveness to citizens’ values, qualifies political realism as contextu-alist, in the sense that it does not take any ‘legitimation story’ (Beetz and Rossi, 2017) to be valid universally but only at a given point in space and time.

However, contemporary realism is by no means a genuinely ‘new’ theoretical approach. Its intuitions are indeed reminiscent, on the one hand, of ‘conflict theories’ (Zelditch, 2001: 42-43), such as those by Thucydides, Machiavelli, Hobbes, Marx and Gramsci – while also sharing with Weber, if to a variable degree, the notion of legitimacy as a stabilising device. On the other hand, political realism is also tightly linked with earlier, classic realist accounts in international relations theories, the likes of Morgenthau, Kennan, Waltz, Rose etc. Some common features are the emphasis on rational actors’ self-interested behaviour and, crucially, the notion that the interests of rulers and ruled are almost by definition conflicting with one another, thus making for the need for ideology, myth and other masks to cloak the real interests of the dominant groups. Realism, indeed, can be considered as one (or even *the*) ‘ruler-interested theory’, as submitted by Ben Cross (2022), who makes the case for its superiority over ‘ruler-disinterested’ theories.¹⁹

Concluding remarks

In this chapter, I have introduced the question of legitimacy from a political-theoretical perspective. It should be clear by now that the only fairly broad agreement among experts and

¹⁸ Williams (2005: 5) concedes that there can be some normative considerations grounding political legitimacy; the point is not to disavow them, but to recognise that they are not antecedent to it: ‘It may be asked whether the BLD is itself a moral principle. If it is, it does not represent a morality which is prior to politics. It is a claim that is inherent in there being such a thing as politics’. Meeting the BLD is what distinguishes legitimate rule from successful domination. According to the ‘critical theory principle’, then, ‘the acceptance of a justification [by the subordinate] does not count if the acceptance itself is produced by the coercive power which is supposedly being justified’ (*ivi*, 6).

¹⁹ Turning the tables around, Cross charges ruler-disinterested theories with promulgating ‘delusional views’ about regimes’ actual plight, which leads them to become ‘friends of the status quo’ (2022: 17-19). Defence from allegations of ‘status quo bias’ is indeed a realist *leitmotiv* (cf. Prinz and Rossi, 2014). On his part, Beetham (1991: 34-37) also mentions the rulers: To retain legitimacy, they have an interest both in respecting the limits imposed on their own authority by the rules (in virtue of whose validity their very power is justified in the eyes of the subordinate) and in defending said rules from challenge.

specialists about legitimacy is that it constitutes a central concept in political theory. Still, as far as definitions and categorisations are concerned, further agreement is nowhere to be found in the academic literature. The first, historical section is probably of little use in settling these theoretical controversies. Still, I hope it has at least proven helpful for the purpose of understanding the notion of political legitimacy in a broader sense, uncovering its strong ties with the peculiarly modern concepts of democratic government and popular sovereignty.

With regards to the theoretical discussion outlined in the second section, I only want to reiterate one point here. Despite the long-standing ‘feud’ pitting normative philosophers and social scientists against one another, I believe (together with a good deal of scholars and observers whose opinions are far more reputable than my own) that the fact/value distinction is better collapsed than maintained if we are to gain a fuller understanding of political legitimacy. In the words of Schmidt (2020a: 30), normative considerations and empirical investigations are ‘impossible to disentangle’ as they do, in fact, *reinforce each other*. And to note that ‘empirical perceptions are generally influenced by normative principles and standards about what ideally to expect’ (*ivi*) should not mean that the latter can claim priority over the former.

2. A systems-theoretic model of legitimacy

Today, one has to acknowledge that talking about politics in terms of systems is pretty obvious, or at least very normal. When we do so, however, we are relying on a precise set of notions (a conceptual lexicon, if we will) that is more properly known as *systems theory*. In this chapter, I shall take a close look at it. I will explore its original formulation by David Easton to begin with, albeit focusing narrowly on those elements that are of utmost interest for the purposes of my inquiry. Subsequently, I will consider the conceptualisation proposed by Fritz W. Scharpf, who built on Easton but used the model for different normative purposes. Section (2.1) will comprise both such elements.

In section (2.2) I will then turn to examine a third category, ‘throughput’, that was added by Vivien A. Schmidt to complement the original dyad of ‘input’ and ‘output’. Following the distinctions made in the first chapter, I shall stress that this concept is a normative one, although well equipped to bridge together normative criteria and empirical analysis, hence falling in line with my needs as explained in the conclusion of the previous chapter. Indeed, it is the very notion of throughput legitimacy that will constitute the analytical lenses with which I will inquire into the Conference panels.

2.1 Input and output legitimacy

David Easton, then, was the noble father of the theoretical model which I will make reference to throughout the remainder of my thesis. An essential outline of his model’s original version will be provided in paragraph (2.1.a). More space, however, will be devoted to an appraisal of Fritz W. Scharpf’s grafting of systems theory onto the context of the EU, which led him to reconceptualise the distinction between inputs and outputs and adapt it to the study of *supra-national democratic legitimacy*. According to Scharpf, EU legitimacy can be either input-oriented (relating to political authorisation) or output-oriented (relating to policy performance).

His now-classic dichotomy will be the object of paragraph (2.1.b). Building on this seminal categorisation, Vivien A. Schmidt later proposed what is, in actual fact, a normative typology through which to interpret democratic legitimacy (that is, either in institutionalist or constructivist terms), as will be discussed in paragraph (2.1.c).

2.1.a Easton's original formulation

The systems-theoretic model was first introduced seventy years ago by David Easton, who put forward one of the most influential characterisations of the political domain, which was then studied by a new generation of social scientists during the behaviorist and post-behaviorist 'revolutions'. Easton was a frontrunner in both, and his characterisation of politics as *systems* has become one of political science's conceptual bedrocks. Drawing on the cybernetic model, the Canadian-born American political scientist applied systems theory to politics (the 'authoritative allocation of values' in society), developing a *flow model* to analyse political developments in dynamic terms.

Since I am not directly interested in his 'general systems theory', I will only single out here those aspects most relevant for my analysis. The pivotal intuition of the model, set out in a series of seminal publications spanning a couple of decades (Easton, 1953; 1957; 1965a,b; 1975), is to characterise the political system as a 'vast and perpetual conversion process' that takes in the *inputs* (citizens' demands and support) coming from the environment and produce *outputs* (governmental decisions and actions); the latter, in turn, influence successive inputs through a 'feedback loop'.

Crucially, *legitimacy* is defined as the conviction of citizens that it is 'right and proper' for them to 'accept and obey the authorities and abide by the regime' because both are perceived as 'conforming to [citizens'] own moral principles', which in turn implies accepting the system's outputs as 'authoritative or binding' (1965b: 278 ff.). More precisely, Easton considers legitimacy as one of multiple dimensions of *diffuse support*, itself defined as citizens' 'generalized attachment', or allegiance, to the regime and the authorities (1975: 444-53),²⁰ so that political legitimacy is intended as a 'seal of moral approval'. Interestingly, and somehow bridging together

²⁰ One of Easton's central concepts is *political support*, which can be either 'diffuse' or 'specific'. He defines *diffuse support* as a 'reservoir of favourable attitudes or goodwill' allowing citizens to tolerate even the outputs that negatively affect their own interests and preferences (1965b: 273; 1975: 444-53). On the other hand, *specific support* is a '*quid pro quo*' exchanged by citizens 'for the fulfilment of [their] demands' (1965b: 268; 1975: 437-39). In simple terms, diffuse support can be intended as relating to what a political object *is* (or stands to represent), whereas specific support relates to what that very object *does* (being therefore contingent on performance).

various elements discussed in section (1.2), the author further distinguishes between three types of legitimacy: (a) *ideological*, based on ‘moral convictions’ held about both the regime and the authorities; (b) *structural*, based on the belief in the validity of the regime, its norms and authorities; and (c) *personal*, based on the belief in the incumbents’ personal qualities (1965b: 287 ff.).

2.1.b Systems theory meets legitimacy

It would only take a few years for another scholar, Fritz W. Scharpf, to apply Easton’s analytical categories of input and output to the normative study of political legitimacy. In a 1970 book, the German academic coins the twin concepts of *input-* and *output-oriented legitimacy*, which were destined to become widely influential in successive theoretical debates.²¹ The distinction between the two types of ‘legitimizing beliefs’ is as follows:

Input-oriented arguments must ultimately derive legitimacy from the agreement of those who are asked to comply, whereas output-oriented notions refer to substantive criteria of *buon governo*, in the sense that effective policies can claim legitimacy if they serve the common good and conform to criteria of distributive justice. (Scharpf, 1997a: 153, emphasis in the original)

According to the author, democratic procedures are ‘essential’ for input-oriented arguments normatively to sustain collectively binding decisions, whereas they possess ‘only instrumental value’ as far as output-oriented arguments are concerned. The point is rather straightforward, but I shall nevertheless try to make it more explicit still. In a nutshell, Scharpf is telling us that, from an input perspective, the democratic procedures of participation and representation (chiefly embodied in the principle of *majority rule*) ensure that the ‘will of the people’ becomes the reference point for political decision-making. Hence, enfranchised citizens equally participate through ‘vote and voice’ in the electoral and public opinion arenas of democratic politics, itself characterised by ‘public control with political equality’ (Lord and Beetham, 2001).

Whilst allowing citizens to influence democratic politics, however, the majority principle alone is not necessarily ‘welfare-efficient’ (Scharpf, 1997a: ch. 7; 1999: 7-10). Drawing, *inter alia*, on Giandomenico Majone’s (1989; 1996; 1999) work, Scharpf illustrates how non-majoritarian

²¹ Quite surprisingly, as far as I am aware, Scharpf’s 1970 book, written in German, was never translated in English (or any other language, for that matter). Since unfortunately I do not understand German, and it is apparently rather difficult to obtain the original text to have it translated, I had to rely on the author’s subsequent works from the late 1990s, which are both easily available *and* written in English.

constraints (e.g. constitutional checks-and-balances or competence delegation to insulated technocratic agencies) are commonly imposed on sheer majority power in national democracies with a view to protecting minorities' rights, which unbridled majoritarianism might fail to secure. Indeed, the latter could potentially allow political majorities to democratically override the vital interests of minorities – hindering the attainment of the polity's common welfare. Arguments postulating unfettered input-oriented legitimacy, in fact, rely disproportionately on 'thick' *collective identities*, an aspect which becomes problematic in contexts where a communal sense of 'sameness', or a 'we-feeling', is only loosely developed.²²

At any rate, Scharpf (1999: 11-13) argues that these issues are felt less intensely on the *output side* of the legitimacy equation. This is because the latter dimension is primarily preoccupied with finding solutions to collective problems (see *supra* note 11), rather than with identifying who should count as a member of the community itself. Put differently, output-oriented legitimacy requires a much 'thinner' sense of collective identity: Whereas input legitimacy is primarily 'identity-based', its output counterpart merely requires the 'perception of a range of *common interests* that is sufficiently broad and stable to justify institutional arrangements for collective action' (*ivi*, 11, emphasis in the original). Therefore, output legitimation is more readily suitable in polities whose members display multiple identities and loyalties, and where identity-based input legitimacy would prove more difficult to attain. This conclusion, of course, has been disputed in the literature (Bellamy, 2010).

In order to fully understand Scharpf's conceptualisation, it is probably helpful to weigh it against his definition of democratic government as 'collective self-determination', which in turn involves two components: On the input side, political choices should reflect the 'authentic preferences of citizens' whereas, on the output side, they should allow for 'effective fate control' by the citizenry (1997b: 19). Consider Abraham Lincoln's (1863) famous triad of 'government of the people, by the people and for the people', which Scharpf himself resorts to. Democracy's input refers here to government *of* and *by* the people, i.e. to processes of political authorisation through which the 'will of the people' is factored into policy-making (participation criterion)

²² To illustrate why such arguments cannot alone sustain democracy in today's pluralist, heterogeneous societies, Scharpf (1997a: 154-55) considers the Rousseauian thesis of the superiority of *la volonté générale* over *la volonté de tous*, putting the question in game-theoretic terms. Rousseau's symmetrical Prisoners' Dilemma, he contends, is simply not suitable beyond small, homogeneous polities. Scharpf (1997b: 20) also echoes Weiler (1995: 228) and wonders whether, in the event of an *Anschluss* between Germany and Denmark, the Danes would be content with bare majority rule in the new Bundestag (or in popular referendums, for that matter), knowing all too well that they would be condemned to 'permanent minorityship'. Once again, the point is that majoritarianism requires a substrate of 'peoplehood', i.e. a *demos*.

and the rulers are held accountable by the ruled (representation criterion). Government *for* the people means that policy-making should aim at attaining the common good (effectiveness criterion) as identified by citizens (responsiveness criterion).

Albeit analytically distinguishable, however, these components are in fact two sides of the same coin: If it merely amounted to collecting people's preferences without effectively realising them, indeed, '[d]emocracy would be an empty ritual' (Scharpf, 1997b: 19). The classic systems-theoretic model of democratic legitimacy can thus be condensed as follows: Political choices in democratic self-government are legitimate insofar as they reflect citizens' preferences (input legitimacy), and, at the same time, insofar as they effectively advance the polity's common welfare (output legitimacy). This brings us to the nature of the relationship between input and output legitimacy: For Scharpf (1999: 12), the two are not self-exclusionary but, rather, mutually reinforcing and complementary. The conviction that these two legitimacy 'channels' involve a *positive synergy* is shared by other analysts as well (Eriksen and Fossum, 2000; Lindgren and Persson, 2010; Zürn, 2000). But this is hardly the only position in the literature. Another perspective holds that input and output are better understood as entailing *trade-offs* between one another, attesting to a zero- or even negative-sum conception of democratic legitimacy (Greenwood, 2007; Höreth, 1999; Risse, 2006). Thus, attempts can be made at enhancing input in order to offset corresponding output deficits or vice-versa.²³

2.1.c A normative typology

It seems appropriate to recall at this point the remarks given by Vivien A. Schmidt (2010a; 2013) with respect to the two major normative perspectives through which input and output mechanisms have been analysed. Both, in fact, have been examined emphasising either the institutional aspects or the social-constructivist dynamics, although all such views are variants of the same broader theoretical 'school', that is, institutionalism. Thus, institutions-centered accounts have generally drawn on historical and rational-choice institutionalism (highlighting either path-dependent institutional developments or institutional actors' rational calculations),

²³ The corollary of synergetic positions is that reforms aiming at enhancing one of the two mechanisms of legitimation (typically input) will have positive repercussions on the other. On the other hand, negative assumptions generally place greater emphasis on *performance-oriented arguments*, often defending non-majoritarian institutions (or even calling for an expansion in their competences) on the grounds that the absence (or extreme weakness) of input legitimacy be compensated by strengthening output capabilities. But it can also be the case that increases in one mechanism negatively affects the other: For instance, when greater political contestation reduces the quality of performance, or, to the opposite, when excessively intrusive regulatory policies thwart citizens' (or their governments') influence in decision-making.

whereas sociological and discursive institutionalists have taken on a more actor-centred point of view (focusing on the constructive and communicative interactions between and among institutional and non-institutional actors, both in formal and informal settings) (Schmidt, 2010a: 6). The result is a typology of normative perspectives:

- a. For one thing, we can single out an *institutional dimension* of input legitimacy (*ivi*, 16-18), whereby democratic legitimacy is accorded to EU institutions on the grounds of the latter's capacity of articulating citizens' demands through (majoritarian-based) representation mechanisms. As evidenced by the literature on the so-called 'democratic deficit' (see paragraph (3.1.a) below), however, the Union has been typically found wanting as for majoritarian input, especially in the form of electoral politics. Indeed, European-level input is, at the very best, substantially different from the one familiar to member states' citizens: Rather than traditional party-politics, then, what we see in the EU is the 'politics of interests', whether national (Council), general (EP), or sectoral (Commission).
- b. As regards *input's interactive construction*, on the other hand, analysis has focused on the legitimization through 'communicative discourses' of public deliberation and contestation at both the national and EU levels, as well as on the interplay between them (Schmidt, 2010a: 18-20; see also paragraph (2.2.d) below). Such discourses are normally initiated and sustained by (national and EU) political elites, but are primarily addressed to the broader public (it is no coincidence, indeed, that they prominently, though not exclusively, occur during election times). Crucially, they pinpoint the (feeble) processes of identity-building at the Union level, nurturing a sense of 'we-feeling' among Europeans, however embryonic. Considerations about the (lack of) an EU-wide public sphere are also related to this dimension (Grimm, 1995; Habermas, 2001a,b; Lucarelli *et al.*, 2010; Weiler, 1995; 1999; see also paragraph (3.1.a) below).
- c. For what concerns *institutional output*, the emphasis has generally been on the efficient performance of EU policies, especially those produced by non-majoritarian institutions (such as the Commission, the European Central Bank (ECB), the Court of Justice (CJEU) and so forth), as well as on the effectiveness of the bloc's multiple-veto structure (Majone, 1994; 1996; 1998; Menon and Weatherill, 2008; Moravcsik, 2002; Scharpf, 1988; 1999; 2006; see also paragraph (3.1.b) below).

- d. Finally, *constructive output* is primarily preoccupied with the extent to which said policies, and more broadly EU's outputs, resonate with and are responsive to citizens' values and interests (*ivi*, 13-16). Here again, as was the case for constructivist input, success depends on the quality of discursive interactions between elites and publics (whether top-down or bottom-up), through both normative and cognitive arguments. By the same token, identity-building and legitimation strategies are once more at stake in this dimension, albeit to a variable degree depending on the member states, since 'Europeanisation' has impacted differentially upon them (see paragraph (3.1.b) below).²⁴

2.2 Throughput legitimacy

Let us now turn to the third component of democratic legitimacy, throughput, which focuses on the 'black box' of governance processes transforming inputs into outputs. The notion was actually born around the time that Scharpf returned to his input/output dichotomy, almost thirty years after having first introduced it. However, earlier attempts at analytical formalisation did not yield particularly satisfactory results. Yet, by the turn of the 2010s, Schmidt put forward her personal re-conceptualisation of throughput legitimacy in a series of influential contributions, developing it in synergy with the discursive-institutionalist approach. Her new 'umbrella concept' of throughput will be dealt with in paragraph (2.2.b), after providing an overview of the 'proceduralist turn' within which governance studies burgeoned in the last decades in paragraph (2.2.a).

I shall thus illustrate, first, the place occupied by throughput in the systems-theoretical spatialisation of legitimacy: Namely, the site between the political input and the policy output, that is, the *decision-making process* itself. Whether this constitutes a wide expanse, at times even overlapping with both input and output, or instead a narrower spot hemmed in between the two, is still a matter of unsettled dispute. Be that as it may, I shall once more follow Schmidt, who opts for a more comprehensive conceptualisation. She also characterises throughput, like input and

²⁴ Building on her previous work of the mid-2000s, Schmidt (2009) singles out four *legitimizing discourses* upheld by national political elites about the EU: (a) pragmatic, based on the latter's problem-solving capacities; (b) normative, likening the Union to a national community based on a shared, 'thick' identity; (c) principled, entailing a 'thinner' identity warranted by something like the Habermasian 'constitutional patriotism' in a post-national space; and (d) strategic, focusing on the bloc's pro-active external projection, e.g. in multilateral forums, humanitarian aid and peace-keeping.

output, as *two-dimensional*, referring to both institutionalist and constructivist approaches: In the former instance, procedural quality of decision-making can be evaluated according to five assessment criteria. In the latter, throughput relates to the quality of social interactions taking place in processes of interest intermediation. These ‘twin’ dimensions I shall examine in paragraphs (2.2.c) and (2.2.d), respectively.

2.2.a The turn to proceduralism

It is commonplace to situate the conception of throughput *qua* an autonomous notion in coincidence with the so-called ‘governance turn’ that occurred transversally across several academic research fields. Since I am not interested in governance *per se*, it will be enough to pinpoint some contributions underlying the connection between it and democratic legitimacy. For the purposes of the present analysis it will suffice to recall Myrto Tsakatika’s (2007: 868-69) list of the key features of governance: (a) *complexity*, since governance entails complex patterns of multi-directional interactions between various actors who share power at different levels; (b) *technical expertise*, itself making for functional specialisation among the different actors, who are typically independent of political influence; (c) *consensus-oriented culture*, as opposed to majoritarian voting, often resorting to deliberative practices (so as to ‘lock out’ disagreement); and (d) *efficiency*, which represents the ground for legitimation for the actors and experts involved, since they are in most cases politically unaccountable (or only indirectly so).

Governance practices, characterised by *diffuse and horizontal relationships* among different kinds of actors (both public and private), as opposed to political, hierarchical governmental ‘steering’, started spreading in the 1980s and, as Pierre Rosanvallon (2011) keenly notes, brought about a ‘metamorphosis’ of democratic legitimacy in the post-industrial West.²⁵ It was, as Owen Parker (2019: 742) puts it, the ‘post-Cold war intellectual *Zeitgeist*’, championing post-national, networked governance systems as well as innovative paradigms the likes of stakeholder capitalism and new public management (NPM). Furthermore, to many observers the rapid expansion of the governance culture owed a great ideological debt to neoliberal doctrines and is therefore not so neutral as its advocates would purport. Be that as it may, and however fascinating, this is

²⁵ According to the French sociologist, the ‘holy alliance’ of *universal suffrage* and *public administration* was the substrate of modern democracy in the 19th and 20th centuries. Then, from the 1980s onwards, a ‘new age of legitimacy’ settled in, where processes of ‘generalisation’ brought about new figures of legitimacy: ‘impartiality’, ‘reflexivity’ and ‘proximity’ (Rosanvallon, 2011). However, we should probably not consider this paradigmatic shift to be on the same level with the Copernican revolutions discussed in section (1.1), in that the legitimation principle, at least for now, seems to have remained that of popular sovereignty.

a debate that needs not interest us now. To be sure, the focus on the procedural facets of governance extended well into the 2000s, and one could wonder if it has ever waned since.

In the European context in particular, the late 1980s saw the birth of cohesion policy: By co-opting sub-national administrations into European policy-making, the latter ushered into a new mode of steering that was dubbed *multi-level governance* (MLG), following a fortunate series of publications by, above all, Gary Marks and Liesbet Hooghe (Hooghe and Marks, 2001; Marks, 1992; 1993; Marks *et al.*, 1996; for an overview, cf. Jeffery and Peterson, 2020; Piattoni, 2009). At any rate, and as far as my analysis is concerned, the core tenet of this approach (many scholars still have reservations as to whether to afford MLG the rank of full-fledged theory) is, on the one hand, a re-definition of the hierarchies and jurisdictions within the EU's manifold political units. On the other hand, it also chimed in with a 'deliberative turn' in both normative and empirical research building on the untiring work of deliberative theorists (Dryzek, 2002; Florida, 2018), who generally (if not unanimously) did not shy away from emphasising procedures over substantive contents. On his part, Parker (2019: 743-45) regards the European Commission's Forward Studies Unit (FSU) as the 'radical' forerunner of the new deliberative-proceduralist approach to EU governance, asserting a 'normative commitment' to flexible and pluralist post-national governance. Some such ideas, albeit watered down to a significant extent, eventually made it to the White paper on European governance of July 2001 (European Commission, 2001).

2.2.b Locating throughput legitimacy

The first mention of the term 'throughput' is apparently traceable to Michael Zürn (1998: 236), who focused on legitimate governance beyond the nation-state (yet, oddly enough, refrained from using the term in successive works).²⁶ In the following years, the notion found increasing purchase, as a logical complement to Scharpf's categories of input and output legitimacy. Soon enough, the proceduralist emphasis of throughput legitimacy found fertile ground in governance studies at various levels: from the transnational and global (Dingwerth, 2007; Zürn, 2000) to the local (Haus and Heinelt, 2005; for a comparative inquiry into several levels,

²⁶ To be precise, in actual fact, Easton (1965b) himself uses it in his systemic model, yet limits it to administrative processes. We can thus consider Zürn to be the first to have deployed 'throughput' making a reference to democratic legitimacy.

see Benz and Papadopoulos, 2006).²⁷ Growing numbers of scholars and researchers set out to investigate distinct, if related, aspects of legitimacy from various process-oriented perspectives, in what Jens Steffek (2019: 788) laments as a ‘bewildering variety of uses and understandings of throughput legitimacy’. Indeed, a broad literature began to take shape in the early 2000s, where throughput was conceptualised in a rather loose fashion: It stood to be related to elements such as transparency, accountability, legality, efficacy, efficiency, inclusiveness, participation, openness, accountability, responsiveness, deliberation and so forth, depending on the authors’ viewpoint.²⁸

Some scholars picked parsimoniously from this ‘menu’ and defined throughput more narrowly, whereas others adopted a more comprehensive approach, conceiving it as a broad category featuring virtually all the above aspects. This second approach has been followed, *inter alia*, by the American academic Vivien A. Schmidt, who single-handedly contributed to the conceptual success of throughput legitimacy more than any other scholar. Starting from the early 2010s, in fact, she popularised the notion by putting forward a more consistent categorisation in a series of influential contributions (Schmidt, 2010a; 2013; 2019; 2020a; Schmidt and Wood, 2019). Importantly, she conceptualised throughput explicitly referring the notion to the European context, ideally complementing Scharpf’s two-fold approach. I will explore the dimensions of Schmidt’s throughput in a moment; before doing so, however, I think it is in order to better clarify the role of the notion at hand, that is, its place in the systems-theoretic model.

As we have seen, input legitimacy pertains to what *flows into* the decision-making system, and is therefore primarily a political criterion. Output legitimacy, on the other hand, is related to the effectiveness of what *comes out of* the system, i.e. policies, decisions, laws and so forth. It can thus be considered as a performance criterion. What then about throughput? In Schmidt’s own words, it concerns

what goes on inside the ‘black box’ of EU governance, in the space between the political input and the policy output [...]. It focuses on the *quality of the governance processes* of the EU as contributing to a *different kind of normative legitimacy* from

²⁷ Curiously, as noted by Schmidt herself (2010a: 7-8), early reflection on throughput almost exclusively came from a handful of German-speaking scholars, writing in English (Holzhacker, 2007; Wimmel, 2009, on top of those cited above). If one considers the difficulties for non-German speakers to avail themselves of important works such as that of Scharpf (1970), however, this sounds all the less curious.

²⁸ Thus, for instance, Victor Bekkers and Arthur Edwards (2007: 44-45) conceive it as encompassing the mechanisms and transparency of decision-making, the quality of (interest-based) participation, and the quality of checks-and-balances. Others, like Thomas Risse and Mareike Kleine (2007: 73-74), emphasise the legality, transparency, publicity and deliberative quality of decision-making processes.

both the performance-oriented legitimacy of output and the participation-oriented legitimacy of input. (2013: 5, emphases added)

What we are dealing with here are the very processes collectively designated as decision-making, or, following Easton, the conversion of inputs into ‘uncorrupted outputs’. Throughput, therefore, is a procedural criterion, inherently different from both input and output. While this is consistent with the emphasis on procedures typical of governance studies, Schmidt herself is clear that throughput ‘constitutes a third and distinct criterion in the *normative* theoretical analysis of democratic legitimacy, alongside output and input’ (Schmidt, 2013: 8, emphasis added). If my investigation is of any use, the normative character of throughput should emerge clearly from the remainder of the present section.

To be sure, Schmidt did not invent anything new: What she did was re-organise an existing body of literature focusing on procedural mechanisms. I believe this operation is particularly valuable in that it provides us with a further systematisation of the theoretical model at hand: Indeed, before her seminal contributions, throughput processes were normally subsumed under either the input or the output end, as it were, of the legitimacy spectrum. On the contrary, she contends that ‘disentangling’ throughput is ‘extremely useful for analytic reasons’ (*ivi*, 14). True, the three legitimising mechanisms are ‘seamlessly interconnected, as well as sometimes difficult to separate at the boundaries’ (*ivi*, 35), and they even tend to overlap at times – to the point that some terms and notions are used for more than one: Accountability, for instance, can refer to both input and throughput, whereas efficacy is used for both throughput and output (I will get to these terms in a moment).

And yet, separating out throughput, input and output as distinct analytical categories allows us to better grasp the specificities of each as well as the mutual relationships between the three. In fact, throughput is not to be intended ‘on a par’ with input and output: While these two, as we have seen, are generally understood to involve trade-offs, a different story applies to throughput. For instance, it cannot substitute for either of them when they get eroded or disappear altogether. It is true that the three mechanisms (input politics, throughput processes and output policies) are ‘interlinked in such a way that changes in any one affect all the others’ (Schmidt, 2010a: 10). But their mutual interaction is not one of perfect reciprocity:

unlike input and output, where more input participation or better policy output normally is expected to have a positive effect on public perceptions of legitimacy, more EU-level throughput [...] does not seem to matter much for public perceptions of legitimacy. Violating throughput [...], by contrast, can have a major negative impact on public perceptions of legitimacy. (Schmidt, 2013: 8-9)

Put differently, the point is that high-quality throughput ‘seemingly makes the EU level disappear’ from sight; by contrast, ‘bad throughput can delegitimize everything’ (*ivi*). This is different from the trade-offs between input and output: Not only increases in one of the two can normally compensate for shortages in the other but, crucially, each of them is in principle able alone to sustain the whole weight of a system’s legitimation, albeit probably only temporarily. Conversely, a regime cannot rest upon the correctness of its procedures alone but needs to also be, at a minimum, either input- or output-legitimate in the eyes of its subordinate. Still, Schmidt contends, prolonged throughput deficits will put under strain a system’s overall legitimacy, especially when its inputs or outputs (or both) are perceived as faltering: This is why this conceptual category is so important when analysing the EU, as we are about to see.²⁹ If anything, trade-offs might occur (and do occur indeed) among throughput’s internal components, which I now turn to examine.

2.2.c Throughput’s institutional dimension

Let us now take a closer look at the normative conceptualisation of throughput legitimacy. As was the case with both input and output, throughput is also conceived by Schmidt (2010a; 2013) as comprising two distinct yet complementary dimensions, institutional and constructivist. From the former standpoint, throughput legitimacy pertains to the *procedural quality* of decision-making, thereby including the core tenet of ‘interest-based intermediation’. The latter is crucial to fully grasp the conceptual breadth of Schmidt’s throughput as well as to make sense of the empirical reality we are investigating, given European institutional actors’ eagerness to incorporate societal interests in virtually all phases of the policy cycle. This is so important to the American scholar that she even adds a fourth phrase to Lincoln’s democratic triad: Namely, ‘governance *with* the people’, based on consultation with relevant actors (or stakeholders) and intermediation among different interests (Schmidt, 2006: 25-29). In this sense, throughput represents an additional, fundamental layer of legitimacy in the compound polity that is the EU, especially so when input legitimacy is scarce and output uncertain (Kohler-Koch, 2007; Kröger, 2008). As a matter of fact, Schmidt (2020a: 38) observes, throughput-oriented legitimation has long constituted a major way by which the Union’s institutional players

²⁹ A proper discussion of these aspects would require more space than is allowed here. At any rate, let us consider as a paradigmatic example of throughput failure (in the context of fragile input and output) the scandals which led to the collective resignation of the Santer Commission in 1999 (Schmidt, 2013: 9).

have sought to counter claims about the poverty of the EU's input legitimacy and to reinforce claims to its output legitimacy [...] under the assumption that high-quality throughput may serve as a kind of “*cordon sanitaire*” for the EU, ensuring the trustworthiness of the processes and serving, thereby, as a kind of reinforcement to, or better, reassurance, of the legitimacy of EU-level output and attention to input. (emphasis in the original)

Hence, we can also intend throughput as a form of *functional representation*, whereby citizens are conceived *qua* organised interests rather than voters, as in traditional political representation (Kröger, 2019). A similar ‘politics of interest’ constitutes, *de facto*, a win-win for all parties: Involved stakeholders gain access to (and influence over) the policy-making process, whereas policymakers can flaunt their solicitude in catering to the needs of Europeans.³⁰ In principle at least, consultation with civil society groups does represent a valuable means both for minority interests to retain a voice (even without a majority vote) and for more diffuse interests that prove difficult to organise nationally and are better coordinated across borders (e.g. consumers, women or LGBTQ+ rights). In practice, however, as usual, things are a bit different. Stephan Hensell (2022), for instance, has coined the expression ‘cozying up’ to refer to the close association between the Commission and stakeholders, by means of which the legitimacy of EU policies is *jointly developed* by both the latter’s creators and addressees.³¹

At any rate, as mentioned earlier, Schmidt intends throughput legitimacy as an *umbrella concept* (Schmidt and Wood, 2019) encompassing a fairly wide range of procedural notions, as opposed to one-dimensional elaborations focusing on narrower aspects of governance processes. In order to be readily evaluable, throughput is described by the American scholar as composed of five ‘assessment criteria’, themselves derived from the existing literature and re-clustered, if we will, for the sake of both normative clarity and operational straightforwardness: Efficacy, accountability, transparency, openness and inclusiveness. Let us go through them.

³⁰ Unsurprisingly, Schmidt (2010a: 21-22) calls this ‘pluralist’ throughput, in line with the homonymous tradition in classic American political science (Dahl, 1961; Truman, 1951). Moreover, it is also reminiscent of the ‘associative’ model of democracy (Cohen and Rogers, 1992; Hirst, 1994).

³¹ The EU’s executive, Hensell (2022) argues, adopts an ‘inwardly oriented’ legitimization strategy which only targets specific organised interests to construct ‘artificial’ legitimacy constituencies through a process of co-optation, which he terms ‘cozying up’, of relevant stakeholders on part of Commission officials. The stakeholders themselves stand to benefit from the contribution they make to the development of EU policies, which happens as follows: Policies are generated building on Commission’s priorities, then elaborated by the relevant constituencies, and subsequently (re-)incorporated by the Commission. Finally, their legitimacy is reaffirmed by the constituencies. Legitimacy is hence a collaborative (collusive?) activity of *co-creation*, jointly carried out by both policymakers and policy addressees, leading to preordained outcomes.

- a. *Efficacy*, to begin with, is described as more of a ‘technical standard’, as opposed to the other four, normative criteria. It primarily refers to ‘engaging in decision-making and proceeding with policy implementation in an efficient manner’ (Schmidt, 2020a: 40). It often involves concepts like ‘streamlining of operations’, as well as decision-makers’ own competencies. Determining what is to be intended as ‘effective’, however, is clearly a matter of context. Efficacy, at any rate, can come at the detriment of other aspects, such as transparency and accountability, as in the case of the EU’s trilogues (Héritier and Reh, 2012). Conversely, mechanisms that so clearly frustrate efficacy, like national vetoes in the Council, are die-hards since they are based on substantial input-oriented arguments (Schmidt, 2009). We should be careful, moreover, not to conflate throughput efficacy with output effectiveness (Schmidt, 2020a: 40-41). We know that a regime’s performance is essential to its very sustainability, especially where input legitimacy is lacking (as had traditionally been the case for the EU). Still, the two concepts are not coincident, though they may well occur in tandem (therefore enhancing the global perceived legitimacy). Thus, a process may be throughput-effective (e.g. it follows the correct procedures, or it leads to an actual outcome, whatever its substantial content) and yet produce output-ineffective policies (which do not ‘work’, i.e. fail to achieve their stated objectives).
- b. Among the normative criteria, *accountability* is paramount (Harlow, 2002; Lord, 2004). For public officials to be accountable usually means two separate, if closely related things: Giving account (i.e. providing information and discussion) of, and being held accountable (i.e. standing susceptible of rewards or sanctions) for their decisions and actions *qua* policymakers (Bovens *et al.*, 2010). Both political and technical actors (e.g. Council members and ECB officials, respectively) are bound to accountability standards, yet the latter are often required to give accounts to both technical and political forums: Technical forums include e.g. specialised agencies, policy networks and epistemic communities, and typically require institutional actors to justify their choices in terms of cognitive arguments. Political forums, on the other hand, are chiefly embodied by parliamentary committees and generally require actors to defend both cognitive and normative arguments (Schmidt, 2020a: 42-44). Again, we must resist the temptation to conflate throughput accountability (policymakers giving public accounts of their activities) with its input counterpart (citizens holding their representatives to account so as to ‘throw the rascals out’):

The former is ‘the *ex post* complement to the *ex ante* mechanisms of democratic election or authorization through which executive actors are initially appointed’ (Crum and Curtin, 2015: 65).³²

- c. As for *transparency*, it generally entails both availability of information on specific policies and the publicity of the very processes leading to their adoption; or, in Adrienne Héritier’s (2003) terminology, both access to and communication of information on part, respectively, of the citizenry and public officials. This criterion is premised on a two-fold underlying assumption: Public provision of information is thought to empower citizens to better hold officials to account (Smith, 2012), while it is also considered instrumental in taming undue influence on public decision-making, be it private (thus preventing governmental ‘capture’ by particularistic interests) or external (coming e.g. from a foreign state, as in the recent ‘Qatargate’ scandal). In this sense, transparency is closely associated with accountability: The two might be considered as ‘Siamese twins’ (Hood, 2010) under certain circumstances, but are not necessarily coterminous. It may well be the case, as in behind-closed-door negotiations (typically occurring in the EU’s Councils) or in ‘emergency politics’ (see section (3.2) below), that secrecy be more conducive to efficient outcomes than transparency so that output-oriented considerations win out over throughput.³³
- d. *Openness* and *inclusiveness* are treated jointly by Schmidt (2020a: 50-54), as they both relate to those practices of interest consultation and intermediation mentioned earlier. Openness implies that policymakers are willing to engage with anyone that desires to have a say. The reference here is chiefly, though not exclusively, to interest groups, which are in their own right key players in what Sandra Kröger (2019) calls the EU’s ‘two-level legitimacy chain’, whereby inputs aggregated nationally (or

³² Ben Crum and Deirdre Curtin (2015) develop a typology of the Union’s three models of accountability: (a) *intergovernmental* (with national governments being accountable to their parliaments), (b) *supranational* (with EU political actors being accountable to the European *demos*), and (c) *regulatory* (with EU agencies being accountable to peer professionals). The authors then assess these models against five criteria: (i) attribution of political responsibility, which they hold to be the most important, (ii) information provision, (iii) political process’ accessibility/openness, (iv) debate, and (v) consequences.

³³ At any rate, especially with the Commission, excessive zeal towards transparency runs the risk of delivering perverse results like information overload (Héritier, 2003). Cynics might say this is deliberate.

transnationally) are processed at the European level.³⁴ As for the focus of analyses, researchers have for the most part (and understandably so) concentrated on the Commission (Hensell, 2022).³⁵ Once again, there might appear to be something of an overlap between throughput and input: Yet, while the former pertains to organised interests' direct influence over policy-making, the latter mainly relates to citizens' indirect representation through the political (read, electoral) arena (Schmidt and Wood, 2019: 733). Finally, inclusiveness requires that said access be balanced and fair, meaning that there is no 'guest' which gets unduly privileged *vis-à-vis* the competitors: A whole host of problems is in fact inherent to the dynamics of pluralist policy-making, including unequal access, differentials in power and influence, corruption, clientelism, and agency capture.

These criteria, Schmidt tells us, can either complement or contradict one another. Thus, internal trade-offs are to be expected *within* throughput, that is, between its very own components (e.g. between efficacy and transparency or accountability), instead of (or at most, in addition to) the kind of trade-offs that I mentioned in paragraph (2.1.a) between input and output.

2.2.d Throughput's constructivist dimension

As the last item of this chapter, I shall now investigate the constructivist dimension of throughput legitimacy. Schmidt (2010b: 47) approaches the question from the perspective of *discursive institutionalism* (DI), a normative current she largely contributed to develop in the last couple of decades that takes into consideration at once 'the *substantive content of ideas* and the *interactive processes of discourse* that serve to generate those ideas and communicate them to the public' (emphases added).³⁶ This is definitely not the context for an accurate appraisal of

³⁴ Kröger (2019) emphasises how interest groups and umbrella organisations should enjoy barrierless access to policy-making in order to further their *desiderata*, while also retaining a close link to their respective constituencies, for which they constitute a 'transmission belt' across levels. However, systemic limitations to supranational interest intermediation (above all the high heterogeneity of transnational organisations) end up 'corrupting' the processing of inputs into outputs – that is, they produce EU-level throughput failures.

³⁵ If still understudied, other EU institutions' deliberative processes involving civil society have increasingly been the object of scholarly attention. David Coen and Alexander Katsaitis (2019), for instance, focus on EP committee hearings of interest groups and think tanks. They find that these mechanisms serve something of a hybrid function between 'deliberative-coordinative' and 'epistemic' purposes, whereby the dominant constituencies co-define the agenda together with policymakers while depoliticising the debate.

³⁶ Discursive institutionalism, Schmidt submits, is a 'newer' strand of 'new institutionalism', itself one of the main contemporary trends in political theory. The 'older' versions include rational choice institutionalism (RI), historical institutionalism (HI), and sociological institutionalism (SI). See, *inter alia*, Schmidt (2008; 2010b).

Schmidt's theoretical elaboration, but it does seem fitting at least to outline some basic coordinates, in order to more fully appreciate her conceptualisation of throughput legitimacy, which is, after all, the core object of the present analysis. On the one hand, DI's substantive dimension refers to different types of ideas (cognitive and normative) at different levels of articulation (from policy ideas to philosophical paradigms), as well as different representations thereof (frames, myths, narratives and so forth). The interactive dimension, on the other hand, involves the discursive processes through which ideas are first constructed in 'coordinative' policy spheres and later deliberated upon in 'communicative' political spheres.

After this introductory note, it makes more sense to consider Schmidt's (2013: 8) definition of constructivist throughput: It regards both the *ideational constructions* and the *deliberative interactions* of the agents involved in broader patterns of governance processes, with an eye to how these foster efficacy, accountability, transparency, and inclusive access to civil society. The main difference with its institutional counterpart is that, while the latter is focused on 'the quality of the social and political rules', constructivist throughput places the emphasis on 'the quality of the relationship among actors' (Schmidt, 2010a: 8). Throughput's constructivist dimension, in other words, is explicitly *actor-centred*. Such interactive relationships are to be found above all in two major discursive arenas, the 'coordinative' and the 'communicative sphere'. The distinction is as follows:

In the domain of *coordinative discourse*, the main interlocutors are *policy actors* – experts, organized interests, civil servants, elected officials, and public figures – who *coordinate agreement* often using ideas conveyed by policy entrepreneurs and/or developed in discursive communities [...]. In the domain of the *communicative discourse*, the key interlocutors are *political actors* – politicians, spin doctors, campaign managers, government spokespersons, party activists – who *communicate the ideas* developed through coordinative discourse to the public [...] for deliberation and, ideally, modification. (Schmidt, 2005: 773, emphases added)³⁷

On the one hand, therefore, throughput legitimacy is attached to the eminently deliberative interactions occurring in the realm of *policy formulation*, in which policy actors (a more com-

³⁷ The 'discursive communities' that make for ideational construction in the coordinative sphere are all those forums where policies-related ideas are generated, exchanged and challenged *via* discussion and deliberation, e.g. policy networks, epistemic communities, advocacy coalitions and the likes, engaging in critical deliberation about policies. As for the communicative sphere, 'the public' generally encompass the broader citizenry/electorate, organised interests, policy forums of community leaders, activists, experts, and last but not least the media (both specialised and generalist) (*ibid.*).

prehensive term that encompasses policymakers *tout court* as well as the various ‘laymen’ mentioned above) continuously engage in order to create policies.³⁸ The *deliberative nature* of inter-relationships among actors constitutes a central concern of Schmidt’s (2010a: 24; 2013: 17) conceptualisation of throughput, especially in its constructivist dimension. While ‘ordinary’ (i.e. non-deliberative) policy formulation normally comes out of ‘hard-nosed bargaining’ (as typically exemplified by rational-choice models), deliberative procedures promote reason-giving, arguing and persuasion, following Habermas’ (1996 [1992]) influential theory of communicative action.

On the other hand, throughput dynamics are also crucially at play in the processes of *policy legitimisation*, that is, the discursive operations carried out by political actors by means of which the outcomes of the formulation phase is presented to their actual addressees with the aim to be legitimised (or delegitimised). This second aspect brings, as it were, *the people* back in the overall process, putting it front and centre of the stage: Not only in a top-down fashion, with political elites engaging the electorate on their own terms, but also *via* bottom-up initiatives, as embodied e.g. by grassroots social movements like the European Social Forum (ESF) (Eder and Trenz, 2007). I will dwell more extensively on such dynamics of politicisation and elite-public conversations in paragraphs (4.1.a) and (4.1.b) respectively.

Concluding remarks

In this chapter, I have sketched out a synthesis of the systems-theoretic model for democratic legitimacy in the EU, as influentially elaborated by Scharpf, who drew on Easton’s original schema, and later complemented by Schmidt. The above should be enough, I hope, to provide us with solid analytical lenses through which to understand CoFoE’s *rationale* as well as to investigate the procedural legitimacy of its Citizens’ Panels.

To be sure, despite having acquired a fair deal of currency in the discipline, the systems-theoretic model is far from unanimously accepted. Over the years, in fact, a non-negligible number of scholars have levelled a good amount of criticism against it. Maurits de Jongh and Tom Theuns (2017), for instance, object from an Oakeshottian perspective that Scharpf conflates the

³⁸ The complex of Commission-led processes of consensus-driven interest intermediation with civil society and experts and of comitology, for example, has been described by some deliberative democrats as a form of ‘supranational deliberative democracy’ (Joerges and Neyer, 1997). An *ad hoc* instance of transnational deliberation was the so-called Constitutional Convention of 2002-03, upon which I shall touch in paragraph (4.1.b).

legitimacy of a government with the desirability of its activities, and hence question the very framework's heuristic validity. Steffek (2019) and Parker (2019), on their part, take issue more specifically with Schmidt's throughput: The former contends that it is too proceduralist a notion (a 'strategy of abstinence' to avoid tackling value conflicts), while the latter warns against the exclusionary corollaries inherent in deliberative procedures (where the 'evacuation of conflict' is far from neutral and necessarily implies an act of power in Foucauldian sense). For both, the result is a bias towards unaccountable technocratic governance which aims at market-making objectives and shies away from the political management of conflict (as in Mouffe, 2013).

Be that as it may, choosing this model is not to assert, on my side, that it is flawless. Rather, I hope to have provided sufficient evidence here to support a far less ambitious claim: That the notion of throughput legitimacy is a useful analytical tool which can further our understanding of the many complexities inherent in the issues we are addressing. Arguably, it constitutes the best tool at our disposal if we are to specifically investigate the democratic legitimacy of (some of) the procedural aspects of the Conference itself. Before embarking on this enterprise, however, it is in order to examine in more detail the current legitimacy quagmire the EU finds itself embroiled in.

3. The EU's legitimacy predicament

The present chapter is devoted to examining the current state of the debate on the Union's democratic legitimacy. I will first consider, in section (3.1), the 'normative turn' of EU studies – that is, the shift of integration scholars' attention towards the many predicaments of democratic legitimacy in Europe. This shift was adamantly evident around the so-called Maastricht process, whereby the then-Twelve pursued much closer cooperation by establishing the twin goals of political and monetary union. This fateful decision had many profound effects, among which to exacerbate the bloc's extant legitimacy dilemmas, further compounded by the EU's very peculiar multilevel architecture.

But attention towards the Union's dire straits concerning democratic legitimacy remained high throughout the European 'age of crises', an apparently never-ending series of dramatic shocks that started with the global financial meltdown of 2008. As we shall see in section (3.2), governing the emergency has had a non-neglectable normative cost for the EU multilevel polity; however, owing to the very structure of the Union's political system, the ensuing politicisation could not yield any tangible political results, thus putting democratic legitimacy under further strain in a self-sustaining, vicious cycle.

3.1 The democratic deficit(s)

As all students of EU integration know, one crucial turning point in the history of the European construction was the signing and ratification of the 1992 Maastricht Treaty (TEU), wherewith the European Economic Community (EEC) was replaced by the European Union (EU). From that moment on, the very name 'Europe' became intimately associated with the reality of a *political subject* (or an 'unidentified political object', as in Delors, 1985), potentially spanning the whole continent. To be sure, that period was a watershed at the global level: In the summer of 1989 the Iron Curtain crumbled down, *Die Mauer* was torn apart by Berliners in November and the USSR itself would collapse a couple of years later, effectively bringing the

Cold war to an end. In that atmosphere, most countries of Central and Eastern Europe, from the Balkans to the Baltics, set out to join the democratic, market-liberal Union. It really was ‘the wind of change’, as recited the lyrics of a renowned rock ballad of the time.

Be that as it may, transitioning from the EEC to the EU would bring about a whole host of difficult questions on so many levels, including a number of dilemmas regarding the new constitutional settlement’s viability in terms of democratic legitimacy. It was an unintended (albeit predictable) consequence of the heightened politicisation engendered by the very move towards supranational political union. According to a now-classic formulation, the so-called Maastricht process had awakened the ‘sleeping giant’ of ‘constraining dissensus’ on the part of European publics, after decades of ‘permissive consensus’ where political elites were virtually unfettered in their pursuit of ever-closer (economic) integration. I will recall some such developments in paragraph (3.1.a) by way of referencing the so-called *normative turn* in EU studies, that is, integration scholars’ self-imposed task of investigating the Union’s alleged (and very real indeed) democratic and legitimacy deficits. Since there are just too many views on the topic, I will limit myself to some selected contributions, resorting again, *inter alia*, to the insightful reflections by both Fritz W. Scharpf and Vivien A. Schmidt, suggesting that the most troublesome deficiencies be found at the national rather than European level. Some crucial dilemmas of the EU’s *multi-level legitimacy* will be inspected in more detail in paragraph (3.1.b).

3.1.a Once upon a time in Maastricht

The Maastricht process, whose central cornerstone was the ‘1992 programme’ for the completion of the Single Market and the creation of the Economic and Monetary Union (EMU), had been launched in 1986 with the Single European Act (SEA). The signing of the Treaty on the European Union (TEU) was preceded by a vibrant debate both at the European and, above all, the domestic level. Within and among the then-twelve member states, public opinions, political officials and intellectuals animatedly discussed the far-reaching implications of transitioning from an organisation hitherto primarily preoccupied with managing economic interdependence to a *full-fledged political union*. In the end, the heads of state and government convening in Maastricht fatefully embarked on that painstaking process. What matters noting here is that, owing to the very design of the new politico-legal order, as well as to the path dependencies inherited from previous developments, the entry into force of the TEU opened a veritable Pandora’s box as regards the deficiencies of the European supranational democracy. For Europeans

soon came to realise that ‘Brussels’ was increasingly affecting their livelihoods and found the Union’s overall legitimacy to be greatly wanting.

In academia, scholars began to inquire the state of democratic legitimacy in the fledgling Union (the ‘nature of the beast’, as in Risse-Kappen, 1996), giving rise to what has been dubbed the ‘normative turn’ in integration studies (Beetham and Lord, 1998; Bellamy and Castiglione, 2003; Eriksen and Fossum, 2004; Føllesdal, 2006; Lord and Magnette, 2004).³⁹ The debate on the EU’s *democratic deficit* (or deficits) became highly fashionable: Starting in the early 1990s dozens of scholars flocked to investigate Europe’s perverse democratic dysfunction, producing an exterminated literature and a lively academic debate that occupied the centre stage in the discipline until at least the outburst of the global financial crisis in the late 2000s (De Búrca, 1996; Føllesdal and Hix, 2006; Katz, 2000; Weiler *et al.*, 1995; Ziemann, 2007).

At the political level, these developments opened the door to the rising tides of *Euroscepticism*, eventually leading to the progressive waning of the alleged ‘permissive consensus’ (Lindberg and Scheingold, 1970) that had characterised the earlier stages of integration and the consequent shift to ‘constraining dissensus’ (Hooghe and Marks, 2009), as plastically displayed by the twin TEU ratification crises (following both Maastricht and Lisbon) as well as the failure of the so-called Constitutional Treaty, met with the French *non* and the Dutch *nee* in the spring of 2005 (only to be surreptitiously reintroduced in the amended TEU shortly after).⁴⁰ Many scholars hence focused explicitly on the growing opposition to further integration, depicted as a ‘sleeping giant’ finally waking up (van der Eijk and Franklin, 2004), as we will see in more detail in paragraph (4.1.a).

As a matter of fact, the legitimacy deficit was inherent in the very design originally elaborated by Jean Monnet and the other ‘pioneers of Europe’, who conceived integration as an *elitist and technocratic project* with no room for political participation on the part of member states’

³⁹ Andreas Wimmel (2009) singles out some recurring themes in the exterminate normative debate, and proposes the following systematisation. He lists four levels, or dimensions, in the conceptualisation of legitimacy: (a) *concepts*, i.e. the conditions for accepting legitimacy (legality, compliance, and normative justifiability); (b) *objects* which are being legitimated (the EU as a political system, its institutions, or its policies); (c) *variables* upon which legitimacy is dependent (participation, process, and results); and (d) *standards* against which to assess legitimacy (counterfactual ideal-types, nation-states, and international organisations).

⁴⁰ According to Richard Katz (2000: 3-4), the permissive consensus was premised on four basic assumptions: (a) that the European project had *low salience* for domestic publics; (b) that continental economic integration was *inevitable* to compete in the world economy; (c) that decision-making was sanctioned by *consensus* among national governments (as *per* the 1966 ‘Luxembourg compromise’ which brought the ‘empty chair crisis’ to an end); and (d) that integration could proceed *without explicit popular consent*. Between the SEA and Maastricht, however, all these conditions ‘came unstuck’.

publics (Featherstone, 1994; Rye, 2020).⁴¹ As noted by Weiler (2012: 835), the ‘double helix’ of the EEC/EU has always been composed of the Commission and the Council, that is, a supranational bureaucracy appointed by (and accountable to) national executives which could escape scrutiny from their own legislatures, to the extent that parliamentary/input democracy ‘is simply not part of the original vision of European integration’. Still, the classic reconstruction goes, so long as it was perceived as a low-salience issue (or even a non-issue) by citizens, the democratic shortfalls of the European project could be largely ignored.⁴²

It would be beyond the scope of my analysis to dwell extensively on the multifaceted normative debate around the democratic and legitimacy deficits, so I will only distinguish here between several positions around which most observers coalesced without examining them in detail. A host of scholars denounced the existence of said deficits, without necessarily agreeing on either the diagnosis of the causes or the prescription of potential remedies (Hix and Bartolini, 2006; Magnette and Papadopoulos, 2008).⁴³ In most cases, the bottom line is that the modes of ‘EU-rule’ (above all the pooling of state sovereignty and the delegation of competencies to supranational, technocratic actors) effectively frustrate the legitimisation principle of *popular sovereignty* (Beetz and Rossi, 2017). This explains why, on average, proposals to alleviate the EU’s democratic ‘disease’ mainly defend *input-oriented arguments*, normally calling for increased contestation of European politics in order for the Union to stop ‘borrowing’ legitimacy from its constituent member states, which explicitly represent the normative standard for a functioning democracy (Bellamy, 2010; Lord and Beetham, 2001).

For other commentators, conversely, assuming the existence of any such deficit entailed adopting a faulty reference point, or the wrong standards (Majone, 1998): Namely, an idealised model of state-based majoritarianism which is not only unrealistic (in the sense that it fails to

⁴¹ It would be Monnet himself, in a later interview, to refer to the initial bureaucratic approach as ‘benign despotism’. This attitude was criticised early on by hard-liner federalists such as Altiero Spinelli, who is quoted as saying that ‘Monnet has the great merit of having built Europe and the great responsibility to have built it badly’ (both citations in Featherstone, 1994: 150-51).

⁴² Yet, this narrative is disputed in academia. Some scholars contend that the ECSC/EEC/EU has struggled to legitimise its authority ever since the founding decade of the 1950s (Hurrelmann, 2017; Schrag, 2010).

⁴³ Some key elements of the democratic deficit thesis include: (a) the progressive loss of member states’ sovereign powers, handed over to Brussels; (b) the loss of democratic control over both national and European political processes, with the latter being particularly opaque and unaccountable; (c) the undue strengthening of national executives over legislatures (‘executive federalism’); (d) the reduction of member states’ ability to control their own fates given the steady expansion of qualified majority voting (QMV) in the Council; (e) the expansion in the powers of an unaccountable CJEU; and (f) the incapability of EU institutions (above all the EP) to compensate for all such democratic shortages.

appreciate real-world national democracies) but also ill-suited to account for the more compound European constitutional settlement (Goodhart, 2007; Innerarity, 2014), itself a *system of governance* rather than a government or, at best, a mix of the two. Some ventured as far as defending or even praising the deficit *per se*, generally on functional grounds: That is, under the assumption that politicising the supranational level would prove detrimental to the EU's output effectiveness, itself better attained through technocratic or, admittedly, strictly intergovernmental steering (Moravcsik, 2002). Furthermore, the very existence of any such thing as a single European people (a key federalist argument) has been largely disputed by advocates of the so-called 'no-*demos* thesis' as well as by proponents of '*demosi*-cratic' theories, albeit from two opposite conceptual standpoints.⁴⁴

At any rate, I am more interested in yet another perspective on the EU's legitimacy predicament, one that is more consistent with the systems-theoretic approach discussed in the previous chapter. Unsurprisingly, some of the most compelling contributions in this direction come from Fritz W. Scharpf and Vivien A. Schmidt. The two scholars shift the emphasis from the purportedly undemocratic character of the Union to the problematic consequences of Europeanisation within and among member states, contending that the mainstream debate is generally misguided inasmuch as it focuses on 'the democratic deficit *of the European Union*, rather than on the democratic deficit *in Europe*' (Scharpf, 1997b: 19, emphases in the original). Such debate, in fact, is commonly premised on the assumption that democracy is flourishing at the national level and is increasingly threatened by the advancement of integration: Yet, as it turns out, this premise is flawed on several respects. Let us explore these arguments.

3.1.b The Gordian knot of multilevel legitimacy

As a starting point, we can follow Scharpf (1998) in recalling how post-industrial Western democracies have been increasingly struggling to retain output effectiveness in the face of their growing economic interdependence, which creates serious problems of 'incongruence'. This is a

⁴⁴ For a critical appraisal of the no-*demos* thesis, see Weiler's (1995) discussion of the German Constitutional Court's landmark 'Maastricht Decision' of October 1993. The author dismisses Karlsruhe's ruling as 'embarrassing', 'sad, and even pathetic' in that the very notion of a European *demos* is (mis)understood in a narrow, organicist fashion (i.e. as a *Volk*: see *supra* note 5), rendering the ethnocultural dimension of nationality and the civic nature of citizenship indistinguishable from one another. By contrast, 'decoupling' the two planes can open the door to more fruitful understandings of European citizenship (as established by the TEU) in a post-national sense, focusing on the shared bonds forged by common adherence to a given set of civic values (in a way similar, though not quite identical, to Habermas' constitutional patriotism). Such a conception also echoes the one championed by self-styled *demosi*-crats, who understand the EU as being made up not of a single *demos* but as many *demosi* as the bloc's member states (Cheneval and Schimmelfennig, 2013; Nicolaidis, 2013).

central argument, which requires being further developed. Democratic self-determination, the German academic reminds us, has historically been defined by reference to the boundaries of the Westphalian ‘omnipotent’ state. Indeed, not merely does it apply to a (territorially defined) *demos*, but it also crucially implies a *territorial-based congruence* between who governs (i.e. who takes decisions) and who is governed (i.e. who is affected by said decisions). Still, after *les trentes glorieuses* states (again) lost control over their own economic boundaries as the global economy (re)integrated: In Europe, this dynamics was all the more pervasive and ended up pushing member countries into ‘regulatory competition’ with one another, making them ever more vulnerable to their mutual interdependence and ever less omnipotent. The options available to input-legitimate national governments are thus *exogenously constrained* as concerns the policy outputs they can attain, while domestic publics are increasingly subject to the effects of decisions taken elsewhere, to whose formulation they did not partake. In a similar vein, Daniel Innerarity (2018: ch. 3) also reflects on the failure of member states to manage their interdependence: The problem being not so much one of ‘democratising Europe’ as, rather, one of ‘Europeanising democracy’ to alleviate the ‘interdemocratic deficit’ (Innerarity, 2015).

There is no easy exit from the congruence dilemma. There would be, in theory, if the EU became a unitary super-state; or, on the contrary, if it scaled back integration to pure intergovernmentalism. In both cases, democratic legitimacy could be re-conducted to familiar statist models, either relating to federal nation-states or to state-centred international organisations. Yet, the Union is a *highly compound governance system* that cannot be readily democratised, a complex multilevel polity with ‘multiple intermingling institutional settings’, mobile boundaries (both geographical and functional) and multiple *demoi* (Tamvaki, 2009; Tsakatika, 2007). In this context, sovereignty still rests with the member states but is increasingly pooled among them, while functional competences overlap among a multiplicity of actors at different jurisdictional levels. On the other hand, political authority is dispersed both downstream to sub-national units and upstream to supranational institutions. Hence, the question of democratic legitimacy in the EU becomes one of *multilevel legitimacy* (Scharpf, 2007), whose many dilemmas amount to a veritable ‘Gordian knot’ (Hurrelmann and DeBardeleben, 2009), one that cannot be untangled by focusing on any one single variable.⁴⁵ I will discuss here some such dilemmas, although we should be reminded that they only constitute the proverbial tip of the iceberg.

⁴⁵ Apart from the congruence dilemma between the scope of decisions and the public which they affect, Hurrelmann and DeBardeleben (2009: 238 ff.) single out two other main problems, all entailing zero-sum relationships: The ‘participation vs. deliberation’ and the ‘effectiveness vs. accountability’ dilemmas. In actual fact, both are detailed in the remainder of the paragraph under the rubrics of, respectively, Schmidt’s ‘split-level

To be fair, assuming that the levels are just two (national and European) is not entirely accurate, since sub-national authorities (as well as a host of other actors and networks) should also be accounted for in the overall picture, given the MLG approach discussed earlier. For the sake of analytical clarity, however, I will treat the EU here as a ‘two-level constellation’ (Scharpf, 2012: 16-19). This, in turn, entails a two-tiered *legitimacy intermediation system* that is far less efficient than unitary federations and centres around the member countries, which ‘shield’ the EU from overt legitimacy crises with their own input legitimacy – in a reversal of Alan Milward’s (1992) famous thesis about the ‘European rescue of the nation state’. Thus, following Scharpf (2012), member states ensure domestic compliance with EU law on the part of their citizens, whereas citizens, absent any direct (electoral) link to any institution at the supranational level, effectively express their voice exclusively at the national level.⁴⁶ In principle at least, a similar division of labour could prove sufficient, so long as the issues dealt with by the Union are of low political salience – that is, when they do not hinder member states’ sovereignty, encroaching on policy areas directly affecting national citizens’ own livelihoods. Problems arise when this happens, or, to put it differently, when the effectiveness of outputs is no longer undisputed, as is evidently the case with redistributive policies which are not Pareto-efficient (unlike Majone’s regulatory policies) but do, indeed, create ‘winners’ and ‘losers’. Such policies, Scharpf consistently maintains throughout his works, could be legitimate if arrived at through political decision-making. Indeed, we have seen that, for political majorities to legitimately overrule dissenting interests, democracy demands as thick as possible a collective identity (consider Weiler’s *Anschluss* hypothesis): Since the latter is lacking at the European level, it would be best, the German academic insists, to leave member countries autonomously to deal with the most politically salient issues.

However, one might object that, after all, it was member governments (the ‘masters of the Treaties’) to intentionally give up growing shares of their own sovereignty, bestowing ever-increasing competencies upon the Union, its supranational (non-majoritarian) institutions and technical agencies. The principle behind these arguments is encapsulated by the Latin maxim *volenti non fiat iniuria*: When a party willingly enters a contract which foresees obligations, it

legitimacy’ and Scharpf’s ‘joint-decision trap’. Another related dilemma is the one singled out by Dahl (1994) between system effectiveness and citizen participation. The list could be endless.

⁴⁶ While this is most obvious for representatives in the Council(s), the argument might sound counterintuitive with regards to the EP, whose members are elected through direct universal suffrage by European citizens. In truth, however, there is no real contradiction, since voters can only cast their ballot for *national* candidates (at least until transnational lists are introduced for European elections, even though this is unlikely to happen anytime soon, notwithstanding the EP’s recent U-turn on the topic).

cannot later lament that those very obligations cause it any harm. Membership in the Union, the argument goes, is voluntary, and so is the commitment members undertake to respect the obligations deriving from the *acquis communautaire*. Yet, Scharpf (2009) tells us, this only holds true as far as ‘*political modes*’ of EU decision-making are concerned – that is, when member states retain a voice in shaping policies and can effectively bargain their commitments, albeit with all the difficulties relating to the ‘joint-decision trap’ (1988; 2006) and the search for both uniformity and consensus in the face of states’ ‘legitimate diversity’ (Majone, 2014a: 213; Scharpf, 2003).⁴⁷ By contrast, a similar line of reasoning is no longer valid in ‘*non-political modes*’, i.e. where policy is determined primarily by non-accountable technocratic actors such as the ECB, the CJEU and the Commission.⁴⁸ In a way then, control over integration has slipped away from member countries’ own hands (if it was ever there in the first place).

Schmidt reaches similar conclusions to those of Scharpf, and turns to consider how Europeanisation has had a *differential impact* on member states, depending on the latter’s position along an ideal continuum between ‘simple’ and ‘compound’ polities (Schmidt, 2004; 2005; 2006). Integration, she insists, has disrupted the familiar institutional and cultural patterns in European democracies as well as their traditional governing functions, affecting all the four basic mechanisms of legitimation (government by, of, for and with the people) – and all the more so in ‘simple’ polities, since compound polities ‘fit’ better with the EU, the compound polity *par excellence*.⁴⁹ On top of this, the European ‘regional state’ (2004; 2006: ch. 1) is described by the

⁴⁷ Taken together, these dynamics make for the EU’s policy-making ‘conservative bias’: Its high-consensual character, in fact, not only renders it difficult to formulate new rules (given super-majority requirements), but it also produces the effect of ‘locking-in’ the rules themselves once they are formulated, since thresholds for successive amendment are equally demanding. The result is that, in the EU’s ‘compulsory negotiation system’, member states will try to retain political influence (in order to avoid decisions violating their own vital interests) to the detriment of global problem-solving capacities (Scharpf, 1988; 2006).

⁴⁸ The issue here regards particularly the CJEU, which expanded its powers well beyond its original mandate (e.g. by autonomously establishing the twin doctrines of direct effect and supremacy of EU law in the early 1960s). Normally, the aforementioned Latin maxim justifies independent enforcement agencies acting ‘in the shadow of politics’; but the Court wields *de facto* rule-making authority while remaining *politically unaccountable* (Scharpf, 2006; 2009). A parallel critique is defended by Dieter Grimm (2015). For the former German constitutional justice, the CJEU has elevated to constitutional status many treaty provisions that would be ordinary law in national democracies (and therefore subject to both political contestation and legislative amendment). Such ‘*over-constitutionalisation*’, he argues, is one main cause of the EU’s legitimacy deficit.

⁴⁹ Schmidt (2004; 2005; 2006) distinguishes among member countries primarily on the basis of the degree of concentration of governing activities: In simple polities (like France and the UK), they are channelled through a *single authority*, whereas in compound polities (like Germany and Italy) they are dispersed through *different authorities*. Compound polities are in general less affected by Europeanisation-induced disruptions with respect to: (i) the organisational principles of democracy; (ii) the culturally entrenched political, social and economic values; and (iii) the perceived national interest.

American scholar as a ‘fragmented democracy’, relying on a *split-level legitimacy*: A constellation, echoing the one illustrated by Scharpf, where input politics remains at the national level but throughput processes and output policies have both irrevocably shifted to the European. This dynamics has resulted in the disjunction between ‘*policy without politics*’ at the EU level and ‘*politics without policy*’ at the national level (at least until recently, as we will see in paragraph (4.1.a) below). In the former instance, policy-making has been increasingly Europeanised and dealt with mostly in a technocratic, de-politicised fashion; in the latter, national politics becomes a rhetoric exercise with virtually little bearing on the EU’s outputs, to the extent that citizens’ voice (only expressed domestically) does not directly influence the bloc’s policy-making (2004; 2005; 2006; 2020a: ch. 3). Hence, from Schmidt’s discursive-institutionalist standpoint, the democratic deficit appears primarily at the national level: Stemming not only from the hollowing out of national political processes, but also from the failure of national political actors to legitimise Europeanisation through those *discursive interactions* that we encountered in paragraph (2.2.d), i.e. coordinative and communicative discourses. Simple and compound polities again fare differently, but this time around political elites in the former are relatively better placed to communicate to their publics (if only they were able, or willing, to do so).⁵⁰

Nicole Bolleyer and Christine Reh (2012) also conceive of Europe’s legitimacy deficit as a by-product of the *intertwining* of the national and supranational levels. Understanding legitimacy as normative justifiability (explicitly following Beetham), the authors underscore how citizens’ affiliation with their countries hinges on ‘balanced sets’ of shared values on the one hand and, on the other, their structural realisation in the regime’s institutions and processes. National democracies have historically defined their own *value configurations*, balancing out three core values: negative freedom (civil rights), political equality (political rights) and welfare (social rights).⁵¹ Conversely, the multilevel European polity incurs in two major normative challenges when trying to internally reconcile these core values. One is that of assuring the *compatibility*

⁵⁰ There are of course alternative accounts. Claudia Schrag (2010), for one, identifies four structural trends in the EU’s *discursive struggle for legitimation*: the balancing between (a) input- and output-oriented claims to legitimacy; (b) strategies of de- and re-politicisation of EU integration; (c) moves to bring the people ‘in’ and keep them ‘out’ of European policy-making; and (d) the continued discursive interactions between EU elites and domestic public spheres. Accordingly, it is European elites, not national ones, who conspicuously failed to discursively legitimise integration.

⁵¹ This argument is reminiscent of Scharpf’s (2012) distinction between the republican and liberal traditions of democratic legitimacy, already mentioned in paragraph (1.1.c). Whereas member states variously combine the two, for the German academic the EU is skewed towards the liberal pole, since it lacks key republican ‘credentials’ (*ivi*, 13-15).

between different value configurations: Not only among member states, but also across the Union's own various levels of government and, of course, between the domestic and the supranational level. Where incompatibility arises, legitimacy is at risk at either level. An additional problem is represented by the *double political subjectivity* of the Union, since EU law relates to both member states and individual citizens as normative reference points. Such challenges are normally resolved in national multi-level polities by following either the 'democratic' or the 'federal' principle: But prioritising any of the two would require 'fully fledged statehood' in the former case or a constitutionally hierarchy between levels, competences and norms in the latter instance (Bolleyer and Reh, 2012: 480). Yet, the EU can only rely on a 'market constitution', which is evidently not equipped to solve similar problems.

As it turns out, this dilemmatic constellation has worsened over time, especially as a consequence of both the expansion of QMV in the Council and CJEU's audacious judicial activism: While the latter has steadily widened the catalogue of directly enforceable individual rights, the former has eroded member states' formal equality, giving a greater weight to more populated countries.⁵² On their part, Bolleyer and Reh (2012: 482 ff.) propose a longitudinal reconstruction of the EU's evolving value configuration. The early balance between the negative freedoms of the 'market citizen' and the political equality of member countries, they submit, was upended by the asymmetrical changes brought about through the SEA and the '1992 programme', and further eroded in Maastricht. This eventually increased the incompatibility between the EU's institutional structure and domestic democratic processes, on the one hand, and between national and supranational value configurations on the other, with the result of undermining legitimacy *at both levels*. Yet, given the limited scope of its 'market constitutionalism', the Union was deprived of the means to authoritatively respond to these contradictions. According to the authors, the Lisbon Treaty failed to satisfactorily clarify the hierarchy of competences in the EU as well as the latter's actual value configuration, while effectively increasing the competition between the different levels of government across member states. The European legitimacy predicament was therefore far from overcome when the EU entered its age of crises.

⁵² In theory, the weight of bigger countries in QMV should be balanced-out by the regressive proportionality principle used in the apportionment of EP seats. Nevertheless, analysing the legitimacy of the ordinary legislative procedure (OLP), Christopher Lord (2013) criticises so struck a balance, arguing that OLP fails to adequately address the problem posed by the EU's double political subjectivity, unduly favouring states over citizens.

3.2 Europe's age of crises

Following the mainstream narrative, then, constraining dissensus was somewhat latent until the mid-2000s, when the draft Constitutional Treaty was voted down in France and the Netherlands. But a much more dreadful storm was looming ahead. The international financial crisis of 2007-08 caught a flimsy EMU by surprise and rapidly spiralled into a sovereign debt crisis which wreaked havoc on the Eurozone, threatening the very viability of the single currency. Since then, Europe has found itself embroiled in a seemingly never-ending 'cascade of crises' (Anderson, 2021; Dinan *et al.*, 2017) that put under the severest of strains its already fragile democratic legitimacy. To mention a few: The so-called 'refugee crisis', the shambolic withdrawal of the United Kingdom, the rule of law backsliding in some member states, the Covid-19 pandemic, the energetic crisis fuelling inflation spikes and, last but definitely not least, the decade-long Russo-Ukrainian crisis on the South-Eastern border that culminated in the wicked aggression of February 2022.

My aim here, however, is not to provide a detailed account of Europe's age of crises, nor is it to gauge the manifold implications of their perverse intersections (Caporaso, 2021). Rather, it seems more pertinent to consider the effects of the '*polycrisis*' (Juncker, 2016; Zeitlin *et al.*, 2019) squeezing the continent with respects to the EU's democratic and legitimacy quagmire. I will explore some aspects of the latter, using as a *fil rouge* what could be considered 'the mother of all crises' in Europe – namely, the sovereign debt crisis of 2009-15. In paragraph (3.2.a) I will take a closer look at the EU's peculiar version of '*exceptionalism*', that is, the perpetual emergency mode in which it was cast in order to weather the unabating cycle of crises, both endogenous and exogenous. Finally, I will take stock of some major repercussions of the above for the democratic legitimacy of 'emergency Europe' in paragraph (3.2.b).

3.2.a European exceptionalism

To say that crises constitute one essential mechanism through which European integration has historically progressed is probably to utter a truism. Indeed, it was this very intuition that underpinned Monnet's (1978 [1976]) famous *dictum* that the Union would be 'forged in crises'. This argument also represents one key underlying assumption of *neofunctionalism*, with its central concept of 'spillover', whereby functional pressures for deeper integration in one policy domain would result in analogous pressures in bordering issue areas (Haas, 1958). Both approaches thus shared the conviction that crises would spur integration, generating the kind of

pressure needed to enhance cooperation at the EU level. It should be noted, in passing, that not all crises necessarily lead to integrative outcomes: Zoe Lefkofridi and Philippe C. Schmitter (2015), for instance, distinguish between ‘good and ‘bad crises’.⁵³

Be that as it may, the measures adopted in response to the Eurocrisis did effectively amount to a *further integrative leap*, if limited to the EMU. This seemed to vindicate the ‘grand old theory’ of EU studies, with the eventual consolidation of Eurozone governance described as a case of functional spillover (Niemann and Ioannou, 2015) and even saluted as the ‘revenge of neofunctionalism’ (Cooper, 2011). Yet, it was not a ‘pure’ supranational moment, given the major role played by the European Council in shaping the political response to the shock. However, the classical liberal-intergovernmentalist take (Schimmelfennig, 2015) does not arguably take us far enough in understanding the actual dynamics behind the Eurocrisis. From a process-oriented standpoint, with respect to the progress of integration, it is germane to recall the fortunate expression ‘*failing forward*’, coined by Erik Jones and his colleagues (2016) to describe the piecemeal advancement from one incomplete solution to the next, as suboptimal outcomes emerge from the combination of lowest-common-denominator strategies in interstate bargains, on the one hand, and institutional path-dependencies on the other.⁵⁴

Yet, as concerns the *normative level*, there is much more to be said: There is a much darker side to the management of the Eurocrisis to uncover, whereby opaque power dynamics have tremendously strained the bloc’s already fragile democratic legitimacy. I will turn to this latter aspect in the following paragraph. Before doing that, let us inspect the perverse effects of emergency on EU’s policy-making in times of crisis. In order to do so, I will draw on a fairly recent body of literature adopting a more critical perspective compared to classic integration theories. The latter have indeed proven only partially adequate to seize the wider range of dynamics at

⁵³ While the former, if handled properly, can prove conducive to further integration, the latter can halt such progress, leading to dis-integration or even complete breakdown. Typically, good crises set in motion ‘*transcending*’ policy-cycles, eventually leading to spillovers by virtue of which the EU is pushed outside of its ‘zone of indifference’ (with an increase in both the level and scope of authority). Conversely, bad crises (or poorly managed ones) can elicit ‘*descending*’ cycles, entailing dis-integrative outcomes of variable entity (from ‘spill-back’ to complete breakdown) (Lefkofridi and Schmitter, 2015).

⁵⁴ Following a typical *historical-institutional perspective*, the framework for ‘failing forward’ is developed by combining liberal intergovernmentalism with neofunctionalism. The former accounts for the ‘short-term puzzle’, i.e. when member states engage in bargains with each other at specific points in time. The latter explains the path-dependent trajectories connecting various bargains over time, addressing the ‘longer-term puzzle’ (Jones *et al.*, 2016: 1012-17). Together, they deliver a picture of *integration by trial and error*: Incomplete solutions are adopted to address crises and end up setting the stage for successive crises, in a self-sustaining cycle of ‘piecemeal reform, followed by policy failure, followed by further reform’ (ivi, 1013). I believe this pattern can also be adequately described through the caption ‘stumbling through’.

play in the last decade or so (Anderson, 2021; Börzel and Risse, 2018; Rhinard, 2019) – sometimes even displaying a veiled ‘normalisation bias’ towards many questionable practices – and call thereby for a different ‘normative reconstruction’ (Kreuder-Sonnen, 2016). By contrast, the new strand of *crisis studies* (Joerges and Glinski, 2014) blends together different approaches, including legal and constitutional scholarship (Everson, 2015) as well as insights from critical theory, especially from the vantage point of security studies (Krebs, 2009; Stritzel, 2007) and political-economic analysis (Ryner, 2015). Although this perspective does not represent the majority view in academia, I believe it provides us with useful heuristic tools as it sheds a less apologetic light upon the way the EU has weathered the recent cycle of crises. Nevertheless, while appreciating the added value of these normative lenses, we should be careful to resist the captivating, yet probably far-fetched, sirens of ‘EU authoritarianism’.

The pivotal concept of this approach is that of *emergency politics*, built upon analyses of exceptionalism (from Carl Schmitt to Giorgio Agamben) and power (following Michel Foucault). Emergency politics is described by Jonathan White (2015; 2019) as a mode of *political rule*, typically adopted by executive powers (although in fact co-produced by several actors), entailing an abrupt departure from constitutional normalcy rationalised (i.e. discursively legitimised) as a necessary response to sudden, extraordinary threats. Appeals to securitising rhetoric focusing on *urgency* (the ‘whip of necessity’, as in Wilkinson, 2013) are a typical feature of this form of exceptionalism. Christian Kreuder-Sonnen (2023: 127-30) lists five key aspects of emergency rule:

- a. *executive self-empowerment* in the absence of rules regulating the conferral of emergency powers, making for the ‘largely improvised’ character of European exceptionalism (White, 2023) – in the Eurocrisis, this was showcased in the frantic emergency summitry of the early 2010s, when the European Council and the Eurogroup informally met on a regular basis with little (if any) transparency/publicity to hammer out solutions to salvage the common currency;
- b. *rule circumvention*, whereby alternative legal frameworks are resorted to in order to avoid explicitly breaking EU law and accrue executive leeway – as in the case of the EFSF/ESM, established through an instrument of international law outside the Treaties (Tomkin, 2013);
- c. *rule bending*, a complementary strategy of either overt or clandestine reinterpretation of existing norms in such a way that they are formally left in place but effectively disattended – as with the ECB’s bond-buying programmes that, according to then-President Mario Draghi (2012), fell within the bank’s mandate (Schmidt, 2020a: ch. 6);

- d. *domination*, to the extent that powerful member states exert undue pressure on their weaker peers, whose sovereign rights as political equals (as well as their citizens' individual rights) are effectively suspended, as in 'programme countries' undergoing Troika-mandated budget restructuring, factually stripped off of their fiscal autonomy (Dawson and de Witte, 2013; Joerges, 2014; see also paragraph (3.2.b) below); and
- e. *judicial deference*, a situation likely to occur when courts are asked to adjudicate on the legality of crisis response measures, since ruling emergency powers unconstitutional might contribute to the deterioration of the crisis (yet 'judicial accommodation' can turn exceptional, extra-legal powers into permanent executive discretion) – think of the debate surrounding the CJEU's rulings on the legality of the ESM and OMT (Lokdam, 2020; Suntrup, 2018).

Now, to be *democratically admissible*, emergency politics should respect some basic conditions. For instance, it should be conservative, i.e. aiming at preserving the *status quo ante*, and reversible, allowing for normalcy to be restored once the crisis has subsided. It should also be temporary, in the sense that it should not entail any permanent transfer of powers, nor any enactment of permanent legislation (let alone constitutional changes). If such conditions are violated, however, unconstrained emergency politics might conceal *transformational purposes*: That is, it aims at 'constitutionalis[ing] a new status quo' through the creation of 'new permanent arrangements, quite possibly grounded in law' instead of more circumscribed, decree-like measures (White, 2015: 305). The above amounts to deliberate *crisis exploitation* (Boin *et al.*, 2009), wherewith executive actors wilfully take advantage of a critical juncture (which they contribute to frame as such) to expand their own powers, authority and discretion in ways that would be impossible under ordinary conditions, permanently reshaping ordinary policy-making through the securitising mechanisms of crisis management. In other words, this critical model conceives of executive actors as purposefully exploiting crisis-generated 'windows of opportunity' to strategically maximise their discretion while breaking free from procedural and/or political constraints.

For a good deal of observers, this is precisely what happened during the Eurocrisis. The Union's material constitution, the critique goes, was permanently altered; yet, these changes were only narrated as contingent measures rather than constitutional overhauls. This is consistent with the fact that the 'emergency politics script' seeks to legitimise itself through the *retrospective formalisation* (i.e. legitimation) of actions taken in violation of existing norms and rules, and possibly also through their normalisation (Kreuder-Sonnen and White, 2022).

Kreuder-Sonnen (2016; 2019) specifically stresses the questionable legality of the EU's executive-dominated crisis management, which *de facto* altered the 'constitutional authority structures' to the detriment of representative institutions (both supranational and domestic), not least by creating *de novo* 'institutional sub-orders' (such as, notably, the European semester regime of macroeconomic surveillance).

More specifically, Kreuder-Sonnen and White (2022: 956 ff.) suggest a typology of *European exceptionalism* that captures the varying modes of emergency rule in the multilevel Union, intersecting the type of 'emergency governor' (the EU or its member states) and the kind of norms that are derogated (EU or domestic law).⁵⁵ Mark Rhinard (2019: 2) remarks the 'normatively unpleasant trajectory' followed by EU policy-making, which he sees as undergoing a process of '*crisisification*' whereby emphasis is squarely placed on 'finding the next urgent event, prioritizing speed in decision-making' and rationalising narratives 'articulated in terms of preventing, preparing for, responding to and recovering from critical events'.⁵⁶ It should be noted, at any rate, that the emergency script is not 'ubiquitous', as Christian Rauh (2021) correctly reminds us. Indeed, crisis exploitation may be just one among the strategies adopted by the relevant actors, but generalising this argument to cover all actors as well as the entirety of their actions does appear problematic.⁵⁷

3.2.b Emergency Europe: Legitimacy lost?

What are then the effects of crisis politics on democratic legitimacy? Of course, assessments vary both among scholars and with respects to the specific crisis at hand. As concerns the Eurocrisis, in particular, they are overwhelmingly negative. Schmidt (2020a), for one, points to

⁵⁵ Resulting are four types of European exceptionalism: (a) *supranational* (EU institutions expand their discretion circumventing EU-level norms, also possibly resulting in intrusion into member states' affairs); (b) *multilateral* (national governments collectively expand their discretion by establishing new structures outside the EU legal order); (c) *unilateral* (national governments individually expand their discretion, autonomously suspending EU norms); and (d) *domestic* (national governments expand their discretion internally, suspending national norms).

⁵⁶ On the one hand, crisis issues enter the agenda with increased urgency both at the supranational and domestic level, so that *anticipatory action* becomes a key aspect of de-politicised policy-making. On the other hand, the very nature of decision-making is affected, as poorly accountable technocratic and executive actors are entrusted with privilege and authority at the expense of representative institutions (Rhinard, 2019: 8 ff.).

⁵⁷ In order to tell 'crisis managers' from 'crisis exploiters', the German researcher suggests focusing on the *communicative behaviour* of the relevant actors (Rauh, 2021). As a matter of fact, empirical findings do reveal a more nuanced picture, at least with regards to the Commission and ECB.

substantial failures regarding both EU's *throughput and output legitimacy*. In the former instance, key institutional players stubbornly stuck to inadequate procedures in the initial, fast-burning phase of the crisis, only to progressively reinterpret them 'by stealth' (i.e. without publicly disclosing what they were doing) in the subsequent slow-burning phase. On the other hand, far from alleviating the plight of ailing Eurozone members, policy outputs (e.g. austerity measures and supply-side reforms) eventually proved largely ineffective if not detrimental altogether. Needless to say, the breakdown of throughput is also clearly emphasised in the critical accounts examined in the previous paragraph, stressing procedural violations both at the EU and domestic levels.

Likewise, *input legitimacy* was most notable for its absence. At the EU level, the precarious preconditions for multilevel legitimacy intermediation discussed in paragraph (3.1.b) were 'destroyed' according to Scharpf (2012: 19 ff.), further aggravating *inter alia* the congruence dilemma. Thus, the German academic denounces that euro-rescuing policies entailed the 'disabling' of national democratic processes, especially in programme countries that found themselves in a condition of 'receivership', having little choice but to accept draconian conditionalities in order to attain exogenously dictated fiscal 'discipline' (Scharpf, 2011). As a consequence, member states' formal equality was violated as the political will of creditor countries (above all Germany) was imposed upon debtors (particularly Greece), leading many observers to denounce a situation of *de facto* domination (Benz, 2013; Fossum, 2014: 650-51) or, in White's (2015: 305-06) words, of 'politics pursued as foreign policy', with patterns of 'outside intervention in national politics'.⁵⁸

By the same token, many authors reiterate that the effects of the Eurocrisis management have been particularly hefty at the *domestic level*, to the extent that in this context '[d]emocracy appears foremost as a victim of the crisis' (Fossum, 2014: 649). As we have seen, legitimacy is called into question when exceptionalism is exploited by executive actors for the purpose of undercutting (or even pre-empting) the political processes of contestation, deliberation and justification that lie at the heart of democratic politics (and all the more so in crucial domains like budgetary policy-making). When this occurs, political dissent is 'forestalled and made to seem

⁵⁸ This was blatantly evident in the dramatic confrontations among states representatives in the European Council and the Eurogroup, both split between 'Northern saints' and 'Southern sinners'. But it was also a consequence of the procedures foreseen by the so-called European semester, labelled by Scharpf (2012: 28) as a 'discretionary regime of supranational intervention in the management of national economies', characterised by the Commission's highly intrusive supervisory powers and the questionable instruments that dealt an unprecedented blow to European constitutionalism (e.g. the 'reverse QMV' mechanism for adopting excessive imbalance procedures, essentially frustrating the intergovernmental input legitimacy of the Council).

irresponsible' (White, 2015: 307), i.e. effectively *delegitimised*: Necessity is described as the overriding organising principle so that the political value choices behind major decisions are 'obscured', making it look like 'political ends are self-evident and generally agreed' (*ibid.*). Similarly, especially in the early stages of the crisis, national legislatures were often relegated to the role of 'rubber-stampers' by their own governments, which forced them to swiftly approve comprehensive policy packages, typically depicted as *alternativlos*. This prevented delicate issues to be thoroughly debated, hollowing out parliament's deliberative functions and instead following a 'take-it-or-leave-it' logic.⁵⁹ Quite tellingly, the above convinced a scholar like Majone, who used to be sceptical towards the democratic deficit thesis, to acknowledge the EU's '*democratic default*': Member states had no choice but to sacrifice democratic legitimacy in order to rescue the EMU, running the risk of a 'complete normative failure' (Majone, 2014b).

Was it different for other crises? Again, it depends on both the given crisis and the perspective through which it is observed. For instance, Kreuder-Sonnen (2019: ch. 7) evaluates the legitimacy of emergency politics through a sort of '*proportionality test*', since exceptionalism entails a trade-off between normative goods, typically the political autonomy and the overall security of the polity – a balancing act which stands in need of discursive justification. White (2019), by contrast, is much loather to acknowledge any substantial legitimacy to emergency rule, since in his view no ends whatsoever can justify any means effectively impairing the democratic touchstones of representation and accountability. On her part, Schmidt (2022) coherently opts for a discursive-institutionalist approach considering the complex relationships between actors, including their political agendas and ideational assumptions as well as their discursive interactions and the power structures within which they operate.⁶⁰ At a more general level (and somehow buttressing Kreuder-Sonnen's position), the American scholar maintains that where emergency actions are broadly perceived as output-efficient (or at least rhetorically-legitimate) by the

⁵⁹ This results in the paradoxical situation whereby '[d]ecisions that arguably should be scrutinised *in more detail* than usual, because they involve sudden policy shifts with long-term consequences for the nature of society, are instead scrutinised *more superficially*' (White, 2015: 307, emphases added). The forced transposition in national legislation (sometimes even in constitutions) of the so-called 'golden rule', i.e. the obligation of running balanced budgets, was probably the most visible such 'encroachment'.

⁶⁰ Building on previous works (Carstensen and Schmidt, 2016; 2018), Schmidt (2022: 981-84) builds a typology of *rhetorical power* to understand crisis-induced interactive power dynamics: (a) coercive power *over* ideas (actors dominate the meanings of ideas and discourses – both directly, by imposing their own views, and indirectly, by ignoring alternative visions); (b) power *in* ideas (ideas' authority to structure thoughts and discourses), both structural (hegemonic ideas setting the boundaries of the 'imaginable') and institutional (constraining agents' possibilities); and (c) persuasive power *through* ideas (actors persuade others of their own ideas) both in the coordinative and communicative sphere (*vis-à-vis* policymakers and broader publics, respectively). All such dynamics were at play during the Eurocrisis, most notably within the European Council (Schmidt, 2020a: ch. 5).

public, this generally makes up for both inadequate input and throughput. Conversely, no amount of discursive legitimation has proven sufficient to foster the popular acceptance of policies perceived as inefficient, especially where they also lacked input and/or throughput legitimacy. This appears consistent with her own elaboration on the interrelations between input, output and throughput discussed in the second chapter. Lastly, from an output-oriented perspective, Marianne Riddervold and her colleagues (2021) defend the EU's capacity to adapt and weather the shocks, to the extent that it has become 'functionally skilled' to cope with multiple crises.

One final point. When contrasting the evidence of emergency politics in the wake of Europe's polycrisis with the neofunctionalist emphasis on integration through crises (I will come back to this point in the next chapter), an unsettling question arises: Is European exceptionalism actually exceptional, after all? Conceptualising '*emergency Europe*', White (2015: 312) underscores how the EEC/EU has always found itself 'in some form of emergency regime, with regular steps of constitutional significance taken by executive decision, legitimacy sought in securitising narratives, and dissent discredited as resurgent nationalism'. In much the same vein, John E. Fossum and José A. Menéndez (2014) wonder whether we should better conceive of an EU '*in crises*' or, rather, '*as crises*'. Seen from this perspective, the Monnet method essentially encapsulates a *modus vivendi* of constant crisis exploitation or, at best, an illusion that technocratic problem-solving can permanently neglect the political dimension of these complex processes (Stie, 2021). Accordingly, under this light the very notion of 'integration through crises' can hardly be intended as a *democratic* process; at least so long as it unfolds more as a result of cumulative responses to crises (following a reactive logic) rather than as the pursuit of a deliberate goal, that is, as the outcome of legitimate political agreements (proactive logic). In other words, the fact that fundamental changes to the European constitutional settlement are produced through crisisified, executive-led policy-making, instead of being negotiated through the political mechanisms of treaty-making (entailing a more direct engagement of national publics and legislatures), is problematic from the perspective of democratic legitimacy.

The above considerations, it has been argued, warrant calls for an 'emergency constitution' to *pre-emptively regulate European exceptionalism* with a view to mitigating the normative costs of improvised crisis management, in order to make the latter more orderly and predictable, less harmful to the EU's own legal order and more easily reversible (Kreuder-Sonnen, 2023; White,

2023).⁶¹ Indeed, future crises are likely to continue requiring concerted EU action; and given the present lack of any clear, legal pathway to manage them, these arguments look less like wishful thinking and more like a normative imperative, especially if one shares the belief that the Union needs to democratise further. Indeed, addressing this conundrum was one main rationale behind the launch of the Conference on the Future of Europe, or so I shall argue in a moment.

Concluding remarks

Throughout this chapter, I have tried to shed an unapologetic light upon the bleak state of the EU's democratic legitimacy, by focusing on what has been dubbed European exceptionalism and its impacts on the bloc's multilevel legitimacy. Indeed, the congenital defects of Europe's post-national constellation, which have been extensively analysed in academia under the rubric of the EU's democratic deficit, have been aggravated by the Union's (mis)handling of the polycrisis. In particular, I tried to show how the advancement of integration (including through crises, as *per* the Monnet method) has progressively eroded the member states' own democratic infrastructure, without an effective strengthening of transnational democracy to compensate for such losses.

Due to space constraints, I only dealt here with the Eurozone sovereign debt crisis of the early 2010s, but similar (if not entirely overlapping) considerations can also be made concerning many other nefarious junctures in recent European history. Truth be said, assessments of the Union's handling of different crises vary, with the most positive ones generally relating to the pandemic response (Greer *et al.*, 2021; Schmidt, 2020b). In actual fact, just as not all crises are the same, also the relevant EU's responses differ sensibly, as we see by comparing, for instance, the Covid-19 crisis with the recent flare-up of the decade-long Ukrainian crisis (Anghel and Jones, 2023). Arguably however, the above suggests that an *honest* reflection (I cannot stress this adjective enough) on Europe's dysfunctions was long overdue. In the next chapter, I will give an account of the EU's own attempt at launching such a reflection, which looks a lot like a soul-searching operation and whose results are anything but unequivocal.

⁶¹ An emergency constitution would enshrine provisions regulating the Union's governing modes in times of crisis. It would contain the legal rules for declaring an emergency and, most importantly, those for *constituting* and *constraining* emergency powers: Which actors to vest with the latter as well as the scope and reach of the powers themselves, but also the means by which to effectively keep said actors democratically in check.

4. The future of Europe

Emerging from the previous chapter is a rather unflattering picture of the Union, struggling as it is to restore its democratic legitimacy (or, cynics would say, to establish it in the first place). Indeed, the *événements* of ‘emergency Europe’ tell a delusional story for hard-liner democrats, one of broken promises as regards collective self-determination beyond the nation-state. Arguably, this state of affairs is hardly sustainable on the long run: Indeed, the strategies of de-politicisation adopted by Union-level actors – especially in response to the polycrisis – have backfired egregiously, provoking instead a heated politicisation around EU issues and, undeniably, integration itself. It is in this context, which I will describe in section (4.1), that the bloc’s institutional players felt the need to initiate a wide-ranging public debate on the future of Europe. The innovative initiative that I chose as a case study for my thesis, the Conference on the Future of Europe, is but the latest EU’s attempt at shoring up its own battered legitimacy, by more directly engaging with a citizenry whose politicisation has often entailed overt defiance of ‘Brussels’ and what it stands to represent. This will be the object of section (4.2).

4.1 In search of a *telos*

Among the perverse consequences of the Union’s multilevel legitimacy dilemmas discussed in the previous chapter, arguably one of the worst is represented by the disconnect between the European policy output and the national political input. Far from being a casual occurrence, this disconnect was purposefully built-in the original EEC architecture so as to *de-politicise integration*, in line with the then-dominant neofunctionalist paradigm. In paragraph (4.1.a), I will go through these dynamics, that translated into political opposition *to* Europe, instead of political opposition *within* Europe.

These considerations call into question the very bases upon which integration has historically advanced. In other terms, they speak to the Union’s *telos*, the final destination towards

which the whole European project is headed. The bloc's institutions apparently realised this already some time ago, and consequently launched an EU-wide public debate on the 'future of Europe'. The (few) highs and (many) lows of this wobbly journey of self-reflection and soul-searching will be dealt with paragraph (4.1.b).

4.1.a *Quo vadis, Europa?*

Concerns with the future of Europe are hardly anything new. Indeed, they speak directly to the *teleology* of the European construction, initiated in the 1950s to rebuild the war-torn continent after centuries of deep-seated enmities among its nations. The integration project, therefore, was legitimised by a form of '*political messianism*', as Weiler (2012) keenly puts it; that is, the vision of a 'Promised Land' of peace and prosperity for all (Western) Europeans. In a sense, those promises represented the future that the architects of modern Europe were in the process of building, and encapsulated the tension towards a *telos*, a common destiny to be achieved by means of transnational cooperation. As a matter of fact, the original project was imbued with a specific *finalité politique*, that is, the attainment of an '*ever closer union*', the federalist utopia of the United States of Europe (albeit in a much diluted version compared to the one envisioned by Altiero Spinelli and Ernesto Rossi in their 1941 Ventotene Manifesto). It was, in other words, an answer to the fateful, maybe even eschatological question that titles this paragraph: *Europa, quo vadis?*

To be sure, matters are much more complicated than this, and evolved over time. Bo Stråth (2006), for instance, notes that the early functionalist narrative was only one among several that intermittently motivated European integration (aiming at the 'holistic unification' of the continent) throughout the second half of the 20th century. It was followed, during *les trentes glorieuses*, by the 'modernisation narrative', whose pivot was the expansion of the national welfare state. This narrative was in turn called into question by the 1973 international crisis and the collapse of the Bretton Wood global order, and substituted in the 1980s and 1990s by the 'globalisation narrative'. The latter focused on the network metaphor to dis-embed, in Polanyian fashion, transnational market forces from politically managed national economies.⁶² For the purposes of

⁶² The very contradiction between transnational free trade and national welfare states, Stråth (2006) argues, was concealed behind the integration project, especially in the Single Market programme of the late-1980s: The fatal illusion of this kind of teleologicality, however, was to think that welfare could emerge from dis-embedding market forces. However, as showed early on by Karl Polanyi (2001 [1944]), market integration tendentially leads to social disintegration: For, in order to build a political community, one must start from the 'social issue'.

this analysis, however, I will focus my attention on the teleological vision of an ever-closer union, since it fits both with neofunctionalist revivals owing to the EU's handling of the polycrisis and with the discourse on the future of Europe which I will introduce in the following paragraph.

Now, the vision of Europe's pioneers turned out to be clashing with the priorities of the then-six ECSC members, whose political leaderships had not only different immediate needs (best served by different sets of common institutions), but also rather different ideas regarding the final destination of the integration project itself. For some, the 'new Europe' should have mimicked familiar international organisations, protecting state sovereignty through effective veto powers. For others, it should have been placed on a firmer supranational footing, entering the uncharted waters of pooled sovereignty. As Schmidt (2006: 48) puts it, the founders 'chose not to specify what they were building but to name instead the process of building itself', that is, what came to be known as the 'Community method'. As a result, the European construction 'developed without any clear set of ideas or discourse about *what* it was or would be, just *how* it would proceed' (*ibid.*, emphases added).

Hence, the EEC's *sui generis* organisational structure became the façade behind which potentially paralysing political disagreement was hidden in plain sight. As we know, the 'European saints' (Milward, 1992) had bet that integration would come about in a quasi-automatic fashion, spilling-over as a result of functional pressures triggered by crises. Crucially, the emphasis was squarely placed on 'how' to proceed (indeed, on the very need for proceeding) rather than on 'what' to achieve. As underscored by Majone (2014a), this attitude rested upon the ill-fated reliance on the '*primacy of process*' over results: Accordingly, any agreement was prized as such, the actual contents thereof being held to bear lesser importance. Advancing integration thus became *an end in itself*, unbothered by questions about the actual feasibility of the means chosen to pursue it, which were left to successive negotiations. The effects of this approach were plastically displayed in the flawed structure of the EMU: The launch of the single currency was above all a matter of political symbolism that superseded deeper reflections over its technical design, tragically disregarding member states' different economic fundamentals (*ivi*), setting the stage for the epochal cataclysm recalled in section (3.2).⁶³

⁶³ As a matter of fact, such dynamics were stoked up by material incentives for economically weaker member states to rush towards adoption of the euro, as well as fears over the prospects of political isolation in case of belated entry into the EMU. Underlying these considerations were both the 'uniformity bias' exposed by Scharpf (2003) and the belief in the so-called 'bicycle theory', positing that integration had to be kept in motion to prevent it from derailing altogether (Majone, 2014a). This predictably led to what Hubert Zimmermann (2016) aptly calls the 'neofunctionalist trap' haunting the Eurozone, whereby spillovers had destabilising (rather than cumulative)

Prioritising process over results constitutes a *de-politicising strategy*, which aims at locking out political disagreement as long as possible by way of cloaking policymaking with the alleged neutrality of expertise. Unsurprisingly, this avowedly elitist and techno-bureaucratic approach failed to anticipate the steep rise in *politicisation* occurred in the wake of the Eurocrisis, while (perhaps paradoxically) fuelling it in the first place. Neofunctionalism was simply not equipped to capture the growing sense of popular uneasiness towards Europeanisation, which was instead detected by post-functionalism in the aftermath of the 2005 Constitutional fiasco (Hooghe and Marks, 2009). The shift to constraining dissensus thus coincided with the final collapse of European messianism: As the latter could not be legitimised by ‘popular ownership’, it eventually ended up alienating citizens (Weiler, 2012: 837).

Perceptions of a widening gap separating the modes of ‘EU-rule’ from the legitimisation story of popular sovereignty (Beetz and Rossi, 2017) had pushed national publics to the boiling point, the argument goes, with the Eurocrisis acting as the detonator that unleashed these karstic currents. As hinted above, the EU’s ostensibly technocratic handling of the crisis reinforced the unfortunate impression of there being an ‘either-or choice’ between technical expertise and popular participation, the latter often associated with populism (Stie, 2021: 731 ff.). Efforts at de-politicising crisis management are epitomised by Schmidt (2020a) as ‘governing by rules and ruling by numbers’, that is, adhering to technical norms and numerical targets (most notably the SGP rules) and inflexibly applying one-size-fits-(n)one recipes whose efficacy was largely contested. Unsurprisingly, this toxic mix triggered a dramatic backlash across the board with Eurosceptic forces securing spectacular gains in both EP and national elections. Europeans were revolting against EU-sponsored austerity, perceived as strangling both the economy and democracy at the domestic level. Nevertheless, as a perverse consequence of the Gordian knot of multilevel legitimacy, they could not effectively voice their disagreement over the bloc’s policy outputs through the available avenues of national political input. Hence, as anticipated by Peter Mair (2007), opposition ‘to the EU’ ensued from the impracticability of opposition ‘in the EU’,⁶⁴

effects arising mostly from the impossibility of realising the EMU’s own ‘unholy trinity’, that is, simultaneously deepening integration, widening its membership and enhancing its democratic legitimacy.

⁶⁴ According to the Irish scholar, this is due to the ‘forced convergence’ among member states, which limits the *political space* for competing parties, while delegation of sovereign powers restricts the policy options available to governments. Similar trends have the effect of ‘*hollowing*’ European democracy (Mair, 2013), to the extent that domestic and supranational elites are now ‘ruling the void’ once occupied by democratic politics (itself based on government-opposition dialectics, as in Dahl, 1965) and citizens evacuate the public space.

leading to worrisome patterns of ‘politicisation without democratisation’ (Scicluna, 2014: 569 ff.).

Still, far from only emerging at the bottom, politicisation has also crept into the top level, albeit less overtly (Schmidt, 2020a: ch. 3). On the one hand, faith in the higher ‘technocratic reason’ eventually turned out to be a ‘fallacy’ (Scicluna and Auer, 2019), since handling the Eurocrisis entailed taking *high-salience political decisions* with tremendous redistributive effects, especially for crisis-plagued peripheral countries. On the other hand, those very decisions were in turn based upon *essentially political assumptions*, deriving from belief systems that underpinned different economic cultures and broader worldviews (e.g. ordoliberal preferences for balanced budgets). Consequently, supposedly cooperative interactions among the relevant actors became increasingly riven by *political disagreement* over ‘what should be done’, with conflicting priorities (both among and within institutions) constantly threatening to derail the intricate crisis management process. Today, in other words, we increasingly find ‘policy *with politics*’ at the EU level, coupled with growing ‘politics *against policy*’ (and even ‘*against polity*’) at the domestic level (Schmidt, 2020a: ch. 3).

Analysing the trajectory of politicisation allows us to appreciate how the EU is increasingly becoming a contested political object, albeit not yet fully contestable (like more familiar parliamentary systems) given the red-tape of the multi-level legitimacy constellation. This contradiction leads some commentators to suggest substituting the concept of politicisation with the more appropriate notion of *polarisation* (Rohrschneider *et al.*, 2015), typically occurring along the pro-integrationist *vs.* Eurosceptic axis, in turn echoing the now-classic ‘transnational cleavage’ hypothesis (Hooghe *et al.*, 2002). Moreover, as Frank Schimmelfennig (2014) points out, the above also proved post-functionalists wrong: For as EU leaders continued to operate in opaque and unaccountable settings, masterminding the fate of troubled Eurozone members while far removed from public sight, public dissensus did not seem to constrain them very much (Genschel and Jachtenfuchs, 2016: 166). On the contrary, governance in the EMU was further integrated *notwithstanding* the opposition of national public opinions, largely by resorting to emergency rule. On the bright side then, the Union stood somewhat resilient and managed not to disintegrate, actually progressing (or failing?) forward, as in Monnet’s oracular intuition. But there is also a darker side, pointing to the apparent irrelevance of European citizens’ own determinations, caught in the legitimacy trap of emergency Europe, past and present. The paradoxical picture is thus one of a political union (as *per* the long and winding road taken in Maastricht over thirty years ago) seeking to de-politicise integration. How is a similar state of affairs supposed to *make sense* to Europeans? In *whose interest*, if not that of citizens, should a political

union be created in the first place? These by no means constitute trivial, let alone ancillary questions. Proof of this are the sustained efforts by EU institutional players to build democratic legitimacy through more direct involvement of the citizens, which I now turn to consider.

4.1.b The 'future of Europe' debate

Questions about the *telos* of the EEC/EU were therefore always present, to the extent that different 'past futures' were imagined at various points in time (Stråth, 2006). After the turn of the new century, however, the expression 'future of Europe' (interestingly, not 'of the EU') started to appear in an increasingly prominent manner: Not only in statements and declarations, but in a number of official initiatives launched by the bloc's institutions over the past two decades. Here I will only provide an overview of these developments, before detailing to a greater extent the last such legitimacy-boosting exercise in the next section. Nevertheless, I believe it is in order to contextualise this multifarious sequence of diverse activities within a broader, consistent framework.

Following Stråth (2006: 443 ff.), we see that around the mid-late 2000s, the European project underwent some serious distress on at least two important respects. On the one hand, the *teleological narratives* that had motivated successive rounds of integration gradually lost their 'utopian energy' (their 'messianic potential'): Whereas previous political cycles were legitimated by reference to a clear goal (be it building the United States of Europe, developing the Single Market or adopting a 'Constitution for Europe') and insistence on 'the feeling of being on march towards that goal' (*ivi*, 443), the cascade of crises discussed in the previous section had the effect of rendering strategic, long-term thinking ever more difficult, since handling ongoing emergencies means being constantly focused *hic et nunc*. On the other hand, major structural dysfunctions in the EU's institutional architecture started to impair the smooth running of communitarian affairs: After the Eastern enlargement of 2004-07, the Union was reaching 'overstretching', insofar as the increased internal heterogeneity further complicated the search for political agreement on virtually any issue. The spectre of paralysis was only partially warded off by the Lisbon Treaty, with several longstanding problems left unaddressed.

Now, as we know, the polycrisis that kicked off in the early 2010s has severely aggravated the Union's legitimacy predicament, leading *inter alia* to the growth in politicisation discussed in the previous paragraph. However, politicisation needs not necessarily be a 'bad thing' for the European construction. In actual fact, several voices in academia have long advocated for this

outcome as both inevitable and desirable, considering it from different perspectives such as increased political contestation of EU policymaking (Hix, 2008), the development of a European public sphere (Habermas, 2001b), structured transnational conflict (Crespy, 2014) and so forth. Some scholars even consider politicisation as ‘constitutive’ of integration (Haapala and Oleart, 2022): Whether or not this is the case (much literature is sceptical), what we can see from our vantage point is that politicisation is already reshaping Europeanisation and is here to stay. To be sure, civil society has been increasingly organising *transnationally* for some time now, giving rise to what Luke Cooper and his colleagues (2021) call ‘insurgent Europeanism’.⁶⁵ But running parallel to this trend was also a *deliberate (re-)politicisation* of EU-level policymaking on part of its own institutional actors, or what has been called ‘supranational politicisation’ (Butnaru-Troncota and Ionita, 2022). Although one could easily expect the EP to push for this, perhaps the most surprising player to do so was the Commission: Indeed, since at least the 2014 European elections, the supposedly neutral guardian of the Treaties has been taking on an increasingly political role (Kaeding, 2015) and it is difficult to see how this trajectory could be inverted.⁶⁶

These two politicising trends (top-down and bottom-up) intersect, as it were, where they both call for *more direct and sustained citizens’ involvement* in Union-level policymaking, a commitment already contained in the aforementioned 2001 White paper on governance (where the ‘debate on the future of Europe’ is mentioned, probably for the first time). As duly noted by Lars Hoffmann and Elizabeth Monaghan (2011: 141), recourse to public debates on possible visions for Europe’s future (or integration’s very *telos*) constituted, in the mind of the bloc’s institutions, a powerful device through which to ‘win back’ disaffected citizens and shore up the Union’s battered legitimacy by means of an ostensible rapprochement to the ‘normative benchmark’ of popular sovereignty. To put it in Schmidt’s terms, it was an example of EU elites’ engagement in *communicative discourses* with publics, national as well as European. The main theoretic framework relied upon by proponents of this new legitimising narrative was the burgeoning literature

⁶⁵ Studying the shedding of skin of transnational mobilisation in the old continent, the authors map the consolidation of an EU-wide public space where competing visions of Europe confront one another (e.g. ‘normative’, ‘popular’ and ‘responsive’). To account for the intensity and pervasiveness of politicisation, they visualise a shift from traditional conceptions of civil society as either vertically- or horizontally-oriented to one at ‘45 degrees’, insofar as grassroots movements engage both their societal peers and political elites (Cooper *et al.*, 2021).

⁶⁶ This was explicitly vindicated by then-President Jean-Claude Juncker (2015) himself: ‘I had the opportunity to be a more political President. [...] I wanted to lead a political Commission. A *very* political Commission’ (emphasis in the original). Similarly, Ursula von der Leyen described her college as a *geopolitical* Commission when taking office in December 2019. In hindsight, we now know how fateful those words would prove.

on *deliberative democracy* (Eriksen and Fossum, 2000), which following a Habermasian logic placed the emphasis squarely on the dialogical moments of arguing, will- and opinion-formation and reason-giving, while the growing knowledge on participatory practices (OECD, 2020) also informed the evolution of this strategy, especially in the latest stage of the process (i.e. with CoFoE). Hence, the EU-sponsored debate on the future of Europe has been ongoing through thick and thin since the early 2000s, punctuated with both high-profile, EU-level events and more diffuse, local-level initiatives across the member states.

The first phase of the debate was, if we will, more experimental, and proceeded by unconvincing trials and many errors. The foremost initiative in this stage was the *Convention on the Future of Europe*, convened in February 2002 and lasting through July 2003: Established by the so-called Laeken Declaration,⁶⁷ it constituted an unprecedented, plural process in preparation for the upcoming intergovernmental conference (IGC) on treaty reform. Among the novelties were the involvement of representatives from all the bloc's main institutions as well as from the member states (plus accession countries), but also the openness and publicity of the debates, which covered a wide range of issues.⁶⁸ Eventually, as we know, the Convention extensively reinterpreted its mandate and produced a draft Constitutional Treaty, which was endorsed by the then-Fifteen but notoriously failed to pass the ratification test in the spring of 2005.

During the ensuing 'reflection period', the Commission launched its 'Plan D for Democracy, Dialogue and Debate', comprising several initiatives aimed at encouraging a wider debate on the future of the Union (both at the EU and member states' levels), with the objectives of listening to citizens' expectations and bringing the EU closer to Europeans. Crucially, the bloc's executive bet on mass media and the internet to mainstream the debates, also setting up a dedicated Debate Europe website with the specific aim of generating an autonomous, public-driven debate on EU issues and priorities. However, none of these instances reached their intended objective: Whereas the Convention (an elite debate held *in public*) did not produce widespread public ownership, Plan D and its (poorly run) online platform (an elite-stipulated debate *among*

⁶⁷ The 'Declaration on the Future of the European Union' was licensed by the European Council meeting in Laeken in December 2001. The document instructed the Convention to identify possible responses to the key issues regarding the Union's future development, including settling the questions left unanswered by the 2000 Nice Treaty and, more generally, the streamlining of both the EU's structure and activities.

⁶⁸ According to Risse and Kleine (2007: 74 ff.), the so-called Constitutional Convention fared much better than standard IGCs as a method for treaty revision in that it maximised all three dimensions of legitimacy. As for *input*, it enhanced accountability by allowing for a much more diverse institutional representation, especially national and European parliamentarians. *Throughput* was ensured not only through the publicity of the process and the availability of all relevant documents, but also through the deliberative quality of debates. Lastly, *output* was also remarkable, according to the authors, based on the quality of the draft Constitutional Treaty.

the public) failed to feed the scanty contributions into the Commission's works (Hoffmann and Monaghan, 2011).

Lastly, starting in September 2012 the Commission launched a series of *Citizens' Dialogues* throughout the Union (until March 2022), where citizens could engage in person with local, national and EU officials and representatives in 'town hall-style' meetings, live-streamed online (on an updated version of the Debate Europe website) and with a certain degree of media coverage. This latter initiative (consisting in elite debates *with the public*) had the main rationale of restoring citizens' trust in the EU, which had plummeted during the Eurocrisis, while also aiming at developing an EU-wide public space and showing citizens that 'their voice counts', not least by means of bridging the gap between local and EU issues (European Commission, 2014).

This brings us to the next and final act of the debate on the future of Europe, in reaction to the Brexit referendum of June 2016. In this stage the debate was much more structured, being articulated into three distinct phases, each with its own programmatic document:

- a. the first phase of '*diagnosis and reflection*' spanned from the British vote until mid-September 2016, when the Bratislava Declaration was signed;
- b. the second phase of '*deliberation and proposal*' lasted until the celebrations for the 60th anniversary of the EEC Treaty in March 2017, on whose occasion the Rome Declaration was signed and a White paper on the future of Europe released;⁶⁹ and
- c. the third phase of '*delivery and vision*' ended in June 2019 with the adoption of the New Strategic Agenda 2019-24, building on the Sibiu Declaration of May (Anghel and Drachenberg, 2019).

Conveniently, in the third phase the bloc's main institutions (European Council, EP and Commission) followed their own roadmap with related activities. The Parliament, for instance, hosted a number of national leaders in its 'future of Europe debates', arguably little more than a nice political passerelle. National governments, on the other hand, promoted a series of *European Citizens' Consultations* (ECCs) throughout 2018 across the Union, building on an idea previously expressed by French President Emmanuel Macron in a September 2017 speech at the Sorbonne University. Whereas Commission-sponsored Dialogues were essentially EU-driven,

⁶⁹ Interestingly, notwithstanding diffuse concerns over Union breaking-down following Brexit, the White paper makes no mention of any genuinely dis-integrative scenario, only listing the following: (i) 'carrying on', that is, business as usual; (ii) 'nothing but the single market', i.e. deeper economic integration but surrender of political union; (iii) 'those who want more do more', the classic recipe for differentiated integration; (iv) 'doing less more efficiently', that is, scaling-back supranational ambitions and fleshing out subsidiarity; and (v) 'doing much more together', at once deepening and widening regional integration (European Commission, 2017).

ECCs would grant a much higher degree of flexibility to member states in their organisation, while also displaying a more articulated structure: (a) national-level events held across participating countries plus (b) a transnational panel composed of 96 randomly selected citizens who formulated an (c) online questionnaire to be answered online by all EU citizens. However, also ECCs were stymied by several problems, above all the lack of any clear set of objectives or criteria for evaluation set out in advance, without which the initiative could not avail itself of EU-level visibility, while also rendering an overall assessment particularly difficult – both with regards to single national events and, most importantly, to their collective impact on the Union’s policy-making (Butcher and Stratulat, 2019).

In conclusion, as is often the case with this kind of initiatives, little (if any) concrete result eventually fed into the bloc’s actual policymaking, especially with regards to the overall political steering of the Union, whose helm stays firmly in the hands of the European Council. This is not to say that the attitude of the other institutions was less disappointing: The EP, supposedly representing citizens, did not even reach out to them in a sufficiently structured manner, whereas the Commission did not effectively build upon the results of its own initiatives. The whole ‘future of Europe’ strategy thus amounted to a disheartening paradox: Europeans were repeatedly called upon by EU institutions to express and debate their concerns and ideas through an elite-driven public debate, yet the ideas and concerns they expressed and debated were taken in virtually no consideration by those very elites who had asked for them in the first place. This brings us to the last episode of the Union’s never-ending quest for democratic legitimacy: Enter the Conference on the Future of Europe.

4.2 The Conference on the Future of Europe

In the remainder of the chapter I will provide a general account of the Conference (to which I will also refer by its acronym, CoFoE), a gigantic, EU-sponsored initiative that spanned over the course of one year (from Europe Day 2021 to Europe Day 2022) and involved, through a highly complex machinery, European citizens, member states’ political representatives and the Union’s own institutional actors. Clearly, this is not intended to be an exhaustive analysis; on the contrary, I will mainly focus on the Conference’s rationale and the competing visions behind it in paragraph (4.2.a), while recalling its design and addressing some selected issues throughout paragraph (4.2.b). A more extensive examination would be beyond the scope of my analysis and

would, incidentally, require a kind (and volume) of data and documentation that is simply not yet available.

4.2.a What's in a Conference?

As we know, the EP elections of May 2019 marked the first increase in turnout ever since this electoral contestation was first held in 1979, providing a somewhat fertile ground for a fresh undertaking like CoFoE. But the original idea had been conceived some months earlier, generally acknowledged as yet another brain-child of the French President, who in March had published an open letter to Europeans in several news outlets across the continent calling for a *Conférence pour l'Europe*, gathering citizens from all member states in an EU-wide deliberative exercise with the final objective of reforming the Union (Macron, 2019).⁷⁰ The project was later picked up by Commission President-elect Ursula von der Leyen, who in July announced before the EP in Strasbourg her intention to launch a 'Conference on the Future of Europe' as part of the new Commission's political guidelines for the 2019-24 term (von der Leyen, 2019: 19). For a good deal of observers, von der Leyen purposefully 'traded in' the Conference in order to get elected by MEPs, who had previously committed not to support any nominee for the EU's top post who did not run as *Spitzenkandidat*.⁷¹

However, and despite such grandiose narratives, I believe it is necessary to keep in mind that this initiative was actually born out of grave legitimacy shortages affecting the Union, which the magniloquent 'debate' on the future of Europe could not alleviate. Following Alberto Alemanno (2020: 485-86) and adopting a 'counterfactual' logic, in fact, one is faced with the grim reality that the Conference attests to the inadequacy (or, at best, the underdevelopment) of the

⁷⁰ The ostensible pro-deliberative activism of *Monsieur le Président*, already anticipated in the Sorbonne speech, had allegedly been reinvigorated by the *Gilets jaunes*' street protests of 2018-19. Domestically, this resulted in the *Grand débat nationale* of early 2019 and, most notably, the *Convention Citoyenne pour le Climat* (CCC) of 2019-20, the transalpine forerunner of CoFoE (itself modelled after the Irish Citizens' Assemblies) (Eymard, 2020). At the Union level, as we have seen, Macron had contributed to the establishment of the ECCs in 2018, which however failed to generate the expected popular momentum ahead of the 2019 EP elections. The 'Conference for Europe' represented thus the latest rabbit pulled out of the French President's hat, as part of his political platform of *Renaissance européenne*.

⁷¹ The 'lead candidate' system is a rather controversial institutional arrangement (championed by the EP and supported by the Commission, but opposed by the European Council) whereby each Europarty puts forward a candidate for the Commission presidency ahead of the EP elections, so that the 'winning' party appoints its *kandidat* as President (Cloos, 2019; Crum, 2023: 202 ff.; Hamřík and Kaniok, 2019). As a matter of fact, von der Leyen (2019: 20-21) herself mentioned a willingness to strengthen the 'special relationship' between Commission and Parliament, including by means of improving the *Spitzenkandidat* process.

EU's *participatory avenues* introduced in Lisbon. Indeed, the TEU explicitly derives Union's legitimacy from both representative and participatory democracy – the latter being promoted by instruments like the right to petition, the European Citizens' Initiative (ECI) and the Commission's public consultations, as well as other mechanisms allowing for administrative action and judicial review of EU acts. Yet, these tools failed to reach their objective, namely, to 'close the gap between [political] power and electoral accountability' (*ivi*, 491). Only placing it in this context of deficient legitimation (as described throughout the chapter) is it possible to fully grasp CoFoE's *raison d'être*, and to critically evaluate it.

At any rate, to say that MEPs liked von der Leyen's proposal would be an understatement. Indeed, not only did the assembly decidedly throw its own weight behind the initiative, but got deeply involved in it from the very beginning, aiming at 'claiming ownership' over the Conference in order to actively shape its agenda (Johansson and Raunio, 2022). Crucially, the EP repeatedly stressed the need to engage in the experiment 'without taboos', that is, allowing for far-reaching institutional reform.⁷² As a matter of fact, the Parliament was quick to strategically exploit the situation, establishing a dedicated Working Group which also included the chair of the Committee on Constitutional Affairs (AFCO), thereby signalling not only the relevance attached to the Conference but also, most importantly, the intention to make use of a similar window of opportunity to initiate Treaty reform *ex art. 48 TEU* (*ivi*). Unsurprisingly, the EP's attitude conflicted with the Council's, as the latter explicitly ruled out renegotiation of the Treaties, insisting instead on a 'policy-first' approach focused on the priorities of the 2019-24 Strategic Agenda. National governments always understood (and tried to depict) the Conference primarily as an opportunity to underpin EU legitimacy by allowing citizens to express themselves on the topics that concerned them the most (Council of the EU, 2021); still, CoFoE was not understood as the appropriate setting to discuss institutional reform.⁷³

The question was almost ontological, a Shakespearian dilemma on whether the participatory experiment should constitute a 'forum for reflection', however innovative, or a more ambitious 'vehicle for reform' (Fabbrini *et al.*, 2021). Still, the central issue of the *true endgame* of the

⁷² Among the issues that MEPs successfully pushed throughout the whole initiative, I believe the most noteworthy were the aforementioned *Spitzenkandidat* process, the related question of transnational lists, a further extension of QMV in the Council and, the power of legislative initiative for the EP, coupled with more extensive budgetary powers. Indeed, all these ideas made it to the final report of the Conference (European Union, 2022).

⁷³ To be sure, however, the positions of the various governments diverged sensibly, as is understandably the norm in the Council. Thus, for instance, France and Germany issued a 'non-paper' in November 2019 calling for an ambitious reform process structured along a two-fold 'stream': Institutional matters would be debated first, then policy-related issues. A similar vision was also expressed by the Italian government in February 2020.

Conference was never directly addressed, the process being purportedly left open-ended: Officially, this derived from the need not to pre-empt the debates, as reiterated on several occasions by Commission officials, who consistently showed a fair degree of ambiguity as concerns the transformative potential of the initiative (in particular, whether or not Treaty change was ever an option). Another source of political disagreement, albeit seemingly of lesser salience, was CoFoE's governance structure: The Council favoured a monocratic presidency (on the model of the Constitutional Convention, chaired by former French President Valéry Giscard d'Estaing) assisted by a 'Steering Committee', but negotiations stalled when the EP proposed for that position the liberal MEP Guy Verhofstadt, a seasoned politician known for his strongly federalist views on integration (Martines, 2021: 20). The ensuing political confrontation, coupled with a physiological delay due to the Covid-19 outbreak, eventually caused the process to start exactly one year later than initially foreseen.⁷⁴ In other words, the institutions' political agenda had glaringly tramped over the public one (Johansson and Raunio, 2022): So much for the flaunted urgency of engaging with citizens.

4.2.b Unpacking CoFoE

At long last, in March 2021, the bloc's heavyweights finally reached an agreement and signed onto the Joint Declaration on the Conference on the Future of Europe, an inter-institutional agreement which established the latter's multi-layered structure albeit leaving a non-negligible number of (mainly technical) questions unanswered, which were addressed along the way as CoFoE unfolded. According to the document, which was operationalised through the Rules of Procedure (RoP), the venture's architecture resembled the shape of a *pyramid*: At the bottom, the multilingual digital platform; right above it, the European Citizens' Panels (ECPs); at the top was the Plenary; while at the apex of the edifice was the Executive Board and, at the very end, the Joint Presidency. The overall result was therefore an original 'combination of institutional sites populated by highly diversified actors that, together, define[d] the opportunity structure and dynamics of the entire Conference' (Alemanno, 2020: 492). Let us now examine

⁷⁴ The Conference was originally scheduled to run from 2020 to 2022. However, given the pandemic-induced continental shutdown, the start was postponed to Europe Day 2021. Logically, one would have assumed the end date to shift consequently, so as to allow deliberations to retain their biennial scope. Yet, this was not the case. It just so happened that some eminent political figure, who shall remain nameless, would be running for reelection in the spring of 2022 (while holding the Council's rotating presidency) and would supposedly benefit from the (expected) success of their own flagship initiative...

each level, to get a glimpse not only of who occupied what place, but also of the role that every component had in relation to the whole.

The *digital platform* (art. 3 RoP), to begin with, represented the Conference's *consultative backbone* and was definitely the farthest-reaching component of CoFoE's mammoth architecture in terms of participatory potential, being open and free to use and only requiring anonymous registration. However, despite calls for transforming it into a permanent hub for 'virtual trans-national democracy',⁷⁵ the website futureu.europa.eu was archived on 16 February 2023. So long as it was active, it consisted in an interactive, multilingual, AI-governed virtual space allowing users to horizontally share their own ideas and comment on (or endorse) others' ideas relating to the nine Conference topics as well as to host and/or attend events (in-presence, virtual or hybrid) throughout the Union. The themes up for debate on the platform were chosen by the institutions, largely based on the European Council's Strategic Agenda and the Commission's own priorities: Not exactly a textbook 'bottom-up' approach, albeit there was admittedly a fair degree of leeway for everyone to speak their minds on such broad topics.⁷⁶

Hence, contributions on the platform came either in the form of ideas and comments put forward by single users (e.g. a citizen, or an association, posting their suggestions) or as the outcomes of organised events (e.g. the report of a roundtable). Now, of course 'events' is an umbrella term covering a wide range of very different situations involving variable numbers of participants, either EU-sponsored or 'spontaneous' (disciplined by art. 4 RoP);⁷⁷ national panels (domestic versions of ECPs) could also be organised, although only six member states, including Italy, actually bothered to hold one. Basically then, the digital platform served as an *online repository* where all relevant contributions and documents were collected, and from whence ideas would be picked to be debated in the ECPs: It is in this sense that we can consider it as the

⁷⁵ The Commission made use of *Decidim*, a free open-source platform for citizens' participation originally developed in 2016 by the municipality of Barcelona with support from the European Regional Development Fund (ERDF). Petar Markovic and Kalypso Nicolaidis (2021) auspicate that this promising e-democracy tool be left in place and improved, so that it may be used by EU citizens to 'linkage' their local-level democratic experiences with the supranational level ('scaling up') on the one hand and, on the other, with similar experiences in different member states ('scaling across' national boundaries).

⁷⁶ They included: climate change and the environment; health; a stronger economy, social justice and jobs; EU in the world; values and rights, rule of law and security; digital transformation; European democracy; migration; and education, culture, youth and sport. A tenth item was created to submit 'other ideas'. The topics which received the highest numbers of contributions were 'European democracy', 'Climate change and the environment', and 'Values and rights, rule of law and security' (Kantar Public, 2022: 20).

⁷⁷ As an example of decentralised events, consider the series of roundtables and debates jointly organised by the University of Florence, the European University Institute and the local Europe Direct labelled 'EU Talks: Dialoghi sul Futuro dell'Europa' held in the spring of 2021 (first edition), to which both my tutor and I partook.

consultative *substratum* of the whole Conference, the entry point for the manifold inputs coming from the wider European citizenry.

Despite being potentially an interesting and far-reaching instrument, however, the platform was also characterised by *several weaknesses* (Alemanno, 2020: 498 ff.; Martines, 2021: 14-15). By definition, as a digital tool it reinforced disparities relating to the so-called digital divide, both across regions and generations; this, coupled with objectively poor publicity, resulted in low levels of overall visibility, thus rendering the very existence of the platform obscure for the vast majority of Europeans.⁷⁸ Access to the platform was also unequal, as virtual participation was skewed towards the better educated, more informed on the EU and better off as regards socio-economic status. Finally, there was arguably also limited representativeness of the broader EU-27 population, since pro-Europeanist individuals and/or associations are on average much more likely to engage in this kind of initiatives, thus making for a general pro-EU bias as concerns the ideas, comments and suggestions. At any rate, these distortions were at least partially balanced out by the ECPs, or so I shall suggest. Let us now turn to the upper levels.

The four *European Citizens' Panels* (art. 5 RoP) constituted the next level, representing CoFoE's *deliberative core*. Since I will go through them in further detail in the next chapter, suffice it to recall at this point that they functioned primarily as a 'transmission chain', being tasked with debating in further detail the contributions gathered from the platform and formulating a number of recommendations to be later considered by the Plenary (Martines, 2021: 16-17). Crucially, each ECP would also select 20 delegates to represent it in the Plenary, what Alemanno (2020) calls the '*deliberative-constituent place*'. The first thing to be noted about the latter (arts. 16-22 RoP) is its unprecedented, *mixed membership*, as the 450-strong forum comprised representatives of different constituencies and instances: civil and institutional, domestic and European, intergovernmental and supranational.⁷⁹ All the seven Plenary sessions were held in the EP

⁷⁸ Indeed, official figures tell a story of lukewarm participation on the digital tool. According to the external data company tasked with collecting them, from the launch of the platform (19 April 2021) to the end of the Conference (9 May 2022), a total of 48,530 contributions were made, breaking down as follows: 18,955 ideas, 22,570 comments and 7,005 events (Kantar Public, 2022: 15). If one compares these numbers with the global population of the EU-27 (roughly 447 million citizens), the picture is hardly one of massive involvement.

⁷⁹ The plenary was composed as follows: 3 Commissioners, 54 Council representatives (2 for each member state), 108 MEPs, 30 representatives of the Committee of the Regions, 18 representatives of the European Economic and Social Committee, 108 national parliamentarians (4 for each member state), 12 social partners representatives, 8 civil society representatives, and 108 citizens (of whom: 80 delegates from ECPs, 27 national panels representatives, plus the President of the European Youth Forum). Lastly, the Union's HR/VP participated in discussions about the EU's external action.

premises in Strasbourg, and were chaired by the Co-Chairs of the Conference (see *infra*).⁸⁰ The bulk of activities, at any rate, was not conducted in full-session mode, but within nine Working Groups (WGs), each dealing with one of the platform's topics and mirroring the Plenary's own membership. Debates in both plenaries and WG sessions were web-streamed on the digital platform.

Specifically, by bringing together both citizens and politicians, the Plenary effectively went a long way in blurring the familiar distinction between the deliberative and political moments (Alemanno, 2020: 503 ff.): Normally, such distinction is reflected in the different *composition* of the bodies discussing solutions (e.g. a citizens' assembly) and those in charge of adopting final decisions (e.g. a local council). In CoFoE's Plenary, by contrast, panellists and professional policymakers alike were exposed to interactive dynamics they were hardly acquainted with – although citizens had an unsurprisingly tougher time adapting to this situation than did career politicians and other public officials. On the one hand, 'laypersons' that had just gotten used to generally constructive deliberative argumentation in the ECPs were metaphorically thrown in the lions pit, as interactions with seasoned politicians was often confrontational. Indeed, initially at least, panellists would often be overwhelmed in debates, including in WGs. (This progressively changed as debates progressed, with delegates growing more self-confident and gradually mastering the tricks of the trade.) On the other hand, political Plenary members were also exposed to a kind of stimuli they are usually shielded from, albeit being better resourced to adapt quickly.

Another related, intriguing question regarded the 'double hat' worn by ECP delegates, as they were at once representing their respective panels and acting as full members of the Plenary (Alemanno, 2020: 503-04). The latter hat, in fact, would allow them to engage in autonomous deliberation with other Plenary members, including amending their own panel's original positions; but would this be considered 'disloyal' towards their fellow panellists? Conversely, if delegates stuck to their panels' stances, would they hamper deliberations in the Plenary? From a normative standpoint, this looks like a veritable dilemma, itself relating to different underlying *representation logics*. Politicians were 'plenipotentiaries', that is, they could freely deliberate, negotiate, bargain and even change their minds since this was foreseen by the (mostly electoral) public mandate bestowed upon them. By contrast, ECP delegates were mainly presenting the orientations collectively expressed by their panels, and consequently their ability to negotiate

⁸⁰ The inaugural Plenary took place on 19 June 2021, but at that time the selection process of the ECPs was not yet complete (see paragraph (5.1.a) below), so the citizens' component was only composed of the representatives of national panels and events plus the President of the European Youth Forum. Members of the ECPs participated for the first time in the second Plenary (22-23 October 2021).

the terms of agreement was somewhat dubious, theoretically at least.⁸¹ Empirically however, this apparently was never an issue: I personally asked this question to a delegate from ECP 4, Laura Maria Cinquini, who kindly illustrated the relationship between delegates and ‘ordinary’ panellists. Admittedly, there was some ‘qualitative difference’: Contrary to other panellists, delegates got to experience the Conference to the fullest, thereby also following more closely its unfolding and constantly monitoring what institutions were (not) doing. Some physiological difficulty was in fact encountered on a few occasions, Cinquini told me, when she and her fellow delegates would recount the developments occurred during plenary sessions. But she also made clear that this never severely hindered a fruitful relationship between citizens’ subgroups: Not only were there no ‘hard feelings’ towards delegates, but ‘ordinary’ panellists would often rely on them as a trusted source of information.

Be that as it may, the role of the Plenary was to *discuss the recommendations* coming from the ECPs and to reorganise them in order to produce a more coherent set of proposals; of course, this entailed some form of accommodation between the different (and often conflicting) interests and viewpoints represented by the assembly members. However, and notwithstanding the commitment enshrined in the Joint Declaration to place citizens and institutional actors on an equal footing, the upper hand was always meant to be the latter’s. Indeed, as specified in a footnote (*sic*) to art. 17 RoP, the ‘consensual basis’ upon which the final report would be adopted by the Plenary only required its four political components (Commission, EP, Council and national parliaments) to agree on proposals: Should the delegates’ position ‘clearly diverge’ from that of the institutions, this should be duly noted, but the proposals in question would still appear on the final report. This slippery slope, however, was never walked since all the citizens’ proposals made it to the document with generally limited amendment.⁸²

This brings us to the *governance apex* of CoFoE’s pyramid, consisting in the Executive Board and, above it, the Joint Presidency. The former body (arts. 6-15 RoP) was charged with managing the Conference’s activities, issuing guidelines and carrying out day-to-day chores. It was made up of 3 representatives from each of the EP, the Commission and the Council plus a number of other observers, and was aided by a Common Secretariat staffed with personnel from

⁸¹ I am grateful to Professor Giovanni Allegretti for singling out this question during an insightful conversation. He is a senior researcher at University of Coimbra’s Centre for Social Studies (CES), and partook in CoFoE as an external observer.

⁸² Only in one case did citizens explicitly express a ‘diverging position’ on measure 38.4.3 (which proposed that the EP ‘should decide on the budget of the EU’) because ‘it originated neither from the European nor the National Panels and was not sufficiently discussed in the Plenary Working Group’ (European Union, 2022: 40).

those same institutions. The Board was responsible for drafting the *final report* containing the 49 proposals (with a total of 326 implementing measures) agreed upon by the Plenary; the latter, in turn, would then need to consensually adopt the document itself.

When the Conference drew to a close on Europe Day 2022, the final report was solemnly handed over to the Joint Presidency which, as the name suggests, was constituted by the three Co-Chairs, i.e. a *presidential troika* composed of EP, Commission and Council heads – and which had also solemnly launched the whole initiative back on Europe Day 2021. The citizens' proposals would then be considered by the bloc's institutions, which committed to find concrete ways to realise them in the short-medium term. Once more, deep fissures were on display especially between the EP and the Council: In early June 2022, MEPs activated art. 48 TEU, that is, called upon the Council to launch a Convention for Treaty reform; but on the very day that the Conference was ending, as many as 13 member states had already made clear their firm intention not to alter the extant Treaty framework. Thus, on the occasion of the Conference's feedback event in early December 2022, several dozens of participating citizens, baffled at yet another inter-institutional struggle and the perceived policymakers' reticence to push forward with reforms, voiced their protest in two open letters directed at both the Council and the Commission. Above all, citizens lamented poor communication and transparency on part of the institutions, feeling they had been 'ghosted'; they also called upon the institutions to swiftly implement all the 49 proposals, and to do so displaying political ambition. More specifically, participants accused the Commission of 'cherry-picking' their proposals (conveniently choosing only to work on those that looked easier to implement), and also of what we might call 'citizens-washing', that is, to use citizens 'as a fancy cover for other political interests'. As concerns the Council, citizens were disturbed by its inertia and 'continued silence'.⁸³

Concluding remarks

The jury is still out as to whether the Conference has proven successful in testing Habermasian theories of transnational deliberation. As far as its architecture is concerned, the design was *objectively innovative* – both overall and with respect to the various levels, mixing together

⁸³ Cinquini explained that the idea of writing the letters originated within a group of ECP delegates, but immediately found support also among a number of other panellists. She repeatedly stressed the frustration at the allegations, directed by Council members against citizens, of being 'maneuvered' by MEPs and other third parties. In her view, not only were similar charges disrespectful towards citizens, but they also unveiled a disheartening attitude on part of national governments at disregarding the pledges made just a few months earlier.

features from the Constitutional Convention as well as the ECCs, in a potentially promising process of deliberative co-creation. To be sure, the entire enterprise was provided, arguably for the first time, with a genuinely pan-European flavour. Another positive thing, as mentioned above, is that EU policymakers finally decided to engage ‘with’ citizens rather than merely listening ‘to’ them. Indeed, following Schmidt, we can even go as far as noting how CoFoE might be conceptualised as a first attempt not only to improve the communicative discourse towards citizens, but to directly involve (or co-opt) them in a novel coordinative discourse.

Nevertheless, a whole host of problems was also evident, from the bitter political struggles between the bloc’s institutions to the actual top-down nature of a supposedly bottom-up process, including the confusing absence of any clear blueprint both on what to do with the final outcomes and, especially, how to do it. What was the endgame of the Conference? Why did institutions not commit themselves in advance to honouring the final proposals? Many more questions could be asked, and they would all remain unanswered, at least for the time being. Therefore, I personally believe we should avoid overly enthusiastic hopes that this exercise will provide the ‘foretaste of a more intelligible, deliberative, and therefore more citizen-centric transnational Union’ (Alemanno, 2020: 508), since they are most probably going to be dashed. This is not to say that citizens were wrong to be ambitious in their reform proposals. Rather, it is to say that we should maintain a critical perspective also when assessing CoFoE, appreciating its potentials without pretending to be blind before its pitfalls. And keeping in mind that, as positive an experience as this may have been, it probably takes something else to change the EU.

5. Assessing throughput legitimacy: A case study

Until here, we have seen how the EU has been struggling to (re)affirm its democratic legitimacy over the last few decades. In particular, it has sought to do so by increasingly engaging with its citizens, betting that it could enhance its deficient legitimation by means of fostering avenues for Europeans to participate in the bloc's policymaking. The Conference on the Future of Europe can be understood as a prime example of this strategy. As said, it is probably too early to know whether the Conference can be considered a success, even admitting that it would be possible to establish what 'success' should actually mean in the first place.

In the present chapter, I therefore set out to address a much narrower question: Was this exercise at least *procedurally legitimate*, with specific regards to the European Citizens' Panels? To answer this question, I will apply Schmidt's theoretical framework as described in section (2.2) of the second chapter. Before doing that, however, I shall spend some words in section (5.1) on a more detailed description of ECPs. This in-depth investigation will serve as a background against which to analyse the Maastricht panel dealing with the EU's role in the world and migration, in section (5.2).

5.1 European Citizens Panels at a glance

As we already saw, the European Citizens' Panels functioned as a transmission belt between the lower, consultative level of the digital platform and the higher, 'constituent' level of the Plenary. As such, they represented the *deliberative beating heart* of the Conference, and were also the venue where, at the end of the day, some embryonic sense of 'Europeanness' could develop, with citizens from the 27 member states gathered to reflect upon the future challenges which, supposedly, they will face together. In this section, I will explore ECPs from a general perspective, that is, underscoring a number of elements and problems that were common to all of them. Paragraph (5.1.a) will deal with their composition, debate methodology and other characteristic

features, whereas the successive rounds of working sessions will be accounted for in paragraph (5.1.b). Since my focus is squarely on the *process*, the section will not include an examination of the recommendations produced by panellists.

5.1.a *Welcome to the Machine*: Inside ECPs

Let us start by considering the composition of ECPs. As said, the panels were four, each made up of 200 randomly selected citizens, plus 50 reservists per panel to cover for substitutions. The selection process was carried out during summer 2021, when the Conference had already been formally launched (Europe Day 2021) and the first Plenary session been held (19 June 2021). Panellists were selected by an external service provider, in cooperation with national statistics agencies: The method used was *stratified random sampling*, an approach combining randomised selection (or sortition) with appropriate ‘filters’ ensuring proportional representation for the relevant socio-demographic characteristics of the broader population, which are understood as subgroups (or strata). As specified in the Conference’s final report, five such characteristics were accounted for: (a) gender, (b) age,⁸⁴ (c) geographic origin (including both (i) nationality and (ii) urbanisation), (d) socio-economic background, and (e) level of education (European Union, 2022: 19). The principle of regressive proportionality was also applied (the same used for the apportionment of EP seats), so as not to underrepresent smaller member states.

According to the most critical remarks however, a certain degree of exclusion already occurred in this early phase, making for what we might call CoFoE’s ‘original sin’, that is, a *representativeness deficit*.⁸⁵ Indeed, by failing to take into consideration additional criteria for stratification, the overall structure of opportunity might have turned out unequal (or even discriminatory) in some regards. For instance, participants’ (political) attitudes towards the EU were not accounted for during participants sortition, resulting in a sort of (unintended?) natural selection operating in this statistic *vacuum*: As a consequence, participation might have been biased towards pro-European positions, since it is reasonable to assume that the likelihood of a random person to partake in an initiative like CoFoE will be inversely proportional to her distaste for the Union, its policies and what it stands to represent. Accordingly, some doubts have been cast

⁸⁴ Since the ‘future of Europe’ will be inhabited by today’s young generations, one third of all panellists was composed by individuals aged 16 to 25. The same quota applied to ECP delegates. After all, 2022 was the European Year of Youth, ostensibly dedicated to young Europeans’ visions for the continent’s future.

⁸⁵ Again, I am indebted to Professor Allegretti for his meaningful remarks. Several questions which I will touch throughout the section emerged in conversation with him.

on the overall legitimacy of the experiment, since it effectively built on an initial *faux pas*, which might have distorted the directions taken in the debating sessions at the ECP level, adding to the (possible) parallel skewness of the digital platform, as hinted in paragraph (4.2.b).⁸⁶ However, getting a measure of the actual extent to which this occurred (if at all) is practically impossible; moreover it can be contended that, owing to the deliberative techniques adopted during debates (which by definition tend to smooth out sharp disagreements, as we shall see in the next paragraph), the final outcomes of ECP-level discussions would have probably been similar. On top of the above, issues were also raised (including by participants themselves) concerning other aspects, most notably the Conference's limited diversity, deriving from the fact that the inclusion of more marginalised communities was also not considered as a selection criterion (Alemanno, 2020: 500).

Turning then to the debates, let us now examine the methodology followed in the panels. To be sure, I am not concerned with the ECPs *qua* enactments of deliberative-democratic precepts but, rather, with the panels' *throughput legitimacy*. Still, it is clear that the two lines of inquiry tend to proceed together, running parallel and often overlapping with one another. After all, this should not come as a surprise, as we already mentioned the influence exerted on theorisations of throughput legitimacy by the 'deliberative turn' (see paragraph (2.2.a) above). Therefore, the procedural standards that I am about pin down inevitably relate to the deliberative quality of participatory practices.

Now, the institution of ECPs can be depicted as the culmination of the EU's (and specifically the Commission's) attempt to catch the wave of *mini-publics* as a pivotal feat of deliberative-participatory democracy (for an overview, see Geib, 2021). In the most basic terms, mini-publics are small groups of individuals (typically between 20 and 500) that should constitute a 'demographic microcosm' reproducing the most statistically salient socio-demographic aspects of a larger population (the relevant 'public'), usually a nation or, in our case, the whole European citizenry.⁸⁷ Normally, after recruitment, mini-publics' activities cover different stages (Escobar and Elstub, 2017):

⁸⁶ As a matter of fact, this argument was prominently raised during the Conference by several political actors whose stance towards the initiative was bitterly critical. These included MEPs, national parliamentarians and Council representatives affiliated either with the European Conservatives and Reformists (ECR) or Identity and Democracy (ID). These political forces eventually 'pulled out' of CoFoE on occasion of the last Plenary (29-30 April 2022), refusing to endorse the final report (Cater, 2022).

⁸⁷ More precisely, ECPs reproduced a particular type of mini-public, the so-called citizens' assemblies. Other types include citizens' juries, planning cells, consensus conferences and deliberative polls: They differ as concerns the scope, duration, focus and membership (Escobar and Elstub, 2017).

- a. in the *learning phase*, participants are provided with information on the relevant topic(s), typically from different (and, in theory, balanced) perspectives; normally, they audit independent experts and/or various stakeholders;
- b. in the *deliberative phase*, participants usually gather in smaller groups and engage in face-to-face deliberation on the topic(s) at hand, reconsidering their initial ideas/beliefs by way of pondering both experts' and fellow panellists' inputs;⁸⁸ in this phase, mediators/facilitators play a crucial role;
- c. participants should thus be able to approach the *decision-making phase* in an informed manner; the outcome is typically some form of report whose recommendations are substantiated by reasoned argumentation.⁸⁹

Additionally, deliberative best-practices also include other general principles such as: purpose (the final objective(s) should be clearly outlined in advance); accountability (deliberative activities should actually influence public authorities, which should commit in advance to implement the outcomes); transparency (regarding virtually everything: processes, materials, the source(s) of funding and so forth); time (participants need an adequate amount of it to learn, weigh in the evidence, and develop informed opinions and reasoned recommendations); and integrity (the commissioning public authority should not be the one running the process) (OECD, 2020: 8-11).

On a general level, it is fair to say that ECPs respected the vast majority of the above, while also satisfactorily copying with case-specific issues, e.g. the enormous challenge posed by the EU's *multilingualism*. Indeed, citizens from all corners of a Union with 24 official languages could rely on the invaluable support provided by translators and interpreters, which allowed participants to understand each other and be understood at virtually any given moment of the Conference. Far from being a neglectable detail, this element constituted a formidable booster of the initiative's overall legitimacy, to the extent that it allowed participants to collectively lay genuine claims of ownership over the final recommendations. Another important aspect was

⁸⁸ As noted by Jonathan Geib (2021: 6-7), the underlying paradigm behind deliberation is markedly different from the logic of electoral representation: In the former, contrary to the latter, 'participants are not meant to represent their own or others' pre-set positions but engage in a process to further develop their thinking in relation to a diverse range of positions and to the common interest'. This explains the normative complications hinted in paragraph (4.2.b) about the Plenary, where both said logics would function at the same time given the body's mixed membership.

⁸⁹ Although the outcomes should ideally be 'collectively owned' by all panellists, it is good practice to include both majority and minority positions in the final report, especially where controversial issues are left unresolved.

the provision of *expense reimbursements* and daily allowances to panellists, in order to ensure as wide an inclusiveness as possible by pre-empting the possibility that participants refuse the opportunity out of economic restraints. Panellists' *privacy* was also protected, insofar as debates in the subgroups (see next paragraph) were almost entirely inaccessible for journalists, in order to ensure that deliberations be conducted as freely as possible. Moreover, panellists would also wear coloured ribbons on their badge, with different colours signalling their (non-)availability to be reached by the media. Lastly, the systematic recourse to *consensual agreement*, as opposed to polarising votes, also fundamentally increased the overall deliberative quality of the undertaking. This, coupled with the necessity of arguing and giving (informed) reasons, made for the effective blunting of the most extreme and uncompromising positions.

Nevertheless, other important aspects were glossed over, either partially or wholly, and to a variable degree depending on the panel (or even the sub-group in the same ECP). To be sure, it was perfectly physiological to expect some deficiencies given the sheer complexity of the enterprise and the absence of any historical precedent. Still, I would not do justice to my 'duties' of critical analyst if I did not stress especially what *did not* work properly: Therefore, in the remainder of the paragraph I will single out a number of (mostly practical) problems that somehow affected the proper unfolding of the initiative, without the pretension to draft an exhaustive list.

For one, there was arguably a *theme overload* with respects to the allotted time, meaning that the issues were too many and too broad to be adequately tackled within the tight time schedule. This situation led several moderators to *rush debating sessions* in the deliberative phase, with a view to meeting the deadlines, to the obvious detriment of discussions' quality. Effective moderation, indeed, should allow for meaningful exchanges to take place between opposite views and standpoints, an exercise that clearly requires time: Where this condition failed to materialise, 'dissenting' or 'unorthodox' opinions could be *cornered*, sometimes leading to either self-censorship (and even dropout) or de-legitimation of the panels (or the whole Conference). Connected to the above were problems relating to the *expert figures*, as CoFoE was allegedly missing a structured system allowing for contributions from opposite (or at least different) perspectives: According to participants, experts' interventions tended to be skewed and/or biased, thus undermining the 'neutrality' of external inputs in the learning phase, something that might have potentially distorted subsequent debates. Additionally, as mentioned in paragraph (4.2.a), the institutions never put forward any *purpose* for the participatory exercise (to use the OECD's terminology), and continued to update the 'rules of the game' until the very last minute. Finally, CoFoE organisers failed to publicly disclose the exact amount of *financing* for the initiative, as well as its actual sources (Genovese, 2022a). Now that we have uncovered

the key features of the ECPs, it is time to go through the successive sessions that kept panellists occupied between late 2021 and early 2022.

5.1.b Working sessions

As we know, the panels were four, but the Conference topics were nine. This meant that each ECP had to deal with several macro-themes, thus making for the overload mentioned above: (a) panel 1 dealt with ‘stronger economy, social justice and jobs’, plus ‘education, youth, culture and sport’ as well as ‘digital transformation’; (b) panel 2 discussed ‘European democracy’ together with ‘values and rights, rule of law and security’; (c) panel 3 tackled ‘climate change and the environment’ and ‘health’; lastly, (d) panel 4 addressed the ‘EU in the world’ and ‘migration’ topics. As one easily sees, there was quite much in everyone’s plate. So how much time were panels given to deliberate? Each ECP was convened three times for a long-weekend session (from Friday to Sunday): (i) a first, in-presence session was held in Strasbourg between September and October 2021; (ii) a second meeting was held online in November; finally, (iii) a third session, again in presence, took place between December 2021 and February 2022. Arguably, the third and final session was the most important, since it produced the concrete output of ECPs – namely, four sets of recommendations that fed into the Plenary work, providing the basis for the final proposals. These meetings were hosted by several educational facilities across the Union, which meant that the different panels were eventually named after the cities where they took place (at least among journalists): ECP 1 met in Dublin; ECP 2 in Florence; ECP 3 in Warsaw; and ECP 4 in Maastricht. Let us now turn to investigate what panellists actually did in each working session.

As illustrated in the Conference’s final report (European Union, 2022: 15-18), the objective of the first session was to *define the agenda* of the panels’ deliberations. The learning phase began here, with interventions and presentations by experts. Participants started the activities by collectively reflecting upon their own visions for Europe’s future, selecting the issues to be later discussed within their respective thematic concentration. Subsequently, they began to narrow down the issues’ breadth, that is, proceeded to prioritise those topics that they deemed worthier of being debated more thoroughly. Activities thus took place in two formats: On the one hand, some 15 *subgroups* were formed (each comprising up to 14 panellists speaking a maximum of 5 different languages), where in-depth debates and deliberation would take place in successive sessions; here, professional facilitators and moderators (selected by the external service provider) were essential for the proper unfolding of discussions. On the other hand, *plenaries* would

gather all panels' participants; here, two moderators would cluster the various priorities identified into so-called 'streams' with several 'substreams', as the basis for the second session. Presentations from external experts as well as the first interim report on the digital platform provided panellists with the relevant information. In this session, each ECP selected its delegates by drawing them among a pool of volunteers, making sure that one third of them be under-25.

Throughout the month of November, all panels convened online and collected the first feedbacks from the delegates that had partaken in the October Plenary round. More specific discussions were held, again with the support of experts (delivering more extensive briefings to participants at stream and substream level) and 'fact-checkers' (providing evidence-based responses to panellists' inquiries). Updates on the contributions from the platform were also provided. Deliberations built upon both experts' input and citizens' own knowledge and/or personal experience, and were directed at drafting *orientations* for each thematic stream, accompanied by justifications. In this phase, issues were generally framed in terms of problems standing in need of solutions, or of unsustainable solutions that needed to be reformulated. Activities were conducted in three formats: (a) in subgroups, where more detailed discussions could take place; (b) in 'stream plenaries', which gathered subgroups/substreams from the same thematic stream; and (c) in full plenaries, to introduce the finalised orientations to all panellists.

Lastly, as hinted above, the proper *decision-making phase* occurred in the third session of ECPs. This was evidently the most important meeting for panellists, who had to decide which of the previously developed orientations would become their panels' *recommendations* and hence make it to the Conference Plenary. Due to the variable epidemiologic situation across member states, this session was delayed and concluded in late February 2022, with panel 1 (the last to meet) convening on the very day after Russia launched its vile assault on Ukraine. A defining feature of the third session was the '*open forum*' format, basically a plenary that was held twice: In the initial open forum, each panellist would roam around the room and prioritise up to ten orientations per stream among those produced in the previous meeting, usually pinning coloured dots on several billboards scattered across the place. Subgroups subsequently gathered and acknowledged the results of such prioritisation: This allowed all members of the panel to have their say in ranking the items, while leaving 'specialised' debates at the subgroup level, where panellists had already developed a certain degree of knowledge on the relevant matters (and, hopefully, also a degree of mutual trust). At the subgroup level, participants then discussed in more detail the issues at hand, and were instructed to produce a maximum of 5 draft recommendations per subgroup. Another feature (supposedly) contributing to the collective ownership of the recommendations was a mechanism of *cross-feedback*, whereby some members from

each subgroup would visit other subgroups, in order to strengthen the reciprocal understanding of all subgroups' orientations.

In the final open forum, all draft recommendations were voted on, one by one, by the whole ECP membership: This process, which represented the apex of the decision-making phase, goes technically by the name of '*filtering*', as it serves to filter out the ideas that will make it to the next stage (in our case, CoFoE's Plenary). Voting on tablets provided by the organisation, participants thus 'validated' their panel's recommendations, but only those passing a 70% threshold would be debated in Strasbourg. Eventually, the four ECPs produced a total of 178 recommendations, breaking down as follows: the Dublin panel (ECP 1) validated 48 recommendations out of the 51 drafted, the Florence panel (ECP 2) 39 out of 42, the Warsaw panel (ECP 3) 51 out of 60, and the Maastricht panel (ECP 4) 40 out of 46. It is now in order to proceed with the analysis of my case study, the Maastricht panel.⁹⁰

5.2 Case study: Maastricht at thirty

The third session of the fourth ECP was held over the weekend between Friday 11th and Saturday 13th February 2022 in Maastricht, a small Dutch municipality in the southern district of Limburg, sandwiched between Belgium and Germany. The town is best known, at least among EU integration students, for having hosted the signature of the TEU back in 1992, as mentioned in the third chapter. Far from being a mere coincidence, the choice of this particular location was overcharged with political symbolism (the EU's renown specialty), ideally connecting the future-projected convention of leaders of the then-Twelve in the past with the future-oriented activities of CoFoE panellists in the present.

In paragraph (5.2.a) I will first provide a justification for my analysis (that is, why it is useful to investigate throughput legitimacy in the context of ECPs, as well as why I chose this particular panel to do so) and, subsequently, illustrate the methodology I followed to compile it – that is, how I created the questionnaire that I administered to a number of Maastricht panellists. The results I collected will be presented in paragraph (5.2.b), while a more extensive discussion will follow in paragraph (5.2.c).

⁹⁰ As for the themes up for debate in ECP 4, suffice it to mention the headings of the five streams: (i) self-reliance and stability; (ii) the EU as an international partner; (iii) a strong EU in a peaceful world; (iv) migration from a human point of view; and (v) responsibility and solidarity across the EU. For an overview of the most important recommendations approved in Maastricht, see Ilaria Potenza (2022).

5.2.a Case selection and methodology

Let us start with the most basic question: Why choose a citizens' panel to investigate the Conference's procedural legitimacy? The answer lies primarily in the fact that, as should be clear by now, ECPs represented the 'beating heart' of CoFoE: Although the ultimate decisions were taken at the Plenary level, the themes, ideas and visions upon which to build the final proposals were provided by the panels. Therefore, the latter metaphorically constituted 'the Machine' of the entire Conference, extracting raw material from the digital platform and processing it for the Plenary, where the semi-finished products would be further polished and manufactured into finished goods. From a theoretical standpoint, therefore, it makes sense to use them as a reference point in the analysis of CoFoE's legitimacy – and particularly of *throughput legitimacy*, inasmuch as this normative category is preoccupied with the 'black box' of process. Indeed, it seems not whimsical to point at a parallelism between the triadic rhythm of input-throughput-output, on the one hand, and the pyramidal structure of the Conference on the other: The digital platform representing the site where input was gathered (in the form of online contributions), the ECPs the moment when throughput mechanisms were at work (through the deliberative sessions described above), and the Plenary the organ charged with producing the ultimate output (i.e. the final proposals).⁹¹

Still, one could rightly contend, deliberations also occurred in the Plenary; this could warrant an inquiry of the latter's throughput as well, considering the recommendations from the ECPs as its input: So why is it that I preferred the panels instead? The reason behind this choice is largely pragmatic. Compared to the Plenary, in fact, ECPs display the crucial advantage of a *homogeneous membership*: Inspecting a body which only comprises citizens is much less burdensome than doing the same with a compound one like CoFoE's Plenary. Since I am no professional field researcher, this seemed robust enough a reason to concentrate my analysis on ECPs.

Now, having established that ECPs should be the object of my investigation, the question arose of which criteria to follow in order to pick one out of the four panels. To do so, I followed two distinct criteria, according to each a different degree of importance. First and foremost, I

⁹¹ The question here is arguably one of perspective, which can vary. If we think of the Conference as a gigantic throughput mechanism, indeed, we can identify the input with its political establishment (as recalled in paragraph (4.2.a) above), and the ultimate output with the concrete EU-level actions taken under its auspices. Even following this approach, however, the choice of ECPs still makes sense, since they are located at the very core of the whole CoFoE machinery: A process within a process, to paraphrase Edgar Allan Poe.

made a preliminary selection, opting to exclude both the Florence and Warsaw panels, since I could not personally participate in either of them. Indeed, *physical presence* on my part seemed to me the most relevant criterion: Given the unique opportunity I was offered, to experience the Conference as it unfolded, I thought it was ‘right’ to focus on one of the two ECPs which I had attended directly as a journalist. I was thus left with a choice between Dublin and Maastricht. Both were highly formative experiences from the professional, academic and, above all, human points of view. I thus had to factor in some other criteria in order to select one of the two.

The second criterion was thus the *ideational component* of these ECPs, that is, the actual topics which they addressed. On the one hand, I felt that the Dublin panel had been stuffed with too many diverse themes, many of which simply do not resonate with my personal interests. On the other hand, the questions discussed in Maastricht were more familiar to me. But there were at least two other valuable reasons for me to prefer the latter panel. First, I believe one of its two main topics, the EU’s role in the world, to be of utmost relevance today, given the delicate historical juncture at which Europe finds itself as a consequence of the Kremlin’s ‘counter-revolutionary war’ on Ukraine (Čerepanyn, 2023), a country bordering both the Union and NATO. Second, on a more symbolic level, by choosing the fourth ECP my whole reflection on the EU’s quest for legitimacy could be ideally inscribed within a circle that starts and ends in Maastricht. As we know, panellists debated the Union’s future exactly where the Twelve had decided that, whatever the future would have in store for them, its scope would be inescapably *European*. Opting for this panel, then, was at once an acknowledgment of the watershed moment we are currently going through and a tribute of sorts to the sentiment of ‘European togetherness’ that, I believe, should always be our political compass.

After explaining the ‘why’, I shall now give an account of the ‘how’, that is, the methodology I followed in designing the questionnaire that I have submitted to a number of Maastricht panellists. Now, my main purpose was that of exploring the procedural legitimacy of ECP 4 from an *insider’s perspective*. This approach was needed, after all, because journalists and the media in general were not allowed inside the subgroups where actual deliberation took place, except for a few moments at the beginning of each debate session: We were only given access to the plenaries and open forums and, of course, the coffee breaks in between sessions. But to capture the multifaceted aspects of this deliberative process, I needed to rely upon the evaluations of participants themselves.

So, how was the questionnaire structured? Basically, I tried to *operationalise* the criteria provided by Schmidt (as discussed in paragraph (2.2.c) above), that is, to translate them from

normative notions into concrete, empirically-oriented items that could be evaluated by panelists. This, I suppose, fits well with the ‘spirit’ of throughput’s very conceptualisation, which explicitly lends itself to bridge normative theorising with empirical observation. Of Schmidt’s five criteria, however, I intentionally left out *accountability*, since ECP members were never meant to be accountable to anyone. This brings me to remark an important *caveat* of the following analysis: Normally, these criteria are used to evaluate the procedural legitimacy of *political* decision-making; conversely, I adopted them to investigate the procedural legitimacy of an essentially *civil* process. Still, if these parameters are of any general use, they should also be relevant for my aims.

The questionnaire (generated with Google Forms) is articulated as follows. I clustered 26 questions into three main sets, revolving around the concepts of (a) *efficacy*, (b) *transparency* and (c) *inclusiveness/openness* (considered together). Clearly, I could have asked more questions, or different ones. This, I guess, is the element with which one struggles the most when creating questionnaires; at any rate, I shall maintain that those listed below were sufficient to capture at least some of the manifold aspects of throughput legitimacy. Let us now go through the questionnaire. Accounting for *efficacy* (cluster 1) were questions relating to:

- 1.A. the efficiency of the debates’ methodology (whether it allowed for meaningful exchanges among participants);
- 1.B.1 the capability of experts to convey their knowledge in a clear and efficient way;
- 1.B.2 the capability of moderators to conduct debates in a satisfactory manner;
- 1.C.1 whether debates were orderly or chaotic;
- 1.C.2 whether all subgroup members engaged in the debates;
- 1.D.1 the efficiency of deliberation-related actions (e.g. arguing, reason-giving, persuading etc.) in producing consensual outcomes;
- 1.D.2 the way in which ‘dissenting opinions’ (if any) were handled;
- 1.E.1 whether the allotted time for debates was sufficient;
- 1.E.2 whether any issues were left unaddressed (and if so, how many);
- 1.F. whether the multilingual translation worked satisfactorily.

As for *transparency* (cluster 2), questions related to:

- 2.A. who selected the ideas to be discussed from the digital platform, and based on what criteria;
- 2.B. whether experts framed the issues in neutral or biased terms;
- 2.C.1 the publicity/availability of the subgroup’s conclusions/outcomes;

- 2.C.2 whether said conclusions were endorsed/voted upon by the subgroup members;
- 2.D.1 whether the presence of the media was adequate;
- 2.D.2 whether a different media exposure would have resulted in different outcomes.

There is, unfortunately, something to say on the last question. It has probably been a mistake to include it in the questionnaire, since it is *hypothetical* in nature: It does not ask interviewees about whether they are satisfied with how things went in reality, but what they think would have happened had there been a different level of media exposure. Therefore, not to alter the general discussion in the next paragraph (and not to overcomplicate elaborations), I shall ignore it altogether; this means that the total questions (and answers) are no longer 26, but 25. Lastly, concerning *openness* and *inclusiveness* (cluster 3), the questions were related to:

- 3.A.1 whether the selection of ECP 4 members was inclusive enough, i.e. fairly representative of the EU-27 broader population;
- 3.A.2 whether the subgroups were inclusive enough;
- 3.B. whether the multilingual translation enhanced inclusivity;
- 3.C. whether the spectrum of opinions in the subgroup was diverse enough;
- 3.D. whether ‘unorthodox opinions’ were marginalised or included throughout the process;
- 3.E.1 whether the 70% threshold for filtering was appropriate;
- 3.E.2 whether a different filtering method would have been more appropriate, and whether panellists were satisfied with any filtering in the first place.

On top of the above, I added a question at the end of each cluster (1.G, 2.E, 3.F) asking for additional comments, in order to collect reflections that could possibly be left outside by the above formulations. In the following paragraphs, I will first present the results collected, explicitly referring to the textual contributions of respondents, in order to reflect on their perceptions of the panel’s procedural legitimacy; subsequently, I will proceed to discuss them in a more schematic manner, so as to better compare and contrast them and to gain some useful insights as for the panel’s overall throughput legitimacy.

5.2.b Results

Unfortunately, I was only able to collect four sets of answers to my questionnaire. Clearly then, the results which I am about to examine can hardly be regarded as statistically representa-

tive for the 200-strong Maastricht panel. Nevertheless, one must work with what they have, trying and drawing meaningful insights even from a limited pool of answers. Before proceeding, let me indulge in a short terminological premise. By *questions*, I obviously mean the questions I asked in the questionnaire, numbered progressively from one cluster to the next. Perhaps less obviously, by *response* I mean the individual contribution by each respondent, whereas *answer* refers to the aggregate of the four responses collected for each question: Thus, for example, there is only one answer to question 2.C.1, which in turn comprises four responses. The implications of this will emerge more clearly in the final discussion; in the present paragraph, I will illustrate the answers to each cluster's questions, breaking them down into responses. I will contrast and compare such results, seeing to it that both common trends and variations be duly accounted for, while also highlighting particularly outstanding contributions. One last clarification: An evaluation is to be intended as *positive* not when it answers in the affirmative to my question, but rather when it signals satisfaction as to how things actually went down in Maastricht; conversely, a *negative* evaluation underscores a critical attitude on part of the respondent about their experience.

Cluster 1 (*efficacy*), to begin with, contained the highest number of questions. The efficiency of the methodology adopted for debates, i.e. an introduction by experts (at plenary and/or stream level) followed by discussion at subgroup (SG) level, is controversially evaluated by respondents (question 1.A): Two of them consider it to have favoured a meaningful exchange among participants, whereas for the other two this approach was not efficient. On one account, experts' contributions, albeit interesting, were not satisfactory insofar as they were too short, and panellists were not allowed to ask questions; moreover, despite being supposed to follow panellists in the subgroups, experts apparently did not show up.

Respondents are tendentially critical with respects to the experts' clarity (question 1.B.1): Three out of four lament that, for various reasons (e.g. excessive technicism and insufficient time for explaining complex matters), several issues were not illustrated adequately. By contrast, the same share of respondents give a more positive feedback regarding the moderators' ability to conduct/steer discussions (question 1.B.2): While three-quarters of responses confirm facilitators' efficiency, one contribution is highly critical towards the way one moderator in particular handled the works, pointing to time being wasted in unnecessary activities while the actual deliberations were slow and laborious.

As regards the debates at subgroup level, respondents consistently recall them as orderly and, above all, respectful (question 1.C.1), even where compromise solutions between contrasting ideas were not easily reached. In other words, although it was not always effortless to

find a common ground, panellists would normally interact with each other more than decently (or less than confrontationally). At any rate, all respondents confirm that virtually all subgroup members would engage in debates (question 1.C.2), if with variable intensity. All surveyed panellists acknowledge the moderators' merits in involving as many participants as possible, always without forcing anyone.

Another point on which respondents substantially agree is the eventual success in reaching a consensual outcome after debating sessions (question 1.D.1). Some kind of compromise solution could be found in most instances, but where this was not possible, as was the case with 'dissenting opinions' (question 1.D.2), subgroups resorted to some form of voting (usually by show of hands) to settle controversial issues. One respondent submits that in their subgroup there was no dissenting opinion: For my purposes, however, this latter response will count as 'non relevant', since it is neither positive nor negative. Globally, according to respondents, the atmosphere was fairly positive (often collaborative), and stark disagreements were generally talked (or voted) through.

When it comes to evaluating the amount of allotted time (question 1.E.1), responses are critical, albeit not overwhelmingly so: One out of four respondents considers that the timeframe was adequate, whereas for the other three this was not the case. One account is particularly critical on these regards, underscoring how the 'tightness' of the time schedule had the effect of putting an unfair deal of pressure upon participants to draft recommendations, with the result of rushing deliberations to meet the deadlines. Two respondents explicitly admit that subgroups should have been granted more time. However, such time shortages were handled differently across subgroups: While half interviewees recall that, in order to address all issues, the topics were only inspected superficially and/or hastily, the other two admit to having left out some of the orientations they had debated in previous sessions (question 1.E.2). At any rate, since the question explicitly asked whether any issue was left out, I shall consider this answer as controversial (see next paragraph).

Concerning the efficiency of the multilingual translation (question 1.F), responses consistently point to the excellent quality of simultaneous interpretations and, at the same time, to the markedly low standards of written translated material. In actual fact, this is only apparently paradoxical: While well-trained interpreters provided for the former, the latter was largely not originated 'manually', but obtained through automated translation tools. However, since my question was intended to capture the quality of actual debates, as opposed to the accuracy of pamphlets and other written material, I shall consider the aggregate answer as positive.

The final request for additional comments (question 1.G) yielded the following results. Respondents are all satisfied of the work done, but indicate several shortcomings of the activities they engaged in. Actually, one response does not go much further than claiming satisfaction, only specifying that participants literally ‘put [their] soul into it’. Another respondent observes that there would have been many more topics to debate, while a third interviewee underscores the insufficient quantity of time at panellists’ disposal. The fourth response is more articulated, and lists several problems encountered during the panel’s activities: lack of information, low degree of coordination among participants at ECP level, and especially the negative path-dependencies, as it were, from one working session to the next, to the extent that the shortfalls of a previous meeting would haunt the following one(s).⁹² Therefore, for the purposes of my analysis, this answer is to be considered as positive, since all responses literally start with the words ‘[I am] satisfied’.

Cluster 2, as we know, dealt with *transparency*. For one, respondents point to a general lack of awareness when asked about who selected the ideas to be debated at subgroup level from the digital platform, as well as regards the criteria on whose bases such selection occurred (question 2.A). Of the four responses collected, one is not relevant to the question asked, whereas the other three are all negative. One interviewee in particular emphasises how, even at the insistence of panellists, the ‘organisers’ failed to disclose such information. Additionally, the same respondent notes that the digital platform itself was ‘dispersive and unclear’.

Regarding the experts’ perceived neutrality (question 2.B), three responses attest to a lack thereof. However, evaluations vary as to whether or not this actually affected subsequent participants’ discussions. For one respondent, experts were ‘biased’ and purposefully ‘omitted topics that could influence debates’. This contrasts with another response, according to which experts were not neutral but ‘did not omit anything’. A third interviewee observes, in Orwellian fashion, that ‘some experts were more neutral than others’, adding that ‘it is complicated to stay completely neutral’ when tackling complex issues. Finally, the fourth respondent concedes that experts were in fact neutral (‘even too much at times’), but it would have been preferable to listen to experts defending ‘diametrically opposite’ positions in a sort of cross-examination. As a consequence of an unfortunate wording of the question on my side then, this answer must be regarded as nuanced (see next paragraph).

⁹² In particular, according to the respondent, the November online session was ‘a disaster’, where time was wasted during long yet fruitless hours spent in front of a screen. The eventual lack of results had the perverse effect of producing a ‘work overload’ for the Maastricht session, where panellists were requested a degree of knowledge and a technical language that they simply could not master over one weekend.

Conversely, surveyed panellists overwhelmingly agree that the outcomes/conclusions of the debates at SG level were available for everyone to read, at least within the subgroup itself (question 2.C.1). They also agree that said conclusions were explicitly endorsed by all subgroup members, either by vote, show of hands or other means (question 2.C.2).

Responses relating to the presence of the media show that participants would have favoured a more extensive coverage (question 2.D), especially as regards the third session held in Maastricht (one respondent submits that the media exposure of successive ECP sessions has been decreasing). One respondent, on the contrary, believes that ‘media coverage was optimal’. This was not exactly what I intended to survey, however: My aim was to understand, more specifically, whether panellists would have favoured a more ‘intrusive’ presence of the media at the subgroup level, i.e. during debates, since this did not happen in reality. Still, if most respondents would favour a more extensive level of media coverage, this means that they are critical of the actual level of media exposure experimented in Maastricht, and the answer is thus to be considered as tendentially negative.

Additional comments to cluster 2 (question 2.E) tendentially point to a certain degree of satisfaction. One response, however, laments ‘too many delays and too many loopholes in the process’, adding that too many aspects were ‘unclear’: Panellists, according to this respondent, were struggling most of the time to understand what was going on (‘what we had to do, how we were supposed to do it, and who got to decide what’). Further complicating matters, the contribution adds, was the fact that communications always arrived at the very last minute, resulting in the time schedule being always effectively tight. The final sentence hardly needs any comment: ‘CoFoE was not entirely transparent in its unfolding, and we often lamented this from the very beginning of the process’.

The third and final cluster focused on *openness and inclusiveness*. Considering the whole membership of ECP 4, respondents maintain that it was more inclusive than it was representative of the broader EU-27 population (question 3.A.1). This means that panel members are seen by respondents as fairly diverse, albeit not likely to reflect the actual composition of the Union’s wider citizenry. However, since in my original formulation ‘inclusive’ and ‘representative’ were treated as coterminous (*mea culpa*), I shall also consider this answer as nuanced. As regards SGs (question 3.A.2), responses tendentially agree that their membership was inclusive, while only one respondent notes that the latter’s inclusivity was limited by default, given the decision to create as linguistically homogenous subgroups as possible, as hinted in paragraph (5.1.b).

Once again, respondents’ feedback about the multilingual feature is overwhelmingly positive, with all responses pointing to the fact that the translation system was definitely effective in

enhancing the overall inclusivity of the process (question 3.B). While two interviewees stress that many conversations would not have taken place (and many panellists could not actively participate) had it not been for the interpreters' work, one emphasises that the latter allowed everyone to feel 'equal in our diversity'.

As for the range of opinions, interests and beliefs included in the process (question 3.C), respondents tendentially agree that they were sufficiently diverse. However, one respondent recalls the situation that we have defined as CoFoE's 'original sin' in paragraph (5.1.a): 'it is clear that a far-right winger, with racist ideas, anti-NATO, anti-EU or even anarchist, would have never participated' in the Conference, the response reads. At any rate, when unorthodox opinions did come about (question 3.D), respondents overwhelmingly signal that they were included and not marginalised during debates.

The two last items relate to the filtering method. For two out of four respondents, the 70% threshold adopted to approve recommendations was adequate (question 3.E.1).⁹³ One interviewee believes that the threshold should have been lower, while the fourth maintains the problems with recommendations were not related to the threshold at all. According to this latter contribution, the general lack of time negatively affected the quality of the final recommendations: Not only were they drafted hastily (resulting in most cases in a poor formulation), but the rush prevented panellists from efficiently coordinating their efforts across subgroups, so as not to duplicate similar recommendations or to avoid, to the opposite, having overtly conflicting recommendations being voted upon in the final open forum (thus evidently attesting to the limited effectiveness of cross-feedback mechanisms). For the purpose of my analysis however, the fourth response is not relevant, the answer therefore being tendentially positive. Finally, when asked whether another kind of filter would have been more appropriate, and whether any filter was needed at all (question 3.E.2), respondents all agree that some type of filtering was necessary, although no one indicates alternative filtering methods. I shall therefore consider the answer as consistently positive, since interviewees agree that it was the right choice to resort to a filter in the first place.

⁹³ Interestingly, one response contains an additional remark that reads, 'certainly [the threshold] was decided following a precise criterion'. This sheds a light on the possibility that panellists' perceptions of what was 'right', 'adequate' or 'correct' might have depended (at least partially) on the assumption that the choices made by organisers were *by definition* appropriate, to the extent that panellists expected a sufficient deal of thought to have gone into devising all stages of the process.

Lastly, as regards the overall levels of satisfaction with openness and inclusiveness (question 3.F), all respondents give positive feedbacks, and no one indicates anything new (one contribution reiterates the scarcity of time resources). I will now turn to analyse these results, providing a tentative extrapolation of some relevant trends that could be of interest for a general understanding of the Maastricht panel's procedural legitimacy, as evaluated by its very participants.

5.2.c Discussion

In the remainder of this chapter, I will attempt at examining the results presented above. Whilst in the previous paragraph I mainly preoccupied myself with the individual level of responses, here I will mostly consider the *aggregate level* of answers. Considering responses was necessary to know, as it were, which flag to pin on each answer; ultimately however, it is by considering answers that we are able to advance our knowledge concerning the panel's perceived procedural legitimacy. *Mutatis mutandis*, we can metaphorically liken the relation between responses and answers to the one between genotype and phenotype: Responses represent the DNA of any given answer, which in turn takes on a different aspect depending on how its responses are combined. In this sense then, evaluations at the level of responses constitute the building blocks for any successive, more complex construction.

Table (1) below provides us with a comprehensive visualisation of the questionnaire results. On the one hand, it accounts for the evaluation given to every *individual response*: positive (P), negative (N), non-relevant (NR), or nuanced (NA). On the other hand, the final column collects evaluations at the level of *answers*; therefore, answers themselves can be: positive (P); negative (N); controversial (X), when positive and negative responses are balanced out; or nuanced (NA), where it is not possible to establish an overall evaluation.⁹⁴ Additionally, between parentheses, I also meant to account for the degree of *internal coherence* displayed by each answer: I consider coherence as complete (C) when all relevant responses converge on the same evaluation, and tendential (T) when relevant responses all converge apart from one that diverges; clearly, controversial (X) and nuanced answers (NA) cannot be ranked by these standards.

⁹⁴ Where not otherwise specified, I shall refer to the aggregate answer level throughout the analysis unfolding in the following pages; when referring to responses, I shall use the subscript 'R'.

<i>Question</i>	<i>Item surveyed</i>	P_R	N_R	NR_R	NA_R	<i>Answer (coherence)</i>
1.A	debate methodology	2	2			X
1.B.1	experts' clarity	1	3			N (T)
1.B.2	moderators' efficiency	3	1			P (T)
1.C.1	deliberations efficiency	4				P (C)
1.C.2	participants' engagement	4				P (C)
1.D.1	consensual outcomes	4				P (C)
1.D.2	inclusion of dissenting opinions	3		1		P (C)
1.E.1	sufficient allotted time	1	3			N (T)
1.E.2	issue 'leftovers'	2	2			X
1.F	translations' efficacy	4				P (C)
1.G	overall efficacy	4				P (C)
2.A	selection of ideas		3	1		N (C)
2.B	experts' neutrality				4	NA
2.C.1	conclusions' publicity	4				P (C)
2.C.2	conclusions' endorsement	4				P (C)
2.D	media coverage	1	3			N (T)
2.E	overall transparency	3	1			P (T)
3.A.1	ECP inclusiv./represent.				4	NA
3.A.2	SG inclusiv./represent.	3	1			P (T)
3.B	translations' inclusiveness	4				P (C)
3.C	opinion diversity	3	1			P (T)
3.D	inclusion of unorthodox opinions	4				P (C)
3.E.1	70% threshold	2	1	1		P (T)
3.E.2	need for filtering	4				P (C)
3.F	overall openness/inclusiv.	4				P (C)

Table 1: respondents' evaluations, by question
(source: questionnaire results, own elaboration)

Now, what do these figures tell us? Let us start from noting the sheer numbers of different evaluations: In absolute terms, I was able to single out 64 positive responses (tot $P_R=68$) and 21 negative responses (tot $N_R=21$), plus 3 'non relevant' responses (tot $NR_R=3$) and 8 'nuanced'

responses (tot $NA_R=8$), for a grand total of 100 responses. The order of magnitude is more approachable if we consider the aggregate level of answers: 17 positive answers (tot $P=17$), 4 negative answers (tot $N=4$), 2 controversial answers (tot $X=2$) and 2 nuanced answers (tot $NA=2$), for a grand total of 25 answers. On a very general level, this means that overall judgements as regards the items surveyed are overwhelmingly more favourable than they are unfavourable: Indeed, positive answers stand in a ratio of more than 4:1 to negative ones. Furthermore, we see that positive answers do not appear in the same proportion in each cluster: While in cluster 1 they are more than half of the total answers (7/11), and exactly half in cluster 2 (3/6), in cluster 3 they constitute a vast majority (7/8). As for negative answers, they represent a smaller fraction of cluster 1 (2/11) and a third of cluster 2 (2/6), while there is none to be found in cluster 3. Finally, while not displaying any nuanced answer, cluster 1 features the only 2 controversial answers. But merely considering the type of evaluations only bring us this far.

We can move forward if we also factor in the *degree of internal coherence* of each answer, intended as a function of the percentage (or ratio) of individual responses converging towards the same evaluation within any given answer. This kind of information is contained in the last column of table (1) above. Additional insights can thus be drawn: For instance, agreement among respondents is complete in around half of the total cases (13/25), and tendential in about one third (8/25). This suggests that it is easier for interviewees to agree completely than tendentially, with a ratio of roughly 3:2 between (tot C) and (tot T). Blurring the distinction between complete and tendential agreement, we see that the broader picture is one of very high overall agreement: If we leave aside nuanced answers, we see that respondents generally agree in 21 cases out of 23, with only 2 controversial answers. If we also consider the *type of evaluation* around which surveyed panellists converge, we see that complete agreement mostly occurs when evaluations are positive (12/13), while overwhelmingly negative judgements only occur once. By contrast, the ratio between positive and negative evaluations in cases of tendential agreement is more balanced (5/8 and 3/8, respectively).

Let us now look at clusters. For one, we see that, as concerns *efficacy* (cluster 1), respondents are more likely to completely agree on a positive evaluation (6/11) than they are to agree on a negative one (2/11); moreover, agreement on a negative evaluation only happens to be tendential and never complete. Additionally, surveyed panellists are twice as likely to tendentially agree on a negative evaluation than they are to tendentially agree on a positive one (2:1 ratio). With respects to *transparency* (cluster 2), in turn, complete agreement is twice as likely to be found on positive evaluations than on negative ones, while tendential agreement occurs once both in pos-

itive and negative terms. Lastly, regarding *openness and inclusiveness* (cluster 3), the most striking feature is the total absence of negative evaluations, with a 4:3 ratio between complete and tendential agreement on positive evaluations. Finally, comparing across clusters, we see that respondents completely agree in around half of each cluster's cases (6/11, 3/6 and 4/8 respectively) and tendentially agree in around one third (3/11, 2/6 and 3/8 respectively).

So what is the final picture? As a general conclusion, we can affirm that respondents' judgements, if critical in relation to particular elements, are globally positive. When it comes to compare and contrast the three clusters, a more articulated picture comes into sight – one of variations among evaluations relating to Schmidt's throughput criteria. Again, the most striking difference is to be observed between efficacy and openness/inclusiveness: Answers in the latter cluster are consistently positive (and display a robust level of internal coherence), whereas those in the former are more articulated, incidentally including the only two controversial answers of the whole questionnaire. Consequently, I think it is fair to acknowledge, as *per* the results discussed above, that the Maastricht panel can be regarded as *overall throughput legitimate*, albeit with a number of *caveats* (above all the limited time at panellists' disposal). Indeed, it seems that the deliberative good practices recalled in section (5.1) were essentially respected, more or less brilliantly depending on the specific cases. The discrepancies between clusters, in this sense, might be ascribable to the fact that is arguably easier to agree on the inclusiveness of a process than it is to agree on its efficacy.

To be sure, assessments vary not only as a consequence of the different individual sensibility (although I should note that there was one respondent whose remarks were consistently more critical if compared to the others'), but also as a consequence of the different subgroups to which interviewees belonged. This latter element, indeed, clearly had some bearings upon both the kind of themes debated and the very membership of the subgroups themselves (as regards fellow panellists, moderators and facilitators). Yet, since I failed to include a question accounting for this, the latter consideration is more of a speculation than a measurable fact. But this is hardly the only weakness of my questionnaire: Unfortunately, it was only during the processing of results that I noticed the presence of a number of shortcomings in its design. Several questions, for instance, were formulated in an excessively vague form, which did not allow for direct, unequivocal responses easily labelled as definitely positive or negative. Not to mention the original question 2.D.2 which, as explained in paragraph (5.2.b), I ultimately decided to remove from the data pool altogether. Nevertheless, notwithstanding these deficiencies, I believe we can retain these results as globally valid, inasmuch as they help us advance our knowledge about the Maastricht panel's throughput legitimacy.

Concluding remarks

In this chapter, after detailing to a greater extent the European Citizens' Panels and illustrating their role as the core innovative element of the Conference, I attempted to make a little step forward in our understanding of the Maastricht panel's throughput legitimacy. I did so by analysing the results collected through a questionnaire of my compilation, trying to gauge participants' own evaluations and feedbacks. Even though said results cannot be intended as statistically representative of the broader ECP membership, they nevertheless point in the direction of a tendentially positive (if cautious) assessment as concerns four out of five of the normative criteria put forward by Schmidt and discussed in the second chapter – with inclusiveness and openness faring sensibly better than efficacy.

This is clearly not to say that we can generalise this assessment and extend it to the other ECPs even though it seems fair to expect that, were we to administer this same questionnaire to other ECP members, the results would tendentially be (at least partly) similar. Rather, I believe we can humbly claim to have advanced our knowledge about the procedural legitimacy of ECP 4, notwithstanding the many technical errors that I evidently committed.

Conclusions

Here we are at the end of our reflection on the EU's troubled quest for legitimacy: We started from the distant sands of time, by considering the historic Copernican revolutions in which the modern concept of democratic legitimacy was forged, with its key reference to the principle of popular sovereignty. Indeed, we discovered that it is precisely this dimension of collective self-determination that is so problematic in our Union, which has been struggling to affirm its democratic credentials in the eyes of Europeans over at least the past three decades. Whether it has finally succeeded, that is, if it can be considered today as democratically legitimate, is not for me to judge. On its part, the EU prides itself in being a true transnational democracy: Yet, as the very name suggests, no democracy can thrive without sustained support from the *demos* it is supposed to put in charge. And the story we went through across these chapters is more one of failure than one of success, at least considering the extent to which the EU's legitimacy has been questioned by both citizens and the academic world.

Of course, as we have seen, democratic legitimacy is a hyper-complex notion, a veritable conceptual labyrinth. I chose a very specific perspective to investigate it and find a way out of the maze, namely, the systems-theoretic approach developed by Fritz W. Scharpf and insightfully updated by Vivien A. Schmidt. These scholars have provided us with a powerful analytical device through which to understand the EU's legitimacy predicament, especially considering its multilevel structure. In particular, we have underscored how it is precisely the lack of input-oriented legitimation that severely strains the EU in its search for popular support; and particularly as a consequence of the ominous polycrisis that has been squeezing the continent for the past fifteen years or so. But the many crises' claws are still piercing the Union's skin: If the pandemic-induced shock has eventually worn off, history has suddenly come knocking again at Europe's door in February 2022. It is impossible to overlook the tremendous consequences that the tragic developments in Ukraine will continue to produce for an indefinite time in the future. Whether this will be a catalyst for relaunching European integration is still not clear; rather, we have been

seeing instances of muddling through (or stumbling forward) time and again (take the pains-taking establishment of the sanctions regime targeting the Kremlin), which is after all the EU's most typical way of coping with virtually any development.

We also saw how the bloc's institutional actors have been trying to reignite popular interest by directly engaging the public in a decade-long debate on the future of Europe, ostensibly in order to put citizens in the driver's seat. But shoring up the Union's battered legitimacy is no easy enterprise. And it surely takes much more than a Conference to (re)build transversal trust in a project – and a process – which has been increasingly incapable of delivering upon its original promises of economic prosperity for all. (As for the promise of peace, one could legitimately wonder whether it is thanks to the EU, or rather to NATO, that the Twenty-seven have been spared military aggression to date.) Be that as it may, CoFoE is definitely no panacea for such complex problems, and the demons haunting the Union will not disappear all at once by waving around the magical wand of participatory innovations; on the contrary, there is a risk that an *ad hoc* initiative like the Conference will amount to little more than sweeping the dirt under the carpet. On top of this, such deliberative experiment was flawed on so many respects, from its dubious democratic authorisation to the 'institutional illusion' it promoted (Venizelos, 2021), not to mention the practical problems emerging throughout the year-long initiative, some of which I addressed myself. Nevertheless, the analysis of my case study in the fifth chapter shows that, procedurally speaking, the Maastricht panel (and perhaps all four ECPs) can be regarded as overall legitimate, although the assessment varies with regards to each specific aspect among those singled out by Schmidt. As far as my work is concerned, I hope the present thesis has provided a valuable contribution to the investigation of CoFoE's throughput legitimacy, as a partial but necessary step towards a broader, general assessment of the very 'future of Europe' debate.

Admittedly however, the most obvious questions now relate to the concrete outputs of the Conference. In other words, what results – if any – can we expect? Again, agreeing on a definition of a positive result is far from uncontroversial. Arguably, realising the 49 proposals could be a good starting point: And the vast majority of them (slightly less than 90%, according to various estimates) does not require amending the Treaties to be implemented. This means there is already fairly much that institutions can do within the current legal framework to demonstrate they are indeed committed to honouring the vision of European citizens, a vision they had explicitly asked for by launching this expensive initiative. Now, as *per* the Joint Declaration, each institution will autonomously follow up on citizens' proposals, within the remit of its own com-

petencies and in accordance with the Treaties. In non-EU jargon, this means that the Commission, Council and EP will continue to proceed on their own, without undertaking any common action; on the contrary, this sounds like a recipe for new inter-institutional turf battles, especially between MEPs and national governments if the former are truly keen to push through with the art. 48 procedure. On its part, the Berlaymont announced in autumn 2022 that its working programme for 2023 would comprise several priorities emerging, directly or indirectly, from the Conference (Šefčovič, 2022), and launched in mid-December a new tool as part of its broader infrastructure of public consultations: A ‘new generation’ of 150-members citizens’ panels, shaped after CoFoE’s own ECPs, to contribute citizens’ input in the upstream phase of policy formulation (see citizens.ec.europa.eu) – the first three ‘rounds’ focused on food waste, virtual worlds and ‘learning mobility’. Whether this new deliberative innovation will actually enhance not only the sense of ‘ownership’ of EU policies on part of citizens but also the Union’s overall legitimacy, however, remains to be seen. For now, as mentioned in paragraph (4.2.b), citizens are less than satisfied with the level of ambition displayed by the bloc’s institutions, and one might even be tempted to wonder whether these intimations of participation could not turn on the EU’s own head like a ‘boomerang’ (Genovese, 2022b). Be that as it may, at the time of writing (and as far as I am aware) no additional ‘result’ has come out of the Conference.

But there might be other positive developments emerging from the CoFoE, if perhaps less tangible than the introduction of new legislation. For one, the enterprise has shown the potential that a *genuine pan-EU conversation* bears. If the Union is to (re)build its legitimacy, then fostering a real transnational debate, articulated in a Europe-wide public sphere, is arguably one of the most interesting ways forward. This is, in my opinion, an important ‘legacy’ of ECPs in particular, as they demonstrated that (if afforded adequate time and resources) citizens from different member states can profitably debate questions of common interest and, possibly, also agree on workable solutions. There is some hope in these respects, or at least so I believe: All Europeans with whom I interacted throughout CoFoE are acutely aware of the inescapably European dimension of their fates, in the same way as they understand the irrevocably transboundary nature of the challenges confronting their communities. Once more, the ‘public’ has proven to be many lightyears ahead if compared to its political representatives. Of course, this requires that the pan-European sphere be not only public but also fundamentally political: In other words, it must be acknowledged that there cannot be democratic legitimacy in the context of an ostensibly depoliticised governance system. The two things are simply at odds with each other.

However, and contrary to what inveterate federalists like dear old Guy Verhofstadt (whose enthusiasm and dedication I sincerely salute) might wish, it does not take evolving into a continental superstate for the Union to become at once more output-effective and, above all, more democratically legitimate. We all know for a fact that Europeans are jealous not only of their national identity (an awkward expression these days) but also, and most crucially, of their domestic democratic infrastructures, which they rightly regard as one of the few remaining bulwarks against the unpredictability of a rapidly changing, unsecure, globalised world. Personally, I proud myself with being European at least as much as I do with being Italian – that is, the citizen of a democratic republic built upon the ashes of fascism; and I would never want to even consider trading off one of these two affiliations against the other. As I have tried to show, following especially the work of scholars like Scharpf, a certain path to Europeanisation has historically put these national heritages at risk. Failing to acknowledge this, and discrediting legitimate concerns about the functioning of democracy (both at the national and European level) as Euroscepticism or nationalist populism, will do little to solve any problem and, on the contrary, may well exacerbate a detrimental polarisation (which is no synonym for politicisation).

This is the reason why I deliberately chose to afford so much room to critical accounts, as I believe that one should not be content with overly optimistic stories about EU's merits without having the intellectual integrity to also look in the face at what is so blatantly dysfunctional. I have always believed in the added value of being part of the Union, ever since I started interesting myself with politics and its surroundings. I have always believed that, as former German Chancellor Konrad Adenauer famously put it, European unity is 'a necessity for all of us'. That belief is as firm today, possibly even firmer, as the scope and complexity of the challenges before us are much greater today than they were in the 1950s. But one thing is being persuaded that our future ought to be European; another thing is defending the current state of European affairs, convincing oneself that all is good just because we have our Union and our single currency. All is *definitely not good* in our Union, as one easily sees by merely taking a distracted look around; and part of the reasons have deep historic roots, some of which I tried to uncover throughout my analysis. To be sure, much 'dirt' was left outside this thesis: Think, by way of example, of another, massive EU's normative failure, when it found no better solution to the 'refugee crisis' (*sic*) than paying Turkey's new sultan to the tune of EUR 6 billion for stopping the desperate escaping the horrific Syrian civil war from reaching 'fortress Europe'. I find that the only honest perspective is thus necessarily a *critical one*: One that does not spare well-deserved criticism, but whose intent is not so much to delegitimize as, on the contrary, to search for the conditions of a more solid legitimation for a more efficient Europe.

It is with this spirit that I took the unmissable opportunity to participate in the gigantic participatory experiment that was CoFoE. From the beginning, I always tried to maintain as critical as possible a perspective on the whole initiative, adopting a sort of detached realism in order to avoid both utopistic and cynical lures. I made use of the almost unlimited access granted by my press badge to dive into the Conference from an independent perspective, collecting both panellists' and professional policymakers' insights and progressively forming my own opinion on the unprecedented enterprise. As I said, it was a highly formative experience on all imaginable levels, one that is not easily put into words. I shall not make an attempt at doing so. For what concerns us here, suffice it to say that covering CoFoE as a journalist has allowed me to directly investigate that complex 'Machine', where participants were indeed told 'what' to dream but retained (or took themselves) the freedom to dream it 'how' they saw fit. I am glad to have been a tiny part of it, and I shall consider my participation to have been meaningful if even one single reader has effectively learned about it thanks to one of my articles.

However, the risks remain that this initiative ends up being yet another PR exercise on the institutions' part, without any tangible result coming out of it: This would be unfortunate, since further widening the expectations-delivery gap, by raising the stakes only to shatter the hopes thus generated, will hardly have any positive effect on the Union's perceived legitimacy. In this peculiar historical juncture, the words of late EP President David Maria Sassoli (who auspicated for 'great wisdom and the maximum of audacity') represent the only viable path forward for the EU to finally accomplish its democratic mission. Europe is definitely not an 'accident of history', as he himself repeatedly stressed. Still, whether our cherished Union will really strive to realise the audacious vision that Europeans have spelled out for its future is a wholly different question.

Ringraziamenti

Non senza una certa ironia, il primo pensiero che scrivo in italiano dopo quattro anni di lavori universitari redatti rigorosamente in inglese è anche quello che conclude simbolicamente questo percorso. Un percorso tutt'altro che lineare, durato decisamente più del dovuto e che rimarrà indissolubilmente legato a quanto accaduto nell'arco di questi anni surreali, i quali hanno profondamente e indelebilmente segnato la nostra coscienza collettiva. Stiamo ancora attraversando la storia, anche se ne avremmo fatto volentieri a meno, e il mondo non ha finito di cambiare. Personalmente, sono grato di aver avuto l'opportunità di vedere tutto questo da un punto d'osservazione privilegiato, anche se questo ha significato toccare con mano l'abisso che spesso separa gli alti concetti studiati negli ultimi sette anni dalla prosaica realtà della politica fatta dalle persone in carne ed ossa.

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