

What an imbalance blurs democracy as it is
pushed at first to cut itself the arms before
amputating its legs so that it can be better
accomplished!

*Marcel Gauchet, The establishment of democracy,
I, Paris 2007, 17*

DEMOCRATIC GOVERNANCE IN A MARKET SOCIETY: SOCIALIZING SECURITY IN THE EUROPEAN UNION

Author: Prof. N. Scandamis

Deliverable: University of Athens, WP 12

To be published in the public part of the web-site

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1. *The issue of democracy at the European level*

A vast topic like this certainly needs to be delineated right at the outset mainly in terms of the task pursued. Indeed, democracy is a concept with a long history and today it shapes itself at many different levels. Unavoidably it must be approached through its essence, the forceful idea which keeps it alive and makes it still today a polemic concept. Its fundamental imprecision needs to be handled cautiously in view also of the difficulties arising from the peculiarities of the context of what is known to be European governance; a stand which makes problematic the very use of the word democracy. All the more so, since in such a complex structure as the European Union, the traditional field of democracy, the national state, survives legally and politically; a historic mark which may encourage for good reasons to maintain the term at some of the different levels depending on the context in which it is meant to function.

The uncontrolled use of the notion of democracy has not been, to our knowledge, challenged thorough a research going beyond its mere operability in the novel context of the European governance, the idea of democracy being an absolute value, a kind of taboo. This is probably why this multivalent concept is gradually overshadowed by

terms betraying embarrassment while introducing relativity. Indeed, terms like “democratic values” or “democratic life” (art. 2 and 9 *seq.* EU(L), art. I-45 *seq.* CT, respectively) are in standard use already in the founding treaties. In any case, an attempt to employ the concept of democracy with the view to investigate its impact on issues like liberty, security or equality, presupposes defying questions difficult to master: What of democracy at all in the European governance, and for this reason, what of the core of this broad concept?

This paper is geared by the need to measure the ambit of democracy in market societies as unified under the novel system of European governance (Set and Grown elements in European institutions; a previous paper of the university of Athens CHALLENGE team); it serves the purpose of elucidating preliminaries working at the foundations of such governance and values allowing action at an institutional level with an awareness sufficient to safeguard essential aspects of “democracy” which, though not termed as such, are at work at the European level while leaving other aspects of democracy in operation explicitly designated as such and in varying forms within the member States of the Union; both faces of democracy getting into a deep convergence under a well thought out division of functions.

2. Legal traces of Democracy in the founding Treaties

1. Dominant literature focuses on the democratic deficit of the European Union mainly by proceeding through standard transpositions from the national to the supranational level of a specific version of democracy, the *representative democracy*. Mainly the claim for more democracy emanates from the shaping of a political will within major institutions of the European Union at risk of escaping political control; more generally, a will born away from truly representative bodies as emanating from the demos assembling all the citizens of the Members States. In other words, the whole issue of the democratic control focuses on the decisive attributions of the European Parliament both in the legislative process or the accountability of the common institutions at the different stages of their action; democracy is basically restricted to its representative version as imposed both on the Union and the Members States (art. 10 par. 1 EU (L)). Elements of a participatory democracy are parsimoniously present after the Lisbon treaty without however being denominated as such (art. 11 EU (L) in contrast to art. I-47 *seq.*, CT). However, a general principle related to participatory democracy as transcending all levels of government within the Union, national, subnational or transnational, is proclaimed in article 10 par. 3 of the new EU Treaty in resonance of a similar provision in the same treaty as it is applied today (art. 1 par 2 EU), whereby democracy implies that power is exercised as openly as possible and as closely as possible to the citizen (*devolutionary subsidiarity*).

For the rest, democracy is articulated as a bundle of particular principles stemming from a definition of democracy which normally is never stated as such except for one occasion all the more that it is symbolic; a citation to Thucydides in the draft Constitution still to be abandoned later (“χρώμεθα γὰρ πολιτεία ... καὶ ὄνομα μὲν δια το μὴ ἐξ ὀλίγους ἀλλ’ εἰς πλείονας οἰκεῖν δημοκρατία κέκληται», II. 37; “our constitution favours the many instead of the few, this is why it is called democracy”). Democracy is rather evoked with the evidence of an *acquis*, as denoted by the term “democratic life” (of the Union) (art. 10 par. 3 I-45 *seq.* Const. Treaty); or, actually, the term “democratic principles” (art. 9 *seq.* as amended by the Lisbon Treaty). The vagueness of the terms accounts for democratic elements indistinctly assembled despite their different character: values, legal principles, fundamental rights or

directives of good governance, namely equality, transparency, rule of law, accountability, participation, representation, consultation, right of association etc.

3. Democracy dynamics: Governed and governing democracy: Socializing security through democracy

A very concise statement about the notional itinerary of democracy in the West shows democracy relying fundamentally on *liberty* in order to be conceived and then exercised, whereby liberty inexorably leads to *liberation* as an endless process (G. Burdeau, 16). Liberty itself is conceived primarily as autonomy, i.e. absence of constraint (*liberty-autonomy*), tantamount to availability to dispose oneself, eventually to become participation in common affairs (*liberty-participation*). Such participation is translated into *political rights* which allow democracy to become a *regime* which is founded on the will of those whom it obliges. Particularly, since the French revolution the substratum of democracy is that political liberty is subordinated to the individual's civil or personal liberty. As liberty does not preexist but has to be conquered, liberty implies liberation. Organized democracy becomes thus "management of a free universe" (G. Burdeau, 21).

By liberty-autonomy is understood traditionally the bearer of individual rights, who is thus shaped into a *citizen* in a distinctly abstract way. Illuminated by reason and disconnected from personal interests such a figure appears *universal*, indifferent to any contingency, in fact, unreal. Precisely on this image the concept of *nation* was built, during the French revolution, as owner of sovereignty, thus clearly at distance from any sociological reality. In *citizen democracy* the *people* is clearly distinguished from the *mass*. Furthermore, the expression of the former's will through *numbers* is enveloped with the legitimating mystery of a *general will*, which manifests itself as the majority's will. During the XIX century attention was drawn through fierce social struggles to the real people and democracy took a new shape: Man, as placed in specific social conditions, as *homme situé*, gradually occupies the centre of any political action. The working class turns into the driving force of such shifting. Consequently, the liberty of the person is an attribute which stems from his human nature; it only needs recognition, mainly through elimination of obstacles. On the contrary, the man seen in his concrete situation strives to be liberated through *restructuring of social relations*. But as the group is only an abstraction, deprived of a will likely to be traced, such a will may only be shaped through a subsequent attribution by an elected body which acts as unbound from any political obligation. The mechanism of *representation* implies a kind of appropriation of the popular power by the elected assemblies, as it is entirely absorbed by them. The clash of opposing claims can only be sanctioned *a posteriori* but still maintains a pressure menacing liberties. Through representation the power of the people and that of the governors remain actually distinct. As the former never really dissociates itself from the people, does stay with it, as the latter is normally translated into acts, only forms of *de facto* power may only give vent to the former. Pressure groups or agencies not openly recognized in a constitutional way, not to mention forms of occult power, shape an arena of clashing interests. Conflicting interests in industrial and post-industrial societies cause a major split within the concept of democracy. As founded on the nation and its delineated ambit, democracy may, under strong common values (*civism*), shape, at a distance from mass pressure, compromises between rival tendencies, thus enabling governors to act independently. But more and more, democracy succumbs to the will of the real people as an ever increasing number of claims are channeled to the governing level, precisely when democracy, in its liberal

constitution, asks ever more from the State to abstain from action. The all pervasive technology eventually condemns elected bodies to incapacity or immobility, in favor of an administration composed of experts which may and can decide, without strictly speaking being properly legitimized to do so as compared to the former (*gouvernementalisation de l'État*, M. Foucault, *La gouvernmentalité*, Dits et Écrits, Paris 1994, 656). Political life is thus essentially reduced to the struggle for power and common visions of the community less and less suffice to maintain the rule of law as a means for containing the pressure for central intervention to distribute protection and security. As G. Burdeau rightly formulated it (*La démocratie*, 47), *governed democracy* steps back before *governing democracy*. Social democracy introduces claims for a *de facto equality in security and welfare*, an untenable task in the hands of a liberal government. In other words, prosperity appears as an effect of political power. Political rights are used not only or primarily for participating in the public affairs but for promoting social reform by all means.

This profound transformation, which brought to the foreground the highly politicized masses, was built around specific interests translated into equivalent claims; it had the effect of extending the field of the political into ever increasing areas, thus socializing numerous aspects of the group activities (G. Burdeau, 87). When democracy was exclusively political many aspects related to the security of the group's members were left to the individual's personal effort. The extension of the political field gave shape to a distinction between *State* and *society*, which marks ever since the liberal thought: Society is the field of risks and the State a framework to secure basic risks. This conception introduces a tension within liberalism as the State is supposed to limit itself to few, carefully selected tasks. This process, evolved in such a way that the notion of the citizen, as a *pure being* without social attributes, gives way to the socially situated man, *l'homme situé*, who ends by assuming, in his turn, an anonymous face; he becomes a *collective being* and he is "disindividualized". Rights correspond as from now to needs objectively defined by those who govern; the framework set up by the State tends to become impersonal and finally turns out to be a *status*.

4. Rule of law and Democracy: An equation?

The rule of law is a precondition for democracy as too much liberty degenerates into servitude (Ἡ γὰρ ἀγὰν ἐλευθερία εἴοικε οὐκ εἰς ἄλλο τι ἢ εἰς ἀγὰν δουλείαν μεταβάλλειν καὶ ιδιώτη καὶ πόλει., Plato, *Rep.* VIII, 564a). But it is also well established that the rule of law cannot stand for democracy because of its formal character. If, as H. Kelsen puts it (*Vom Wesen und Wert der Demokratie*, 1929, it. transl. Mulino 1984, 46), the state is the only subject of power in a democratic regime, then liberty may be only defined by the legal acts which an elected body lawfully sets. In this sense, free is the citizen of a free state, which is a fallacious reasoning of a republican character well elucidated by Q. Skinner (*Liberty before liberalism*, Cambridge 1998, 60). Consequently, liberty created through regulatory means cannot stand for liberty, although non-regulated liberty eventually degenerates to anarchy. The truth probably lies in the middle. As in a market society legal liberties and real liberty merge into a common core with their elements inseparably mingled (K. Polanyi, 327), what is finally significant is the balance between liberties acquired and liberties lost, indistinctly measuring legal and real potentialities (*ibid.*, 326).

Such merging of liberties stems directly from liberalism and its essence; in fact, it is the effect of a market society, more explicitly, a society based on self-regulated markets. The central issue in these societies is that a lot is decided by markets before

it may become a political concern for governors. In other terms, market justice, as income-generating rationality based on property rights, decides, at first instance, how the three basic elements producing liberty, alias, *income, leisure and security*, will be distributed (ibid., 326). The formal character of the rule of law derives from a confusion operated by law: its abstractness absorbs essential differences between the observance of forms and the inextinguishable capacity of democracy to invent by drawing from the initiatives of the individual. There ensues an antagonism between democracy and the State; it is permanently installed. The political element which resides in civic life as marked by its power for rebirth, fully contrasts with State power in freezing any political creations, in becoming cumbersome. This effect is further intensified by a perfectionism, inherent in the state of Rule of law, which urges submitting to general norms exceptions to the principles set up by such norms. While the rule of law is conceived to contain State power, it ends up by restoring such power to the extent that its use is based on law (M. Abensour, *La démocratie contre l'État*, Paris 2007).

5. Core democracy

1. Given the notable fugacity of democracy's concept in evoking symbolically any resistance to oppressive power, even if necessary, and sometimes, precisely as necessary, modern thinkers directed their efforts to exploring core elements pertaining to all forms or aspects of democracy, a kind of common notional denominators which would allow overcoming persisting and inevitable theoretical particularities. Such an approach could only be attempted for specific needs proper to modernity and especially post-modernity, a figure of which is certainly European governance. It inevitably imposed revisiting the classics, as Aristotle or Plato, with the view to isolating core elements workable in a modern context. The motive for such a turn to the essence of democracy was precisely the *paroxysm of equality* which caused existing democracy to wither in the full process of a search for a genuine democracy to come. This trend was directly linked with the emergence of economy as a relatively autonomous sphere which brought to the surface tensions between democracy and community, tensions between government and governance in modern market societies, and, most of all, these tensions as transposed from national to transnational forms of governance as the European governance typically appears to be. In other terms, the question of the compatibility of democracy and liberalism was openly raised and remains still open.

Among the numerous theoretical efforts at least three merit to be explored in view of the task of reflecting on the nature of the European governance. Utmost foundations of democracy as designating the frontiers of any political discourse (J. Rancière), thresholds of democracy as contrasted to totalitarianism (C. Lefort) and viability of democracy in liberal societies (C.B. Macpherson, D. Schnapper)

2. A careful study of the Greek classics, shows that democracy raises at the outset a problem of *governability of multiplicities*, originally that of the small city (city-State), nowadays that of multitudes ranging between nation-states to transnational entities of governance (European union). A first core element of democracy is the search of a way to define *common interest* (what is useful and what is damaging). Such a good origin was originally coupled with a bad one: the division between poor and rich (*εὐποροί/ἀποροί*), in other terms small number versus mass; in classic terms *freedom* was reserved to the former, *virtue* to the latter (*ἐλευθερία/ἀρετή*) (Aristotle, *Pol.*

1289b 30, 1295b). As it was not possible to couple such opposites, a common artifice had to be invented between profits and honors, otherwise, between material interests and imaginary investments, actually, a distribution of wealth and power (C. Castoriadis, *L'institution imaginaire de la société*, Paris 1975, 162 seq.). In this conception, the democratic ideal consisted in making the *political centre* and the *social middle* to coincide, in fact, the political center to be occupied by the middle class. Ultimately, poor and rich should be attached to the center of the city through a homonymic meson as identified with an isomorphic meson (J. Rancière, *Aux bords du politique*, Paris 1988, 40). This space of citizenship was actually hard to define in small entities like city-States. But is it possible to define it in major spaces like nation-States or meta-national areas of transnational governance?

The Aristotelian approach intertwines political space, social space and territorial space. It does so by transforming intermittences within the demos into intervals locating its power at distance from its own divisions and turbulences, at distance from itself (J. Rancière, 42). Such an interval restrains the poor from occupying the centre and becoming a crowd in power; it is created by selective means close to census and this task is to be performed by the State and the laws it enacts. The laws command “for the lack of resources” («οι νόμοι ἄρχουσι, δια το μη εἶναι πρόσοδον», *Pol. I, IV 1292b 37*). At the same time, these very laws undertake to provide the surplus necessary to compensate the absence from work in order to reach the public place, take the floor and vote (Besides, this is the double meaning of the Greek word “prosodos” (*πρόσοδος*): additional resources for being able to reach the public place and participate in the debates. Participation does not coincide with actual governance as the endlessness of democracy hides a major risk of anarchy (Arist. *Pol.* 1319a 40, Plato, *Rep.* VIII). It thus becomes imperative to disperse interests, create an empty space between the citizen and his citizenship, finally to depoliticize. Tensions around the center are regulated through the division of interests into infinity of points, into shared benefits adjusting individual and common interest, the private and the public, and eventually abandoning the burden of public office in order to enjoy the pleasures of private life in an essentially atomistic society. *Polymerization of interests* forms a kind of auto-regulation of passions, in other terms *democratic serenity* (*πραότης*), and ultimately *neutrality* (*ουδετερότης*) vis-à-vis division, which is a source of *mild ethics* proper to democracy. This faith in the democratic rule leads to a kind of *secular providence equivalent to security*.

What seems important in this conception of democracy is not the opportunity of ruling as demos, source of sovereignty, but the opportunity of being heard publicly on an equal footing at the risk of annoying those in power. Equality in taking the floor and equality before the law (*ισηγορία/ισονομία*) constitute prerequisites of what might be described as democracy, since democracy taken literally, derives from the *factitiousness of the demos*; it implies ultimately the dilemma of any multiplicity, moreover, of a multitude: *The initial inequality remains insurmountable but conceiving means of facing the menace of an open internal cleavage is of the utmost importance.*

3. Democracy becomes possible, only, as stated, if a space of *common sense* is established through subjects of law; a virtual space, by far not illusionary, which allows that juridical phrasing is verifiable in terms of a *common space*. This is a preliminary for any community based on participation and sharing. But most importantly this is the outcome of another trial which stands as the founding moment of any democracy at all: A democracy founded on equality presupposes the

acceptance of the superiority of certain members of the group apt to assure coherence and capacity in command. If this is explained to those who will experience inferiority and if they consent to it, superiority is destroyed at the outset and dialogue becomes possible: The *discourse before any discourse* is the prerequisite of any community based on equality before the law. The classic paradigm of this founding moment of democracy is the speech delivered by the patrician Menenius Agrippa to the plebeians assembled on the Aventino hill in Rome (Abbatis Lhomond, *De viris illustribus urbis Romae*, 35-36). By means of a simple fable Menenius Agrippa obtained consent from the latter in the name of social peace (*sic senatus et populus, quasi unum corpus, discordia pereunt, concordia valent*; “*In this way the senate and the people, as if in one body, overcome division and establish peace*”). The heart is the organ which allows any other part of the body to exist and function. Taking the initiative to speak and obtaining acceptance to be heard amounts to establishing equality in discourse, without which only violence is possible (E. Levinas, *Liberté et commandement*, Paris 1994, 42, J. Rancière, 140, 159). Modern political thought has largely developed this often disregarded prerequisite of democracy, as a prerequisite for any community of sharing (H. Arendt, *right of having rights* as coupled with the rational obligation to accept them).

Particularly relevant for the European approach is the very fact of denying the fundamental element of social division at the level of State and society, and the subsequent will to suppress it, an attitude, risking otherwise totalitarianism. The inexorable force of democracy which may be summarised as *a will to live with elements impossible to cumulate in view of a common cause*, that is, to live with an insurmountable division, presupposes that power is not incorporated, incarnated in one body. C. Lefort (*L'invention démocratique*, Paris 1981, 87) powerfully represents democracy's essence as an *empty space*; not only in respect of the form of power and procedures but as far as separation between power and knowledge, power and religious authority, between different fields of knowledge and activity. Briefly stated, democracy is a type of society accepting the debate on what is legitimate or not (*disincorporating power and disjoining knowledge, law and power*).

6. Democracy at work in the European governance

1. In view of the above, democracy may also be traced at work in other also respects within European governance, though not necessarily under this name. Tracing such aspects calls for setting aside nominalism. Ultimately, it also calls for reconsidering aspects of it as against liberalism, the founding ideology both of the liberal State and its redeployment at a transnational level, that of European governance. Democracy and Community thus form a couple and generate tension through their basic figures, liberty and equality. The self regulated market which marks a decisive turn in modernity claims autonomy for the economic sphere against the traditional primacy historically enjoyed by the political sphere until then, thus splitting society and its basic ends: peace and liberty became institutionally problematic in a society where profit and welfare obtained precedence (K. Polanyi, 327).

2. *Ordoliberalism* as the founding political and economic doctrine which dominated the foundation of the European communities (otherwise known as the school of Freiburg) fixed as its primary goal democracy and peace through a market fully espousing the rule of law (W. Eucken, *Grundsätze der Wirtschaftspolitik*, Tübingen 1952, 300). In particular, the State was designated as a political entity likely to abuse its power outside and inside its frontiers if not properly constrained through political

and economic liberties. In this light, a totalitarian state was to be avoided as a historical eventuality in Europe, provided state power was subjected to rules within a free market which would also acquire transnational dimensions as a Single European market.

In this perspective, the Community method may be read as an effective control of state sovereignty, both internal and external, through common rules endowed with supremacy and immediate effect. Such an essentially a-sovereign regime would place interests of all kinds to compete at an institutional level, including the ones pertaining to the State as entity and as category (“This method is entirely new. It does not entail a central government...This method is the real federator of Europe”, Jean Monnet, *Mémoires*, Paris 1976, 517; “ Supranationality will rely on national bases”, Robert Schuman, *Pour l’Europe, Écrits politiques*, Geneva 2000, 25-6), so that a European interest could be shaped following a carefully designed system of balance. Such a replacement of entities (Government) by interests through common procedures (Governance) is what may be called after M. Foucault, a “Republic of Interests” (*Naissance de la biopolitique*, Paris 2004, 47-8; Paper “Security in a Union without pillars? by the Challenge University of Athens Group).

–The functional character of the European governance represents a profound sign of democracy in itself, as it creates an empty space where sovereign power (or private power) is not captured within a specific political body (C. Lefort).

–Polymerization in the form of dispersed interests which have to be composed at a transnational level and according to common rules creates intervals among States and individuals with a definite and distinct depoliticizing effect, historically proper to democracy.

–Equality of speech as proper to “more or less populated States” (otherwise, to big and small States) (G. Amato, J-L., Dehaene, V. Giscard d’Estaing in *Le Monde*, 14.11.2003) is a major guarantee that all social entities will be able to express themselves and willingly be heard, even if eventually some voices will have to prevail. This does not hold for citizens for which equality of speech in direct terms is severely curtailed, not only at a transnational level where traditional elements of internationality still prevent it, but also nationally where access to public media, especially TV, is open under conditions subject to unregulated terms, thus greatly suffering from democracy’s point of view (R. Debray, *L’obscénité démocratique*, Paris 2007).

–Although representation as assured to a certain degree by the European parliament opens up possibilities to isolated popular voices (trends) to express themselves, democracy is also to be formally and actually safeguarded at a national level under political sanctions for States failing to do so. Yet, as national sovereignty is fully valid within the member States, democracy can only be proclaimed under organic forms of constitutional power, that is, proper to Government. The State remains therefore a source of democracy but only to the extent that its own perception of the public power may still be contained through the liberal order guaranteed by the Union.

– The factitious character of any demos, even if represented, as understood here above, demands that precedence be given to the element of knowledge (*auctoritas*) at the expense of that of political power as expressed even by elected bodies (*potestas/potentia*). Given the size of the multitude to be managed but also and mainly for fear of the worse in case the wrong choice is given effect to, expertise takes over its mythical precedence in founding the republic (*auctoritate magis quam imperio*; “by force of authority than power” Titus Livius, *Ab urbe condita*, liber I,

capas VII, praefatio). A modern echo of such precedence, as evoked by Livius to illustrate the original moment in the relationship between the wise (Evandrus) and the hero (Romus), may be traced in the construction of the monetary union within the European Union, which has not escaped to the Bundesverfassungsgericht which did not omit to explicitly proclaim it (Maastricht judgment, 12.10.1993, 2 BvR L 134/92, 2159/92): It is not only social division which menaces the group of European societies but also a loss at the level of the welfare. In an essentially federal construction as the monetary union, the welfare of any member is menaced by the wrong decision; a democratic decision as open to factors other than knowledge may still be a cause of a loss difficult to support and justify merely for its democratic character. After Plato (Rep. Book VIII), the democratic man is incapable, especially in a technocratic society extended over a composite space, like Europe, of ranking what is necessary or superfluous, equal or unequal. The *auctor*, here the Central European bank or the European commission is the guarantor that the future will be finally mastered, as the anguish of the risks it reserves are dissolved without sacrifices unequally distributed among the different elements or classes of society. The art of the politician tends to be more and more open to suspicion amidst the waging interests, the scale of which becomes sometimes bigger and more articulate than the power of a State.

3. What seems to be the case in terms of a theoretical approach of democracy in the European Union, democracy is explicitly evoked as a principle inherent in European governance but democratic life in the Union limits itself to the principles of representative democracy (*eo nomine*) and in rather symbolical terms to participatory democracy (but not *eo nomine* under the Lisbon treaty); core elements of democracy seem furthermore to lie deep at the heart of the European governance and as such may guarantee democracy and its supporting principles (rule of law etc). Nevertheless, such important democratic elements seem to be addressed to major political entities, mainly States, in an effort to safeguard a balance of power in view of permanent peace at an international level and as centered on reciprocal welfare; an achievement that liberalism did not and could not manage by itself. Diminishing the State within its frontiers through market equality of all actors, private and public, proved certainly necessary and beneficial for liberal peace and welfare. Still, a diminished State as to its sovereign power is assigned important roles of guaranteeing liberties connected both to liberalism and to political democracy. Is serving both a feasible task without ending up by sacrificing the one for the other?

7. Liberty and equality by Democracy and Community

In spite of the dominance of a legal universalism (rule of law), the achievement of modernity in equating the man and the citizen, that is the right of every human to do politics, the *right to politics*, the discourse of human rights and that of the citizen's rights are to be differentiated as leading to a risk of "all politics". The scope of the former covers a very large spectrum ranging from freedom of conscience or right to individual security to the right of existence and self-determination; the scope of the latter ranges from a demand to extend politics to new areas, as primarily ecology, to a demand to restrain the political capacity of traditional bodies in deciding practically everything at distance from the economist's or the technicians standpoint (E. Balibar, *Droits de l'homme et droits de citoyen. La dialectique moderne de l'égalité et de la liberté*, *Actuel Marx*, (8) 1990, 14, 31). By keeping apart politics and economics, classical liberal thought introduced equality in purely legal terms. Hegel's construction of the civil society established a link which ever since haunts political

thinkers: either we overlook inequalities existing in fact (socially and naturally) and we recognize to all equal political rights or equal treatment calls for inequality of political rights in the name of egalitarian correspondence between such rights and social duties (equality dilemma) (D. Losudro, *L'égalité et ses problèmes*, loc.cit., 35, P. Hirst, *Associative democracy, New forms of economic and social governance*, Amherst 1994, 95). The freedom to contract (*laissez faire*) as based on property rights traditionally considered "as the real foundation of civil society" (J. J. Rousseau, *Discours sur l'économie politique*, 1758), brings forward the tension between the ideas of *community* and *democracy*. Community can only be invested in legal terms (formal equality); society belongs to inequality. One may emancipate as many individuals as possible (through state action), but it is impossible to emancipate the society as such. As Ranciere puts it, "the community of equals can never coincide with the society of unequals" (ibid. 162-63).

V. Pareto, a major economist who studied the relationship of democracy to market forces (Pareto aujourd'hui, A. Bouvier, Paris 2000), showed clearly the menace that the function of the one entails for the other. Democracy appears, in this view, as a destructive source of wealth, especially when power comes into the hands of groups looking for economic power. Before such "machines of spoliation" any government proves to be at the same time weak and interventionist, especially before the exercise of the right of general election. Under conditions of market freedoms, the individual is left to construct everything by himself without fixed points of reference but at the same time with an ever increasing urge to place social demand with all possible claims and on an identity basis (D. Schnapper, *La démocratie providentielle. Essai sur l'égalité contemporaine*, Paris 2002, M. Gauchet, *La démocratie contre elle-même*, loc. cit.).

8. The endless quest for Democracy: The issue of governability within the European Union

Democracy as a regime at work becomes possible under the European governance because it is conceived and applied beyond State sovereignty if not against it (a-sovereign governance (N. Scandamis, *The paradigm of the European governance*, Athens 2006, 45). It is not exactly the same in the Member states for they are precisely sovereign. This explains the constant instability of European governance but also its institutionally open character which allows for a taste of democratic truth. Such reciprocity in need between the national state and the European Union is probably a field where balance should be sought as long as a democratic centre or middle seems difficult to create under transnational dimensions.

Before a still open discussion whether nowadays the moral idea of democracy is actually rather to be replaced by the anthropological calculus of the market, liberalism in the place of a communitarian essence proper to democracy (C.B. Macpherson, *The life and times of democracy*, Oxford 1977), a more realistic and less romantic approach to democracy might lead to privilege democratic aspects already present in the European governance, even not under this name, consolidating achievements that constituted in classical terms its major concerns and for this reason have to be defended, and disregard formal questions pertaining to other aspects of democracy on which may not be proper to focus under trans-national conditions. As ancient democracy unified the proper and the common in a liberty which maintained their distance, the absence of constraint and the absence of suspicion remain two features of the democratic dignity that probably condensate what is most valuable in it. This is precisely what stressed Pericles in his funeral speech to the Athenians but was set

aside in the citation selected by the drafters of the Constitutional Treaty. Democracy is not simply free participation to the public affairs but also lack of suspicion among the citizens in everyday life (“ελευθέρως δε τα τε προς το κοινόν πολιτεύομεν και εκ την προς αλλήλους των καθ’ημέραν επιτηδευμάτων ανυποψίαν; “the freedom which we enjoy in our government extends also to our ordinary life as lack of suspicion to each other (ibid.)”).