Introduction

Research on governance and the European Union is a veritable growth industry. A quick glance at the Social Science Citation Index (SSCI) suffices to witness an explosion of EU governance research in the past decade. While the SSCI rarely reported more than ten articles a year on EU governance in the mid-1990s, in the late 1990s and early 2000s there were between 40 and 50 articles per year. Against this background, this article pursues a conceptual, substantive and empirical stock-taking exercise. First, the origins of the concept of governance in the academic discourse and in different political science sub-disciplines are traced, before the article turns to the causes of the ‘governance turn’ in EU studies. The second section presents the key features of the concept of ‘EU governance’ and flags two strands of research – work on the EU as a ‘regulatory state’ and research on ‘new modes of governance’ – which have not only contributed to our understanding of EU governance, but have also spurred on the governance research agenda. Third, two central themes of EU governance research are highlighted by asking whether and how EU governance arrangements have impacted upon or even transformed national patterns of governance, and vice versa. Fourth, the article considers the normative concerns that are intimately linked to EU governance research: does governance beyond the state provide solutions to pressing policy problems...
which cannot be solved by states unilaterally? Can governance beyond the nation-state be democratically legitimate?

This article draws on a survey of recent and ongoing research in EU Member States and countries of the wider Europe undertaken as part of the ‘Network of Excellence’ on ‘Efficient and Democratic Governance in a Multi-Level Europe’ (CONNEX), funded under the EU’s sixth research framework programme. The objective of this study was to increase transparency among national and disciplinary research communities and make available the wealth of knowledge for further research. About 1,600 research projects and 30 country reports have been documented and are accessible online (see «http://www.connex-network.org/govdata»). A summary evaluation reflecting on the state of the art and relevant background conditions in comparative perspective will be published by the end of 2006 (Kohler-Koch and Larat, forthcoming).

I. Governance: The Journey of a Concept

While governance has become a popular research focus in EU studies, there is still confusion about the conceptualization of the term. ‘The concept of governance is notoriously slippery; it is frequently used among both social scientists and practitioners without a definition all agree on’ (Pierre and Peters, 2000, p. 7). Schneider (2004, p. 25) even argues that the conceptual vagueness of the term is the ‘secret of its success’.

Conceptualizing Governance

Cutting through the clutter of different definitions and conceptualizations, Pierre (2000, p. 3) distinguishes between two broad meanings of the concept. The first refers to ‘the empirical manifestation of state adaptation to its external environment as it emerges in [the] late twentieth century’. From this perspective, governance can be considered both a process and a state whereby public and private actors engage in the intentional regulation of societal relationships and conflicts. Governance is thus different from government, the latter stressing hierarchical decision-making structures and the centrality of public actors, while the former denotes the participation of public and private actors, as well as non-hierarchical forms of decision-making.

The second meaning refers to governance as the ‘conceptual or theoretical representation of [the] co-ordination of social systems’ (Pierre, 2000, p. 3). Pierre argues that two major sets of research problems and questions emanate from this latter meaning of governance. The first adopts a ‘state-centric’ perspective as it points to the ‘steering’ capacity of the state and its institutions, as well as to its relationship with non-state – private – interests and actors.
The second set of research problems and questions chooses a society-centred point of departure, focusing on the ‘co-ordination and various forms of formal or informal types of public–private interaction’ (Pierre, 2000, p. 3), which are manifested in different types of networks and public–private partnerships.

To these two meanings of governance, we add a third, prescriptive meaning of governance *viz.* ‘good governance’. The notion of ‘good governance’ has become prominent in economic development discourse since the late 1980s. The World Bank and the Development Assistant Committee of the Organization for Economic Co-operation and Development have been leading advocates of propagating sound fiscal management and administrative efficiency as a precondition to sustainable growth and development (World Bank, 1997). The concept gained popularity among donor countries and institutions and was soon used in a broader political understanding. The benchmark of ‘good governance’ was expanded to include legitimacy derived from a democratic mandate of those in power, the rule of law, free market competition and a greater involvement of non-governmental organizations (NGOs). NGOs would not just participate in designing and implementing development strategies closer to the needs of the people and mobilizing endogenous economic and social resources, but also activate civil society and boost grass roots democracy (Weiss, 2000). The notion of ‘good governance’ was also embraced by the EU and considered a crucial ingredient of EU–ACP co-operation relations (Smith, 2003, pp. 122–44; Beck and Conzelmann, 2004).

The ‘good governance’ discourse in the context of development, however, was formerly quite detached from critical reflections on the state of EU institutions. The notion of ‘good governance’ in the EU context first became prominent through the release of the Commission’s White Paper on ‘European Governance’ (Commission, 2001) in which it lists several principles underpinning ‘good governance’, such as openness, participation and effectiveness.

These themes continue to inform the discussion on governance, in particular in the field of political science, the lead discipline in the governance debate. The article goes on to a discussion of the development of the governance debate in the fields of international relations (IR) and comparative politics (CP) before it turns to the ‘governance turn’ in EU studies.

**Governance and International Relations**

The advent of governance in the field of IR is seen first and foremost as a reaction to processes of economic globalization ‘societal denationalisation’ (Zürn, 1998). Denationalization connotes that the capacity of national political systems to achieve desired policy outcomes is put under strain as the boundaries of social
transactions increasingly transcend the confines of the state (see also Scharpf, 1999, p. 84). Others, however, argue that this perspective is incomplete as it sidelines the role of ‘politics’.

A crucial factor that made governance the focus of international politics was the end of the cold war and the concomitant termination of an ideological power struggle. Hence, these changes in the international system elevated the notion of effective and efficient ‘problem-solving’ to a guiding principle which was to be pursued through a system of international governance (Kohler-Koch, 1993). The hitherto dominant strand in the IR literature, which engaged in an inquiry into the conditions under which co-operation in an anarchic system would be possible, was complemented by a new strand of research, emphasizing questions of the effectiveness and problem-solving capacity of different forms of international (institutionalized) co-operation (Jachtenfuchs, 2003; Rosenau and Czempiel, 1992), underlining the central role of the state in producing and sustaining international order or ‘governance’.

This literature has been complemented by an emerging discussion of the role of private actors, such as transnational business corporations and NGOs, in fulfilling a large variety of governance functions, from international economic regulation to providing security through private military forces (Büthe, 2004; Cutler et al., 1999; Hall and Biersteker, 2002).

**Governance and Comparative Politics**

The ‘governance turn’ has also left its firm imprint in CP in general, and the theory of the state in particular. For the theory of the state, the guiding question is ‘why and how complex societies succeed in establishing various central mechanisms of control and co-ordination’ (Schneider, 2004, p. 26). In the German debate on the state’s steering capacity, the theory of the state was starkly influenced by a functionalist, systems-theoretic strand – connected to names such as Talcott Parsons and Niklas Luhmann – which made inroads into the political science literature, highlighting ‘steering’ as a systemic function, dissociated from the actual actions of concrete actors (Willke, 1983).

The rapidly evolving research in the field of policy analysis triggered a shift from a functionalist focus to an actor-centred conception of ‘steering’, which presumes goal-oriented activities by actors who do the steering and objects that are being steered (Mayntz, 1987; Mayntz and Scharpf, 1995). The notion of intentional, actor-driven steering of societal (sub-)systems presumed an idea of a ‘problem-solving’ state in which politics is characterized by its orientation towards realizing the ‘public good’ rather than the pursuit of particularistic interests. The central premises that state actors are the central or, as in the neo-corporatist tradition, at least prominent actors in the policy process, that there is
a clear distinction between steering subjects and objects, and that a centralized authority implementing and enforcing decisions predominantly by ‘command and control’ instruments was gradually abandoned in favour of concepts that are open to more co-operative forms of governing (Mayntz, 2005). Once the state’s capacity to steer is hampered by economic globalization, ‘what other means does the state have of imposing its will on society and the economy?’ (Pierre, 2000, p. 5).

To bolster the problem-solving effectiveness of national policies under these conditions, hierarchical modes of decision-making are complemented by horizontal, co-operative forms of policy formulation and implementation. In the ‘co-operative state’ (Mayntz, 1987) there are a plethora of decision-making arrangements among public and private actors, ranging from horizontal and vertical joint decision-systems among public authorities, to policy networks of state and non-state actors, to voluntary or mandated forms of private self-regulation. In the ‘co-operative state’, the distinction between steering objects and subjects is blurred. As a consequence, rule structures and their impact on decision-making processes and outcomes became the focus of most research, complementing that on different forms and instruments of steering (Manytz, 2005, p. 13). The increasing importance and relevance of the European and international levels of decision-making exacerbate this situation as they increase the fragmentation of the ‘steering subject’.

While in Germany, the ‘governance turn’ was intimately linked to a theoretical development within the realm of the theory of the state (Schneider, 2004), the governance debate in Anglo-American scholarship was more strongly influenced by changes in policy co-ordination and administration. The focus on governance was fuelled starkly by the financial crisis of the state, which prompted a wide range of public sector reforms and the development of new instruments of governance. This change in state capacity and the shift towards governance was accompanied and even intensified by an ‘ideological shift from politics towards the market’ (Pierre and Peters, 2000, p. 55), epitomized by the Reagan and Thatcher administrations. Governance, in this sense, ‘signifies a change in the meaning of government, referring to a new process of governing; or a changed condition of ordered rule; or the new method by which society is governed’ (Rhodes, 2003, p. 65, emphasis in original).

**The ‘Governance Turn’ in EU Studies**

Since the 1960s, research on the EU grappled predominantly with how to explain European integration, the process whereby national sovereignty is transferred from the domestic to the European level (Diez and Wiener, 2004, pp. 6–10; Jachtenfuchs, 2001, p. 246). While the first phase of EU research
took the EU polity as the dependent variable, the ‘governance turn’ in EU studies takes the EU polity as a given and ‘look[s] at the impact of the Euro-polity on national and European policies and politics’ (Jachtenfuchs, 2001, p. 50). The ‘governance turn’ in European studies has conceptual, empirical and ‘institutional’ groundings.

Conceptually, ‘policy-making’ in the EU became a new focus of attention. It was in the late 1980s and early 1990s that European studies began to import concepts from the field policy analysis – policy cycles and policy networks – to illuminate the process of policy formulation and implementation in the EU (see, for example, Schumann, 1993). On the ‘empirical’ plane, this development coincided with and was stimulated by a significant increase in European-level policy-making competencies in the wake of the Single European Act and the single market programme.

It was in this context that questions of EU ‘government’ and governance – policy-making and co-ordination – began to challenge ‘European integration’ as the first and foremost focus of scholarly research in EU studies. The specific thematic orientation of the research has changed over time. Governance and the regions were a favourite topic in the 1990s, relating either to the debate on the ‘regionalization’ of Europe and the new role of the regions in EU governance, or to the investigation of new modes of governance, such as the implementation of the ‘partnership principle’ and the ensuing effects on learning, civil society participation and improvements in problem-solving capacities. With the 2004 accessions the topic has again gained prominence. Research focuses on managing trans-border regional co-operation and supporting regional interest representation in EU decision-making. First-pillar issues still dominate the agenda of policy-oriented governance research; only very recently have several research projects been dedicated to exploring the governance of the common foreign, security and defence policy and policing.

The focus of governance research also varies between countries. For example, in the new Member States (and the wider Europe) the broader aspects of integration and accession-related transformation dominate. Institutionally, several research programmes and research institutions accompanied and fuelled the ‘governance turn’ in European studies. The Mannheim Centre for European Social Research (MZES) was the hub of a large-scale research project on ‘Governance in the European Union’ funded by the German Science Foundation (1996–2002) and is currently also the host institution for Connex. The UK’s Economic and Social Research Council (ESRC) funded the ‘One Europe or Several?’ (1999–2003) programme, which adopted an even broader ‘“pan-European” frame of reference’ (Wallace, 2003, p. 2). The Norwegian Arena (Centre for European Studies) programme, which was launched in 1994,
has also made and continues to make a profound contribution to the study of EU governance.

In sum, the ‘governance turn’ in EU studies resembles developments in both the field of policy analysis and in IR. First, it has an elaborate process dimension that explores the patterns, instruments and conditions of policy formulation and implementation and the diversity of actor constellations. Second, it reflects the different aspects of ‘system transformation’ (at both EU and national levels) and its likely impact on problem-solving capacity and democratic accountability. The article now turn to these two sets of issues.

II. Understanding EU Governance

In the course of the past decade, a plethora of analyses have come to see the EU as a system of governance characterized by ‘a unique set of multi-level, non-hierarchical and regulatory institutions, and a hybrid mix of state and non-state actors’ (Hix, 1998, p. 39). Concepts that sought to grasp the alleged sui generis-nature of the EU polity mushroomed during this period: ‘multi-level governance’ (Marks et al., 1996), the ‘regulatory state’ (Majone, 1996a), and ‘network governance’ (Eising and Kohler-Koch, 1999; Kohler-Koch, 1999).

Dominant Features of EU Governance

As a concept, EU governance requires some considerable ‘stretching’ to include all areas of EU policy-making activity. Some of the concept’s central features, such as its multi-level nature, apply to the whole EU ‘pillar’ structure. Other core features, such as the key role of supranational actors in the ‘community method’ (see below), the dominance of regulatory politics or public–private policy networks are characteristic of only the first pillar. Over the years policy co-operation developed in additional areas, including economic and monetary affairs, security and defence, as well as police and judicial co-operation. Here the policy-making process that brought about integration is characterized by ‘intensive transgovernmentalism’. In the case of the single currency it resulted in delegating institutional powers to a function-specific agency, the European Central Bank. In no other areas has a centralized and hierarchical institutional process been introduced. Rather, ‘intensive transgovernmentalism’ prevails. This breeds special forms of policy co-ordination involving national and Community officials that allow Member State governments to retain considerable control but still transform the ways in which states traditionally go about doing their business (Wallace, 2005, pp. 80, 87–9).

The ‘community method’, however, is crucial and, in practice, the dominant feature of EU governance. Scharpf (2003) has dubbed this method the ‘joint-
decision mode’, characterized by a strong role for the European Commission in the formulation and execution of Community legislation, with the European Parliament (EP) gaining power and influence. All legislation is adopted by the Council of Ministers by qualified majority or unanimous vote. During the preparation, formulation and implementation of policies, the Commission and EP consult or even co-opt private groups and organizations to give information and expertise. Furthermore, ‘comitology committees’ of national civil servants and outside experts work out compromise solutions for implementation (Joerges and Vos, 1999) to smooth transposition and compliance at the national and sub-national level.

Another prominent feature of EU governance is its multi-level nature. Marks (1993, p. 392; Marks et al., 1996) developed the concept of ‘multi-level governance’ (MLG), which is a ‘system of continuous negotiation among nested governments at several territorial tiers’. MLG posits that decision-making authority is not monopolized by the governments of the Member States but is diffused to different levels of decision-making – the sub-national, national and supranational levels. Aiming at a general theory of MLG, Hooghe and Marks (2001, p. 4) emphasized that governance is interconnected, not nested: ‘while national arenas remain important arenas for the formation of national government preferences, the multi-level governance model rejects the view that subnational actors are nested exclusively within them. Instead, subnational actors operate in both national and supranational arenas … National governments … share, rather than monopolize, control over many activities that take place in their respective territories’. ‘Multi-level’ thus signifies the interdependence of actors operating at different territorial levels – local, regional, national, supranational – while ‘governance’ refers to the growing importance of non-hierarchical forms of policy-making such as dynamic networks which involve public authorities as well as private actors (Hooghe and Marks, 2001).

These two features – the multi-level nature of the EU ‘political system’ and the growing importance of private actors in the policy process – are also among the defining characteristics of the concept of ‘network governance’ (Eising and Kohler-Koch, 1999; Kohler-Koch, 1999). Network governance is distinct from other forms of governance, such as corporatism, pluralism and statism. In a system of network governance ‘the “state” is vertically and horizontally segmented and its role has changed from authoritative allocation “from above” to the role of an “activator” ’. Governing the EU involves bringing together the relevant state and societal actors and building issue-specific constituencies’ (Eising and Kohler-Koch, 1999, p. 5). Furthermore, given the dominance of regulatory policy-making and the marginality of redistributive conflicts in the EU, network governance is characterized by an orientation

To these three dominant features – the ‘community method’, MLG and ‘network governance’ – is added a fourth – ‘detached political contestation’. While the EU is developing into an ever more powerful centre of decision-making, we are witnessing a ‘hollowing out’ of policy competition between political parties at the domestic level (Mair, 2006). The EU impinges directly on national policy-making by limiting the policy space available for national party competition, by reducing the range of available policy instruments through supranational delegation and by circumscribing the policy repertoire fuelled by the politics of negative integration (Mair, 2006). Still, the EU is heavily under-politicized since the majority of the large mainstream political parties in the domestic arena sideline EU issues in national electoral contests. Party competition takes place within national boundaries and is the driving force for accentuating or bridging national cleavage structures; it frames political options and thereby ‘gives them a face’. There is (still) no equivalent in the wider European political space. Elections to the EP do not generate transnational preferences, nor do they give contested issues a European profile, they are – as Reif and Schmitt (1980) famously put it – ‘second-order national contests’. Thus, the ‘European’ aspects of EP elections affect voting behaviour only marginally (Hix, 2005, pp. 192–6).

The Advent of the Regulatory State and its Impact on Governance

One strand of research indicative of the ‘governance turn’ in EU studies, characterizes the EU as a ‘regulatory state’ (Majone, 1996a, b). This presupposes that the EU polity has achieved a considerable degree of maturity as a political system that has come to exercise ‘classical’ functions of political systems, such as the production of public policy, with regulatory politics as the central pillar of the EU’s political activity. The literature has advanced a set of compelling reasons why the EU is geared towards regulatory policy-making (Majone, 1996a, b; Jachtenfuchs, 2001). Part of the argument is historic: the ambition to create a single European market demanded a considerable degree of regulatory activity to eliminate trade barriers, to stimulate competition and to correct or compensate for market failures. The other part of the argument is structural: regulatory policies require only weak legitimation since the (potential) (re-) distributive effects are not immediately visible.

The demand for regulatory policies is driven by both public and private actors. While ‘intergovernmentalists’ emphasize the centrality of Member State governments and intergovernmental bargaining (Garrett, 1992; Moravcsik, 1998), ‘weak’ intergovernmentalism (Scharpf, 1999) stresses the centrality of
a wider set of public actors, Member States and EU institutions; and ‘supranationalists’ (such as Stone Sweet, 2004) stress the centrality of private actors, organized interests in particular, in alliance with supranational actors, such as the Commission and the European Court of Justice (ECJ). The supply of regulation has furthered functional and administrative differentiation and, because of the Commission’s dependence on external expertise and ‘stake-holder’ support, the proliferation of sectoral policy networks. While there is broad agreement in the literature that policy networks play a role in the agenda-setting and implementation stage, with private actors – experts and organized interest groups – playing a prominent role (Eising and Kohler-Koch, 2005), the actual decisions are still taken according to the hierarchical mode of decision-making. Börzel (2005, p. 87), therefore, calls for a distinction between governing in networks, which she considers rare in the EU, and governance with networks, a characteristic feature of the EU where private actors are heavily involved in the preparation and implementation of policies.

The demand for regulation, however, is not always met by the supply. Scholars and practitioners alike identify a performance crisis of EU governance. This crisis has its roots, at least partially, in the startling success of European integration, which now directly affects core activities of the state, ‘employment policy, social policy, migration, criminal prosecution, and education’ (Héritier, 2003, p. 105). Given variations in national regulatory regimes, the salience of the issues and the diverse preferences of domestic actors, ‘one-size-fits-all’ solutions are hardly applicable. As a response to this dilemma, EU Member States have introduced ‘new modes governance’.

‘New Modes of Governance’

The introduction of ‘new modes of governance’ (NMGs) was a reaction to the imminent risk of deadlock in Community decision-making. The evolution of the scholarly discourse is closely connected with the ‘open method of co-ordination’ (OMC), which was established by the Maastricht Treaty as an instrument destined for co-ordinating national economic policies through the use of recommendations and guidelines (Hodson and Maher, 2001). Research on the OMC has mushroomed since it was officially established by the May 2000 Lisbon European Council (Borrás and Greve, 2004; Héritier, 2003).

What are the defining characteristics of NMGs? First, they depart from the Community method of legislating through regulations and directives (Eberlein and Kerwer, 2004, p. 123; Knill, 2005), relying on ‘soft law,’ which is not legally binding and has no legal sanctioning mechanisms against non-compliance (voluntarism). Second, NMGs are negotiated between public and private actors at different levels of decision-making while the effective policy
choice is left to each individual Member State (subsidiarity). Third, all relevant actors are included in the process of defining policy goals and instruments. That is, no distinction is made between steering subjects and steering objects (Héritier, 2003, p. 105).

Yet, caution is necessary when presenting NMGs as the magic solution to the EU’s performance problem. The effectiveness and problem-solving capacity of NMGs vary according to the type of policy and actor preference constellations at hand. Héritier (2003, p. 124) argues that redistributive policies and ‘deeply entrenched problems’ are unlikely candidates for the successful application of NMGs, although ‘distributive, co-ordinative, network goods problems as well as diverse, discrete, and high complexity/uncertainty issues are more amenable to a “treatment” by new modes of governance’.

Research on NMGs takes two broad directions (see Eberlein and Kerwer, 2004, pp. 124–6). One focuses on the motivations of EU actors to propose the application of NMGs. For instance, much has been written about the Commission’s self-interested or legitimacy-driven motivations for pursuing ‘good governance’ (Joerges et al., 2001). The second comprises a great variety of empirical work that seeks to assess the significance of NMGs. A considerable number of studies have tested whether there has actually been a significant shift from the ‘community method’ to NMGs across a wide range of policy areas. While there is ample evidence of such a shift (Eberlein and Kerwer, 2004, p. 125), some studies show that the application of NMGs in individual policy areas is still scant compared to the application of traditional ‘command and control’ instruments (Jordan et al., 2005; Rittberger and Richardson, 2003). Moreover, the application of NMGs, such as the OMC, is not restricted only to ‘uncontroversial cases in which there is a high level of consensus. On the contrary, they are almost always introduced after legislative deadlocks’ (Eberlein and Kerwer, 2004, p. 125). Other studies have looked at the impact of NMGs on actor behaviour. By emphasizing ‘benchmarking’, ‘peer review’, and ‘best practice’ MNGs engender the assumption that participating actors can learn from assessment and comparison. This assumption has been borne out by several studies (Eberlein and Kerwer, 2004, pp. 125–6; Lenschow, 2005, pp. 66–7).

In addition, because NMGs stress participation, transparency and learning, they are of particular interest to democratic theory. De la Porte and Nanz (2004) have, for instance, analysed the OMC’s ‘democratic dimension’ from the perspective of deliberative democracy. Others have found that, despite the rhetoric and high aspirations, MNGs do not necessarily produce participatory decision-making (Goetschy, 2003).
III. The Transformation of the Nation-State through European Governance

The introduction of MLG into EU studies ‘signifies the end of the separate treatment of European and national politics’ (Lenschow, 2005, p. 56) and thus contributes to a widening of the conceptual lens by pointing at the consequences of European integration for domestic political institutions and policy processes captured by the concept of ‘Europeanization’ (Featherstone and Radaelli, 2003). Definitions of Europeanization abound (Radaelli, 2000; Olsen, 2002) pointing at a plethora of potential avenues and mechanisms through which ‘Europe’ triggers or produces ‘domestic adaptations’ (Lenschow, 2005, p. 59). From a governance perspective, research on Europeanization takes EU-level governance arrangements as the independent variable in order to explain domestic transformations, which can be assessed in terms of changes in domestic policies, discourses, institutions, or actor capabilities, to mention only a few.

A review of Europeanization research offers evidence that public policies are more likely to be affected than national politics or polities and ‘that some policies are more impermeable than others to “Europe”’ (Radaelli, 2004, p. 14). But comparing the domestic impact of EU governance yields inconclusive results. We know little about the relationship between different modes of governance and forms of domestic change, i.e. when and under which conditions we are likely to observe inertia, retrenchment, absorption, accommodation or transformation of domestic governance arrangements. Even though the literature on Europeanization has improved our understanding of the impact of ‘Europe’ on many facets of domestic public policy, we observe that knowledge scarcely travels beyond smaller sets of comparisons to generate general propositions except for the insight that EU regulations do not produce conformity but rather a ‘differential Europe’ (Héritier et al., 2001).

The dominant perspective in the Europeanization literature, however, remains ‘top-down’ or ‘unidirectional’, conceiving Europeanization as a process ‘by which domestic policy areas are becoming increasingly subject to European policy-making’ (Börzel, 1999, p. 574). Research challenging this ‘unidirectional’ focus is, however, slowly taking root, adding a ‘bottom-up’ perspective (Börzel, 2002; Knodt, 1998; Kohler-Koch, 1998), or even seeking a more encompassing perspective that highlights, inter alia, the interrelationship between EU governance and national governance arrangements (Kohler-Koch, 2000, 2003).

Research on the links between EU and national governance has produced some interesting insights. First, it enables the researcher to conceive of the European level as an opportunity structure that domestic actors may, depending on their interests and resources, be able to exploit to further their own interests and, in turn, shape EU-level and national governance arrangements.
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(see Kohler-Koch, 2000). Héritier (1996) has shown, for instance, that the expansion of regulatory policies in the EU can often be traced to the initiative of a domestic ‘first mover’ who seeks to transfer a particular national regulatory style to the European level.

Second, conceptualizing EU and national governance as an interactive and highly contextualized process draws attention to the importance of the temporal dimension. If we adopt a ‘snapshot’ perspective (Pierson, 1998), domestic adjustments to new modes of governance are often considered to have failed, yet over time adjustment costs may change due to exogenous changes in the overall setting of national governance and hence render domestic adjustment feasible in the medium to long run (Lang, 2003).

Third, the EU system of network governance carries structural characteristics which are closer to neo-corporatist systems (such as Germany) than to statist, i.e. hierarchically organized state-centred systems (such as France). The EU system of partnership arrangements is thus more easily ‘absorbed’ by neo-corporatist than by statist systems of governance (Lenschow, 1999; Schmidt, 1999).

IV. Problem-solving and the Legitimacy of Governance

The ‘governance turn’ in EU studies is also marked by a new strand of research inquiring into the consequences of the transformation of EU and national governance for their problem-solving effectiveness and democratic legitimacy. Van Kersbergen and van Warden (2001, p. 39; 2004) ask forcefully, ‘can policy making in complicated, abstruse and intransparent multi-level network structures still be controlled by traditional checks and balances, such as the … dualism between government and parliament, by federalism, or by judicial review at the national level?’. Furthermore, what are the consequences of these new forms of governance for the problem-solving capacity of political systems? Does multi-level network governance not forfeit governability, ‘the capacity for resolute decision-making?’ These two themes – the problem-solving capacity and democratic legitimacy of EU governance – continue to be at the centre of scholarly debate.

The Problem-solving Capacity of EU Governance

Research on the problem-solving capacity of EU governance is closely tied to Fritz Scharpf (1988) and his earlier work, based on an analysis of policy-making in the German federalist system, which expressed scepticism about the EU’s capacity for consensual policy-making. This scepticism became epitomized in the concept of the ‘joint decision trap’ and has been echoed and
partially refined in research on policy-making in different types of multi-level governance systems (Benz, 2004).

However, effective and efficient problem-solving beyond the nation-state through EU-wide rules is a well-documented empirical fact (Eichener, 1997; Grande and Jachtenfuchs, 2000; Scharpf, 1999). The likelihood of the creation of EU-level rules and regulations is closely tied to the distinction between ‘negative’ and ‘positive’ integration (Tinbergen, 1965). While negative integration refers to those activities that lead to the removal of barriers to trade or of obstacles to undistorted competition, positive integration refers to ‘the reconstruction of a system of economic regulation at the level of the larger unit’ (Scharpf, 1999, p. 45). Scharpf (1999, p. 50) argues that negative integration has been the ‘main beneficiary of supranational European law’. The ECJ and the Commission have developed negative integration into a powerful tool aimed at removing national measures that distort the free movement of goods, services, capital and people. These activities are underpinned by the interests of market actors to further transnational trade (Stone Sweet, 2004).

By contrast, the potential for the EU’s supranational actors to bring about measures of positive integration is much more limited (see, however, Stone Sweet, 2004), since such measures ‘generally require explicit approval by the Council of Ministers and, increasingly, by the European Parliament’ (Scharpf 1999, p. 1) and thus a high-level consensus among the actors involved. The EU’s problem-solving capacity is therefore ‘limited by the need to achieve action consensus among a wide range of divergent national and group interests’ (Scharpf, 1999, p. 71). Effective solutions, however, are still possible and even probable where they are supported by underlying constellations of national interests. There is even ample evidence of ‘races to the top’, especially when business expects to profit from high product quality standards. In contrast, social or environmental policies that affect the costs of production with no improvement in product quality are much less likely to be adopted on a European basis. Conflicts of interest between governments with advanced and less advanced economies and divergent policy traditions or institutional structures are likely to make agreement difficult if not impossible (see Scharpf, 1999, pp. 107–16).

An actor-centred institutionalist approach, however, does not necessarily predict poor system performance. Some scholars even argue that the institutional peculiarities of the EU system of governance – its high degree of institutional fragmentation, fluidity and the absence of clear-cut hierarchies – are conditions conducive for problem-solving. The EU’s ‘poly-centric’ system of governance engenders a particular problem-solving mode – deliberation – which has co-operation-friendly action orientation and carries a high problem-solving capacity (Cohen and Sabel, 1997).
EU Governance and the Question of Democratic Legitimacy

If governance beyond the nation-state can be effective and efficient, then legitimacy based on outputs is sufficient. This, in a nutshell, is the argument put forward by the proponents of the regulatory state. In order not to jeopardize Pareto-optimal solutions, decision-making must be vested in the hands of independent regulatory agents and should be excluded from the adversarial power-play of parliamentary, majoritarian politics (Majone, 2000, 2002). Since regulatory policies make up the bulk of the EU’s policy output, proponents of the regulatory state thus see proposals to ‘politicize’ the Commission, for instance, by giving the EP an enhanced role in the Commission’s investiture, with a dose of scepticism, as such reforms would reduce the credibility of its decisions and hence jeopardize democratic (output) legitimacy.

This perspective faces two main criticisms. First, high levels of performance can be equated with output legitimacy only if ‘the people’ and not experts define policy objectives. Second, many authors dismiss the basic assumption that ‘the EU is a glorified regulatory agency, a “fourth branch of government”, much like regulatory agencies at the domestic level in Europe, such as telecoms agencies, competition authorities, central banks, or even courts’ (Follesdal and Hix, 2005, p. 7).

While the regulatory state concept emphasizes the output side of the democratic legitimacy equation, MLG emphasizes the input side. MLG displays a considerable degree of ambivalence concerning its potential to enhance the EU’s democratic quality (Bache and Flinders, 2004; Hooghe and Marks, 2001; Kohler-Koch and Rittberger, forthcoming; Peters and Pierre, 2004). First, when authority is shared vertically between supranational, national and sub-national institutions, executive and parliamentary jurisdiction varies substantially and hence impinges on democratic accountability. Second, the shift from hierarchy and formal procedures to networking and informality – while allowing for extensive input – undermines the democratic principles of political equality and control.

In the European multi-level system the executive is crossing levels of jurisdiction easily, whereas the territorial reach of parliaments is more limited. In a ‘penetrated system of governance’ (Kohler-Koch, 1998, pp. 15–16) democratic representation and political accountability become deficient when organized through territorially bound parliaments. In recent years, national parliaments have made efforts to exert more influence, but are caught up in a ‘negotiation–accountability dilemma’ (Benz, 2003, p. 88). Since stricter control over governments reduces flexibility and success in Council negotiations, parliaments, or rather majority factions in national parliaments, refrain from exerting formal veto powers and choose informal
ways to hold their governments accountable. According to Benz (2003), this strategy sets in motion a ‘de-institutionalization’ of EU decision-making, which ‘results in opaque processes that the public are hardly able to control. It makes accountability of representatives difficult and, hence, deteriorates the democratic quality of representative structures. Thus, despite (or because of) the important role of parliaments in EU policy-making, the system fails to conform to the standard of democratic accountability’ (Benz, 2003, p. 101).

Most scholars see the distinctiveness of MLG not just in the vertical diffusion of authority across levels of government but even more so in the horizontal dispersion of authority in which jurisdictions are task-specific, intersecting and flexible (Hooghe and Marks, 2003, p. 237) and in which public and private actors have a ‘shared responsibility for resource allocation and conflict resolution’ (Schmitter, 2002, p. 55). Empirical evidence supports the theory that the inclusive nature of network governance has the positive effect of being more open to new interests and innovative ideas (Héritier, 1999, p. 275), but provides a mixed account of the more ambitious expectations concerning ‘participatory governance’ and democratic upgrading. The implementation of the treaty-based ‘partnership’ principle in EU policies often does not attain the stipulated inclusiveness, openness and transparency. Since the rules and practice of participation do not guarantee equality between actors, the involvement of a multitude of private actors is still far from promoting EU democracy (Swyngedouw et al., 2002, p. 128). The deficits of network governance are aggravated by the multi-level character of EU governance: ‘The relations between actors involved … are not sufficiently exposed to public scrutiny, or to the scrutiny of the legitimate, democratic, and representative bodies’ (Papadopoulos, 2005, p. 10). Furthermore, scholars claim that the celebrated ‘informality’ of MLG entails a potential for inequality and thereby risks violating a fundamental norm of democratic governance (Peters and Pierre, 2004).

**Conclusion**

The ‘governance turn’ has improved our knowledge about the particularities of the EU system of governance: a unique set of multi-level and regulatory institutions, as well as a hybrid mix of state and non-state actors in a non-hierarchical system of network governance. Furthermore, the governance perspective stresses the causes and effects of ‘system transformation’; the repercussions of EU integration on both domestic systems and the EU system of governance and the effect of this transformative impact on the efficiency and democratic legitimacy of European rule.

Yet, despite the omnipresence of ‘governance’ in the study of the EU, governance is still ambiguous and under-specified as a concept, let alone as
a theory. But, as the term ‘governance perspective’ suggests, governance research on the EU comprises works with a shared interest in the transformation of governance beyond the state through normative and empirical-analytical lenses. Thus conceived, the governance perspective is not wedded to a particular theory or method of inquiry.

This dual normative and empirical focus has produced a plethora of analyses on the effectiveness, efficiency and democratic legitimacy of EU governance. However, looking at the rich and differentiated picture of research (as presented and reflected in the CONNEX database), it can be deduced that the wealth of descriptive and causal knowledge accumulated all over Europe has – as yet – not fed back into the conceptual debate on EU governance. We close on the hopeful note that the institutionalization of research networks such as CONNEX, not least with the support of the EU, will improve mutual awareness and thus engender scientific progress.

References


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