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The Importance of the Demos in the European

Democratic Deficit Debate:

Models for European Democracy

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Abstract

The European Union is a unique polity that incorporates intergovernmental, supranational and transnational elements. The organisation often faces criticism regarding the extent of its democracy, in what has become known as a ‘democratic deficit’. While such criticism can be traced to its early years, as a result of deeper integration and an expanded scope of powers, this criticism has become more popular among scholars and politicians alike, as illustrated by Brexit, which shows that a legitimacy crisis can have significant consequences for the EU.

This thesis attempts to examine what sort of democracy, if at all, is feasible in the European Union considering its unique nature and its geographic and substantive scope, defined by its policy portfolio and its approach to citizenship.

The thesis attempts to resolve this question by using Brexit as a case study in order to explore the subject of democracy in the European Union from a new angle, based on whether the European Union represents the citizens of the member states, or the member states themselves.

This thesis uses the perspectives offered by the rational institutionalist, bounded integration and the post-nationalist approaches. These theoretical approaches offer alternative lenses through which the EU might be examined, resulting in different models for EU democracy, based on intergovernmentalism, supranationalism and transnationalism.

Rather than choosing one possible route for EU democracy, this thesis, therefore, maps six different models based on these perspectives and methodological approaches, suggests which may be feasible for the EU, and how such a democracy could be constructed. The six alternative models suggested in this thesis are: Pure Intergovernmentalism, Mixed Commonwealth Federation, Federal Republic, Supranational Democracy, Transnational Discursive Democracy and Cosmopolitan Democracy.

In order to do so, both EU core treaties and public statements by EU and UK officials are analysed through a qualitative lens, using discourse analysis in order to better understand the EU’s scope in an attempt to identify the relevancy of these models.

This thesis finds that among these models, intergovernmental and transnational models are feasible for EU democracy, which may be ‘thinner’ or ‘thicker’, depending on the model, and sub-model examined.

Contrary to that, supranationalism, while theoretically possible, appears to be unlikely, as it would require drastic reforms and is not a direction currently pursued by the organisation.

The thesis also suggests that despite supranationalism being an unlikely foundation for EU democracy, it appears that much of the criticism regarding EU democracy, or lack of it, is aimed at the latter supranational models, thus resulting in criticism on a ‘democratic deficit’ as a result of what may be a methodological fault: the comparison of EU democracy, and its demos, to those of the nation-state, which would require it to base itself on sources of legitimacy used in nation-states. Additionally, Brexit also highlights an important gap between how officials view democracy in the UK and in the EU, and, therefore, also on how a democratic EU could, and should be constructed. While the UK government was shown to strongly focus on input legitimacy and representation, the EU appears to accept throughput legitimacy and deliberation as the basis of democracy, particularly concerning the EU.

As a result of the British view on democracy, it appears to have desired a stronger focus on national representation and the sovereignty of the Member States, while viewing the EU as a tool for promoting outputs.

This may explain the UK’s decision to withdraw from the EU, and imply that it was partially based on different views on what democracy is, and on the organisation’s desired role, and its desired relationship with its Member States.

This, I suggest, may have important implications that may assist in assessing the likelihood that other Member States will trigger Article 50 in the future, and withdraw from the European Union.

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Introduction

The idea of a united Europe is deeply rooted in the continent's history. Since antiquity, this idea took different forms, including unity by force, as a principle, in diversity and through a mutual agreement. While Pan-Europeanism began to rise during the 19th century, and such a political union was imagined following World War I, the European Union in its modern form began to evolve during World War II when several European countries became interested in the concept of European unification to bring peace, prosperity, and democracy to the war-ravaged continent (Vătăman, 2010).

Today, the European Union consists of 27 member states and incorporates characteristics beyond intergovernmentalism, placing it somewhere on the continuum between an intergovernmental organisation and a superstate (McCormick, 2017). Therefore, the European Union is a unique polity, a fact that makes it an interesting subject for analysis to better understand what it is, what it can be, and perhaps even what it ought to be.

Ever since the EU's establishment, the organisation has been confronted with claims regarding the extent of its democracy, with critics often pointing at the existence of a 'democratic deficit' (Dinan, 2011). The term, scarcely used before the Treaty on the European Union in 1993, has since become widely adopted by scholars and politicians alike. The treaty has led to the pursuit of deeper integration, while at the same time seemingly extended the scope of powers enjoyed by the EU, a combination that resulted in increased controversiality (Warleigh, 2018). This perceived deficit is further empowered by the fact that the allocation of greater powers to the EU's institutions is considered to be done without adequate political accountability and democratisation (Přibáň, 2009).

This thesis will attempt to shed new light on the topic of EU democracy and the democratic deficit, and answer the following question: What type of democracy, if at all, is feasible in the European Union, considering its geographic and substantive scope¹?

In order to do so, I will focus on fundamental concepts relevant to the topic of European democracy, such as democracy and democratic deficit, legitimacy, sovereignty, and multi-level governance.

¹ This term will be clarified in the methodological chapter.

The theoretical framework and key concepts will be presented first, allowing for a complete and coherent discussion.

Following the presentation of the framework and methodology, I will first present the EU to convey an understanding of its journey from an idea to a unique polity, as well as its goals and structure.

The thesis will then outline different approaches regarding democracy in general, specifically in the European context. This will allow for a broader discussion on democracy, its feasibility in the EU, and the democratic deficit.

In its next part, the thesis will focus on the concept of demos, alongside a discussion regarding the integration process in the European Union and the possibility of the creation of a European identity, as well as the concept of European citizenship in light of the two opposite trends of integration and separation within the European Union.

Finally, once these concepts and approaches are fully detailed, the relationship between the governance of the EU member states, their citizens and the and the EU's system of governance as a whole will be clarified, using Brexit, the latest major EU 'poly-crisis' (Youngs, 2018), as a case study. This term, used by EU officials such as President Jean-Claude Juncker (2016), describes major political crises faced by the EU, which not only happen simultaneously, but also feed one another and increase uncertainty in the EU. The use of a case study of such nature will allow me to explore the subject of democracy in the European Union from a new angle, drawing on the question of who is represented by the EU and its relationship with its basic units.

Understanding the relationship between governments, citizens, and the EU as a whole will enable me to conclude on the feasibility of democracy in the European Union and the characteristics of such a democracy, while offering alternative models for European democracy.

To better comprehend the nature of the European Union, four questions will be asked:

The first, as suggested by Kreuder-Sonnen (2018), is where does the authority lie in the EU, in the sovereignty of the member states or an integrated union?

Second, what is the primary task of the EU, as agreed upon by those subject to it, the citizens of the EU Member States? Similar to the social contract theory suggested by such scholars as Hobbes (1651) and Locke (1689) to explain why rational individuals would consent to give up their

sovereignty, the EU is likewise justified by the consent of its governed, who sign a hypothetical social contract with the organisation. This may be done through a ‘permissive consensus’ (Ward, 2010), by which political elites take the absence of vocal objection as passive consent to the ceding of certain functions to the EU, or through more active actions taken by citizens, including through political participation of the population. When examining possible primary tasks, two main alternatives for purposes arise, the EU could focus on the representation of the European people, or on the promotion of their welfare and well-being? (Bang, Jensen and Nedergaard, 2015)

Third, what is the EU’s approach towards citizenship? (Bauböck, 2007).

Answering these questions will help me define the European Union’s scope: whether it is a ‘thin’ scope, focusing on the member states, a ‘medium’ scope, focusing on the citizens, or a ‘global’ scope that focuses on the promotion of wellness. These scopes are mostly congruent with the “statist,” “unionist,” and “pluralist” approaches to citizenship (Bauböck, 2007).

The final question is to what extent is the European Union legally constrained (Kreuder-Sonnen, 2018), which will help me define whether the European Union is democratic according to its scope². These questions will be answered by analysing EU core treaties, published documents, and public statements made by leaders at the EU level and Member States.

The research hypothesis is that the EU provides representation to the Member States, rather than the Member States citizens, per the offered ‘Thin Scope’ model. The citizens’ role in EU democracy is expected to be limited by this scope, which is expected to reflect, inter alia, their ability to affect the questions of joining or leaving the EU.

Additionally, as far as Brexit is concerned, this crisis is expected to illustrate the gap between the roles of citizens of the Member States and the roles of the Member States themselves. While citizens are capable of voting on the national level, the Member States themselves are negotiating with the ability to withdraw from the Union. This means that a Member State’s decision on departure could perhaps deprive all citizens of the state and other nationals residing in the state of their European rights.

² See Appendix 1.

Literature Review

Prior to the presentation of current academic literature directly related to the democratic deficit, it is crucial to have a clear understanding of the leading scholarly work and theories relevant for this thesis, including some of the fundamental theories in international relations. These theories, particularly the institutionalist theories, will help analyse the case study and draw conclusions regarding the issue at hand.

Walt (1998) presents the main theories in international relations and claims that the study of international affairs is best understood as a protracted competition between the realist and liberal traditions, which focus on states' tendency for conflicts and possibly, as per liberalism, on how to avoid conflict, as well on 'radical' traditions (Ibid), that describes how the entire system of state relations might be transformed. The latter is represented by such theories as constructivism.

Realism, a theory that has its modern foundations in Hobbes (1651) and later such scholars as Carr (1940) and Morgenthau (1948), describes international relations as a struggle for power between self-interested countries. The theory is pessimistic about the possibility that conflicts will disappear from the world. This approach is likely to see the EU as a body set up to compete with the world powers due to the weakening of European political forces after World War II.

In contrast, Liberalism, which has its roots in scholars such as Locke (1690) and more recently in the works of Keohane (1984), Nye (2005) and others, focuses on interdependence, particularly economic interdependence, as a factor that will deter states from using one force against another, as warfare would threaten the prosperity of all. A sub-branch of this approach, relevant for this discussion, is liberal institutionalism, which holds that institutions facilitate cooperation when it is in the states' interest, though they are unable to force states to act in ways contrary to their interests.

A third, newer, leading theory presented by Walt is Constructivism. Unlike the previous theories that focused mainly on power and trade, acting as incentives and deterrence, the constructivist theory, developed by scholars such as Wendt (1999), emphasises the impact of ideas and the historical processes that have led to states' interests and identities. Constructivist scholars examining the EU will focus on the integration processes and the creation of a new European identity.

According to constructivism, the very way Europeans define themselves is important - whether nationally or continentally (Ibid).

A fourth noteworthy theory, which is absent from Walt's paper, is new institutionalism, a name given to different analytical approaches with similarities in interest and the emphasis given to institutions. These approaches have developed into a fertile research agenda in comparative politics (Smith, 2017) after first being introduced by Meyer and Rowan (1977). While the field of international relations certainly has its own institutionalist tradition, cross-disciplinary dialogue can enhance our understanding of institutions and gain insight on such topics as related to states and sovereignty (Lecours, 2017).

The main theories included in this tradition are historical institutionalism, sociological institutionalism, and rational choice institutionalism (Hall & Taylor, 1996).

Historical institutionalism accepts the contention that conflict among rival groups lies at the heart of politics. However, according to these scholars, the state is no longer seen as a neutral broker among competing interests but as a complex of asymmetrical institutions capable of structuring the character and outcomes of group conflict. History, according to this theory, has an impact on processes since decisions made in the past can and are expected to limit options and scope for action in the future. Institutions are seen as relatively persistent features of the historical landscape and one of the central factors pushing historical development along specific paths. Institutionalists from this school of thought could be interested in focusing on how the EU developed and how specific institutional actors within it act to set the EU on a specific path while limiting its course of development.

According to sociological institutionalists, many of the institutional forms and procedures used by modern organisations were not adopted for functionality or efficiency. However, culturally specific practices, similar to ceremonies, result from the kind of processes associated with the transmission of cultural practices. Institutionalists from this school of thought might be interested in examining how EU democracy and perhaps even European citizenship are evolving, compared to the models that are common in the member states themselves.

Finally, rational institutionalism seeks to explain rational actors' collective decisions, with a strong focus on the importance of institutions and institutional mechanisms. A leading argument in rational institutionalism is that the development of particular organisations can be explained as an effort to reduce the transaction costs of undertaking an activity without such an institution. Among key issues that might interest researchers in this school of thought are international cooperation and coalitions, EU reforms, and international organisations' development, how institutions are shaped, how powers are conferred, and what limitations are set on them by their Member States. This theory does not see politics as a constant struggle or a sociological process, but as sets of collective dilemmas. In many cases, each individual country's action will lead to a sub-optimal result, and these actions are often the result of the non-existence of international organisations that can ensure joint activity. According to rational institutionalists, the EU's goal would be to facilitate and institutionalise cooperation between the Member States of the EU to make Pareto-efficient advancements.

These different theoretical approaches offer alternative lenses through which the EU might be examined, often leading to different answers regarding why and how it developed, its purpose, and consequently, its relationship with the Member States and their citizens. Examining the EU through different perspectives could help clarify the case study and aid in reaching conclusions regarding the EU as a whole.

Having reviewed these main theories, I will next present some key literature on the European Union itself, how it differs from the nation-state, as well as different perspectives that may be used while debating on the matter of EU democracy or its deficit.

The European Union does not resemble any other political system: It is different in its institutions than the nation-state and cannot be defined as a federation, confederation, or simply an international organisation. The European Union serves both as an actor and as an arena, consisting of multiple European actors (Hadar, 2009). While this dual nature is acknowledged in academic literature, it is often ignored in discussing the existence and nature of a possible democratic deficit within the EU. At the same time, those who claim that the organisation suffers from a democratic deficit, frequently base this statement on a comparison of the EU to the Democratic Nation-State.

To better analyse the EU, I will attempt to examine it while acknowledging the differences between the EU and the nation-state, and the resulting democratic discrepancy between these two different types of polities.

This discrepancy becomes apparent when comparing the purpose of these two polities. While the democratic nation-state is often considered to be constructed to aggregate and integrate people's conflicting interests into collectively binding decisions, the EU polity, in contrast, is based on a highly politicised governance model targeted towards coping with the policy of risks, problems and challenges that confront the EU member states and their populations (Bang, Jensen and Nedergaard, 2015). When considering this inherent difference between these polities, a question must be raised: would democracy be constructed similarly in two very different types of political and collective association?

This discussion demands that we differentiate between the primary sources of authority of these different types of polities. The democratic nation-state, much like international organisations, is characterised by the delegation of authority, but unlike the nation-state, international organisations base much of their authority on the act of pooling of sovereignty by the member states (Hooghe and Marks, 2015). This difference, in some cases, could translate to different democratic procedures and, perhaps more interestingly, to different legitimacy sources due to the combination of delegation and pooling.

To better comprehend how the EU combines both the delegation and pooling of authority, we may examine its modes of governance. The European Union could be said to rely on three modes of government: supranational-hierarchical, joint-decision and intergovernmental (Scharpf, 2009), and the complexity of this multilevel European polity is thus not adequately represented by two leading single-level theoretical models: Intergovernmentalism and supranationalism. This paper will therefore present the EU through an intergovernmentalist and a supranationalist lens, as well as via the alternative perspective of transnationalism as explained below.

The first international relations perspective crucial to this analysis is intergovernmentalism. This theory, which was further adapted in this context into liberal intergovernmentalism by Moravcsik (1993), views nation-states as the only relevant actors, and therefore, according to this approach, the

European Union was created to serve the goals of its Member States. The EU, per this perspective, is an international policy coordination regime (Kleine & Pollack, 2018), and thus the agreement of Member-State governments legitimates its actions.

In contrast, a ‘supranational’ perspective emphasises the European Union’s institutions as if the organisation were, or ought to be, a polity resembling the model of a democratic nation-state. (Scharpf, 2001). Accepting the notion that the EU’s institutions and its democracy should resemble that of the nation-state, would also require it to possess similar sources of democratic legitimacy, which would be based on representation.

Finally, the transnational perspective calls into question the relevance of the nation-state as the unit of analysis. While nation-states continue to play a role in transnational analysis, they are not the sole players, and the focus is shifted from individual states to the global system (Sapiro 2018). This view offers a vital role to transnational rights and values, transparency, communication, and cooperation between peoples, rather than on the prominence of a single people or of states.

The distinction between the EU as an intergovernmental organisation, a supranational organisation where decision-making is centralized and is not conducted between Member States, but “above them” (Klabbers, 2016), a combination of the two, or something else altogether is essential to better infer EU democracy or its democratic deficit. These perspectives will guide me as I present possibilities for EU democracy based on different theoretical models.

Describing EU democracy would thus greatly depend on the theoretical perspective used by the researcher. Choosing a perspective over the others would require us to understand the EU’s source of authority and its relationship with Member-State sovereignty and EU citizens, and the existence of Demos, as will be presented below.

Having reviewed the European Union as a political system and relevant theoretical perspectives, some key concepts will be presented, shedding light on the relationship between the individual Member States and the European Union as a whole, EU legitimacy, and the concept of citizenship in the European Union.

Democratisation in the EU could be said to be the outcome of constitutional conflicts between institutional actors in the EU’s multilevel system. These actors push for further integration to

increase efficiency, a process that incidentally undermines democratic accountability, while putting into question the legitimacy of integration (Schimmelfennig, 2010), and the feasibility of EU democracy.

In order to examine the EU from a democracy-focused standpoint, it is essential to understand its chain of delegation. Contemporary democracies are characterised by a chain of delegation, in which those authorised to make political decisions conditionally designate others to make such decisions in their name and place (Strøm, 2000). This concept will allow me to examine how political decisions are made by the EU, and explore the differences between EU political decision-making and nation-state decision-making concerning democracy.

A crucial analytical framework regarding the chain of delegation is the principal-agent approach. According to Elgie (2002), the principal-agent approach is a theory describing a situation where one actor has an incentive to delegate its power to another actor with the expectation that subsequently, the latter will act in a way that is consistent with the initial preferences of the former, usually out of a desire to reduce transaction costs. This approach is based on the ability of agencies' to resolve collective problems, and therefore the decisions to create EU agencies are likely to have been motivated by needs to respond to particular circumstances (Egeberg & Trondal, 2017).

The expectation for consistency with principals' preferences is expressed by the fact that the chain of delegation is mirrored by a corresponding chain of accountability that runs in the reverse direction. To ensure that delegation serves their interests, principals need ways of keeping agents honest, and agents are considered accountable to their principals if they are obliged to act on the latter's behalf, and if the latter are empowered to reward or punish them for their performance. Thus, democratic constitutions contain mechanisms that allow principals to delegate and make agents accountable ex-post (Strøm, 2000). Some of the key criticism on EU democracy is that the chain of delegation is flawed, hence resulting in a 'Democratic Deficit'. According to this criticism, there is no direct chain of delegation stretching from the voters to the EU-level administrative actors, and perhaps there is not one, but multiple principals involved. This criticism goes as far as to state that the non-democratic nature of some of the EU's agencies is precisely what makes them so expedient in the first place (Piattoni, 2019).

I suggest that despite this criticism, the chain of delegation may, in fact, not be flawed and that it may instead resemble other forms of democratic chains of delegation and accountability in different polities, such as federations.

A second notable concept in this regard is moral hazard. In the context of the European Union and its institutions, moral hazard may take the form of noncompliance by the agent due to a conflict of goals or the departure of decisions from the positions agreed upon at the time of delegation and appointment. Moral hazard may also result from the structure of delegation itself, which provides incentives for agents to behave in ways inimical to the principals' preferences (Elgie, 2002). Moral hazard is expected to be found in the EU on different levels, including but not limited to EU institutions developing distinct preferences that go beyond the positions at the time of delegation, such as promoting the continuous integration process.

These concepts and the framework of the chain of delegation will assist in understanding EU democracy and how it differs from that of the nation-state. The first step in this direction would be to understand how the chain of delegation is set in the EU.

According to Bergman (2000), there are four major steps in the typical chain of delegation and accountability, running from the people, to the MPs in the parliament, from them to the cabinet, government and finally to the civil servants. In Europe, these four primary principal-agent relationships are intertwined with the European Union institutions, resulting in the fifth step of delegation – domestic delegation to the EU (Bergman, *ibid*). Additionally, in this dual chain of delegation, several principal-agent relationships can be mapped; as for instance, a minister in the Council can act both as an agent of his or her national government, and as a collective principal (Delreux & Adriaensen, 2019). This raises the question of how this different chain of delegation could perhaps impact, or perhaps even mould EU democracy.

This chain of delegation is clearly different from that of the nation-state, but is it a unique chain of delegation that requires us to reimagine delegation and accountability all together?

Despite the unique nature of the EU, the European Union's chain of delegation may, in fact, resemble that commonly found in federal or confederal democracies, in which representatives may be considered agents of the states that make up the Union, rather than of the people themselves

(Strøm ,2000), therefore, despite the perceived distance from voters, the existence of democracy in the EU is not unreasonable or unfathomable.

In this form of the chain of delegation, governments of member states delegate power to supranational agents, such as the European Union Commission and the Court of Justice, to reduce the transactions costs of EU decision-making. Once created, these supranational agents develop their own distinct preferences, generally for greater integration (Pollack, 2003). It is important to note that this delegation of power happens from nation-states and unto supranational actors, and agents are therefore expected to act as representatives of the Member States, rather than of Member States' citizens.

Jiménez Lobeira (2012) suggests that the EU, rather than a federation or a confederation, is, in fact, a mixed commonwealth, meaning a polity with a weak orchestrating, which provides privileges to its Member States. Such a polity contains elements of states and aspects of nations, such as questions of commonality and identity, but these are watered-down versions of their nation-state equivalents. The demos in such a polity are composed of, and less important than the Member States demoi, and the polity itself is made of, and less important than the Member States themselves. The concept of a mixed commonwealth will be used as one of several routes for EU democracy.

The difference in the chain of delegation, the role of representatives as agents of the Member States rather than of citizens, and these watered-down elements of identity and commonality require us to debate on whether EU citizenship in fact exists, or put into different words, it raises the question of whether there exists a European Demos? The existence of such is generally accepted as one of the cornerstones of democracy, and therefore this topic will be explored in detail throughout this thesis. Over fifty years of European integration have led to a steady strengthening of the European *Kratos*. In contrast, the *Demos* has mainly remained domestically constituted (Cheneval, Lavenex & Schimmelfennig, 2015). In other words, European institutions have been endowed with additional powers and authority, while collective identities and their intermediary political institutions have retained their primary national foundations. While this claim indeed supports the EU being a mixed commonwealth, I suggest instead that while the European Demos may, like the national Demos, be based on methodological individualism, but it may also be statism-based.

Though with different conclusions, a similar claim may be found with Innerarity (2014), who claims that the EU's apparent Democratic Deficit does not stem from institutional structures as much as from the lack of a shared national identity. According to Innerarity, the Treaty of Lisbon reserves the concept of "the people" for the Member States rather than the individual. This intergovernmental approach invites us to rethink the concept of demos in a way that makes sense on the European scale. Just as EU democracy may differ from that of the nation-state, EU demos may also differ between these polities.

This possible route for EU democracy could, in fact, follow the footsteps of democracy in the UN, another international organisation facing similar criticism, possessing a comparable chain of delegation, and comprised of Member States that participate in a form of democratic decision-making processes.

The Member States of the UN, and likewise of the EU, might be considered statism-based demos if we accept the notion that the demos could be constructed of entities that are not people.

This thesis does not aim to conclude whether one conceptual demos or the other is more democratic, nor to suggest which route for EU democracy should this polity take, but to describe several routes and models by which the EU could perhaps be defined as democratic, despite its apparent democratic deficits and flaws when compared to the nation-state.

The question of EU democracy will be examined through different perspectives, including through methodological statism, in order to debate the claim that in order to be democratic, the EU would require "a people", other than the Member States, in the form of demos similar to that of the nation-states.

It is important to note that demos should not be assumed to be synonymous with nationhood. A nation implies a state's presence or the aspiration of creating one, while democracy requires a sense of community (Cederman, 2001). This will require me to focus not only on the aspirations of EU citizens for the EU polity, but also on their identity, and their relationship with this organisation.

Regarding citizen interests, two competing objectives arise from the interests of European citizens: They appear to show interest in a supranational polity capable of acting effectively and democratically, while at the same time, they favour retaining the nation-states as the sole guarantors

of their rights. To solve this conflict, Habermas proposes the concept of a “double sovereign”, that of people and states (Habermas, 2015). Likewise, Nicolaïdis claims that the European democracy should not be seen as mainly ‘national’ or ‘supranational’ but as ‘transnational’, notwithstanding the question of the constituting *demos*. According to Nicolaïdis, European ‘*demoicracy*’ can be regarded as that of both states and citizens, governing together but not as one (Nicolaïdis, 2012). This point of view treats the national *demos* of the member states as the basic building blocks of a European democracy that works to promote an ever-closer Union based on principles of political equality and mutual respect (Bellamy & Castiglione, 2013).

Contrary to that, according to the no-demos thesis, the European Union lacks a *demos*, and thus the pre-political social and cultural prerequisites for a democratic polity are missing beyond the nation-state in the EU (Risse, 2014). Should this theory be accepted, there would not be a reason to worry about a democratic deficit, as EU democracy would not be viable, as cultural and social prerequisites to democracy would simply not exist.

Therefore, I suggest that the EU *demos* could be seen possibly as national-based, in an organisation that is primarily intergovernmental, and EU-based in an organisation that is supranational. In a transnational-focused EU, the *demos* is expected to be based on *demoicracy*, where there will be several *demos* working together.

While the latter may seem similar to the intergovernmental model, as it sees national *demos* as the basic building blocks of the EU and considers the Member States as important players in the EU, the intergovernmental and the transnational model differ significantly.

While the EU citizens in the intergovernmental model are expected to work primarily through national channels, identify themselves first and foremost with their national peers, while empowering the Member States to represent them in an intergovernmental forum, that is not the case in the transnational model. In this model, I suggest that *demos* will operate across borders and through different networks, identify themselves first and foremost as Europeans, and base their identity on shared values and culture, rather than nationality. Additionally, in the transnational model, EU Member States and citizens are expected to have a more equal footing in the EU, which will act as a “union of states and as citizens, who govern together but not as one” (Nicolaïdis, 2012)

In order to better understand the relationship between EU citizens, Member States and the Union, it is essential to focus not only on EU citizens interests, but also on their identity. This leads us to how the Member States, and consequently, the EU, have culturally and socially changed over the years due to the integration process.

I suggest that the European integration process has resulted in some levels of cultural and identity change within Member States. While this gradual Europeanization of identities is limited, it appears that European citizens have developed dual identities, both concerning their nation-states and the EU. This change in identities may thus be considered sufficient in order to sustain carefully crafted redistributive policies on the European level (Risse, 2014). Additionally, the very notion of sovereignty in the European Union could be said to have been transformed by the integration process, which includes the abolition of internal borders, the creation of a supranational legal system and the introduction of the concept of a European citizenship, which have led to rights transcending the framework of nation-states (Tokár, 2001). This transformation of sovereignty and identity demands a close inspection of the relationship between citizens, Member States and the EU when debating the feasibility of EU democracy, which would depend on its relationship with its demos.

The existence of EU citizenship and its characteristics would have significant implications on the question of the EU demos. While historically, the concept of citizenship has been limited to the nation-state, supranational citizenship may exist in the EU. This modern and vertically-nested membership structure is currently confined to Europe since its official introduction in the 1993 Maastricht Treaty. There are three alternative approaches for strengthening democratic citizenship in the EU: The "statist," "unionist," and "pluralist" approaches (Bauböck, 2007).

The statist approach regards the Union as a federal state-in-the-making and opts for a citizenship model that would reflect the principles applied within contemporary federal democracies. The unionist approach aims primarily at strengthening EU citizenship by making it more important for its bearers and more inclusionary for the Union's residents. Lastly, the pluralist approach includes no general commitment to strengthening the concept of EU citizenship. Instead, it seeks to apply norms of democratic legitimacy at both levels and balance these concerns where they conflict (Bauböck, 2007).

Current EU citizenship status is considered by scholars insufficient as an institutional foundation of an EU democracy and a supranational democracy would depend on European citizenship becoming recognised and valued by citizens (Closa, 2003). Additionally, Risse (2014), notes that the British public sphere, in particular, was the least Europeanized within the EU, having only a few transnational linkages, as will be further discussed concerning Brexit. European integration had thus resulted in a democratic dilemma: citizens' ability to exercise democratic control over the decision-making versus the capacity of the system to respond satisfactorily to the collective preferences of its citizens (Closa, *ibid*).

Citizenship is a particular case of European governance, because of its location at the heart of state sovereignty. Member States are reluctant to abdicate competence over citizenship attribution as the competence to determine citizenship is the power to decide who is a member in the polity. European Union citizenship now grants extensive rights that Member States must respect, but the only way to become an EU citizen and acquire these rights remains through citizenship in a Member State (Maas, 2016). Prior to Brexit, there has never been a reversal in the extension of these rights. This reality has changed in light of Brexit, which led to uncertainty regarding both British nationals across Europe and Member State nationals residing in the UK (Mindus, 2019), and the revocation of former rights held by these nationals, including free movement.

The Europeanization of identities, as mentioned before, is a process that has not advanced impeccably. There are different ways by which belonging to the EU has increasingly become normalised within its citizens' lives. Among them is the growing consensus among the elites that European identity is about cosmopolitanism and diversity. While this was once an identity limited to the European elites, and there is evidence that it has become a more general identity, it has in recent years resulted in a backlash in certain countries, including the UK, where it was challenged by Brexit. One central theme that ran through the Brexit campaign was the relationship between European and national identities, specifically suggesting that a European identity had begun to threaten the British one (Leith, Sim, Zwet and Boyle, 2019).

On 23 June 2016, almost 52% of more than 30 million British citizens voted to leave the EU. Research suggests that the desire to “regain control” over the borders was an important reason to vote to leave

the EU. Brexit illustrates that a legitimacy deficit can have far-reaching consequences for the EU, as widespread dissatisfaction with policies can translate into a rejection of the political system (Beetz, 2018). Brexit indicates that the EU legitimacy failed in both the input and output dimensions³ for British voters, meaning that it failed both at representing voters and providing them with effective policy outcomes (Dinur, Kosti, Levi-Faur and Mor, 2018).

While Brexit has had a tremendous effect on UK citizens who reside in the UK, another dimension is to be considered in this regard, which relates directly to the cosmopolitan nature of EU citizen identities. According to UK Government figures, Brexit has affected some 3 million foreign nationals in the UK and 2.2 million British citizens living in the other Member States. While it may seem that the UK Government is not concerned with the human dimension of Brexit, the reality is that the UK has never been happy with the possibility of the creation of a European demos (Crosby, 2016). In fact, the UK's vote stems, at least partially, from a comparatively weak sense of European identity (Carl, Nennison and Evans, 2019). This claim is consistent with Innerarity (2014), who identifies the democratic deficit with the lack of a shared identity, with Rissie (2014), who claims that a majority of European Citizens have developed dual identities and that the British public sphere was the least Europeanized within the EU, as well as with Tokár (2001), who claims that EU integration had affected the notion of sovereignty, a concept that was one of the main points of focus surrounding Brexit debates in the UK.

Brexit was therefore presented as the act of regaining control, sovereignty and authority that have been lost through membership in a supranational organisation (Agnew, 2020). As put by the author and journalist Fintan O'Toole, the British impression was: "If England is not an imperial power, it must be the only other thing it can be: a colony" (Ibid). According to this perception, the UK may only be in control, or controlled, with no other state in-between, which led to the perception of membership in the EU as the "loss of sovereignty".

Contrary to this view, Hooghe and Marks (2015) suggest that authority is not fully transferred to a supranational body in the EU, but that nor does it rest solely in the Member States' hands. The ability

³ These terms will be clarified in Chapter 2.

to make decisions is thus shared among governments through an interstate body and a process of Qualified Majority Voting (QMV). How sovereignty is affected and transformed is significant in determining the type of democracy that could exist in the EU due to delegation and its modes of governance.

Since the EU combines different modes of governance, it is crucial to understand the extent and prevalence of each such mode in the EU. Hooghe and Marks propose that international organisations' authority is conditioned by two basic facts of its existence: the scale of their membership and the scope of their policy portfolios. The larger the organisation's membership, the more likely it will have more delegation and more pooling. The broader the organisation's scope, the more likely it is that its members will be willing to delegate, but less willing to pool authority (Hooghe and Marks, 2015). While the delegation of authority is simply an effort to deal with the transaction costs of cooperation, pooling goes further and reflects the tension regarding the national veto and is responsive to the anticipated consequences of collective decisions for the domestic standing of Member State governments (Ibid). Thus, it is possible that broadening of the EU's scope had resulted in higher pooling of authority and the weakening of Member State standing in the EU, that had led to a conflict between the relatively weak sense of European identity, and the British one, for some UK citizens, as seen in the referendum on Brexit.

Brexit as a case-study offers a unique opportunity to examine European identities, citizenship and rights, under the umbrella of democracy. While there have been several studies on Brexit in recent years, few studies focus on the relationship between identity and democracy on a European level in light of the crisis, and its connection with the Democratic Deficit debate.

Considering the EU's constitutional conflicts, democratization, integration, and in light of Brexit – disintegration, it is crucial to understand the direction in which the EU is headed in order offer a complete discussion on EU democracy and its possible deficit. Kreuder-Sonnen (2018) offers a set of questions that helps to describe post-national polities:

The first question is whether political authority is internationally integrated through either pooling or delegation, or is it lying with sovereign member states and thus disintegrated? The second

question is whether political authority is democratically constituted and legally constrained or autocratically constituted, and thus legally unconstrained? (Ibid)

While Kreuder-Sonnen offers as answer four scenarios for institutional equilibria that the EU may develop towards, we are still left wondering what democracy may look like in the EU and the normative question of whether the EU should be democratic in the first place. These two questions will guide me as I explore the different possibilities for EU democracy.

For this purpose, the literature on the democratic deficit offers a starting point, and there are four approaches notable in the context of the EU democratic deficit debate that are relevant for this work.

First, Dahl (1999) claims that the EU is not likely to have the capacity to be democratic due to the extensive delegation of power and authority from the demos to elected representatives and from them to the bureaucratic hierarchy. This thesis rejects this claim and offers different possibilities for EU democracy despite its extensive delegation of power. Democracy is not tantamount to majoritarian rule, and it is possible to imagine different decision-making processes (Cederman, 2001), which will be based on other versions of the chain of delegation and perhaps even other conceptual forms of demos.

Second, Follesdal and Hix (2006) claim that the European Union is characterised by a Democratic Deficit, due to insufficient contestation for political leadership and a lack of public argument over policy agenda (Ibid).

Unlike Dahl, they suggest steps in order to make the EU more democratic. While I accept that the EU lacks in this dimension, there is only insufficient contestation for political leadership in the EU compared to the nation-state, and this sort of contestation may carry less weight in different democratic models (Ibid).

Third, Majone (1994) offers a different perspective, by which the EU is essentially a 'regulatory state', and its' primary objective is to create policy outcomes that are Pareto-efficient. According to this interpretation, the European Union should not, in fact, be democratic, as this would undermine its purpose. This claim is not wholly rejected, and I accept that the EU may serve a similar role to a regulatory state. The paper discusses ways in which an international organisation that aims to create

efficient, positive policy outcomes may still be democratic, under a different model of democracy, that would not impair its efficiency.

Finally, Moravcsik (2002; 2003; 2004) claims that the Democratic Deficit is a myth, and that the EU is democratic enough as it is, especially in light of recent reforms. The EU, in his view, is still primarily an intergovernmental organisation, and its delegation of power is in line with the general practice of modern democracies. This claim is also not wholly rejected by this paper, but instead expanded and further examined in order to suggest different general practices by which the EU could be considered democratic. Additionally, the paper suggests models based on intergovernmentalism, as suggested by Moravcsik, but also based on supranationalism and transnationalism.

These four distinct approaches differ in how they perceive the EU's capacity for democracy and offer contrasting views on the EU, its purpose, and therefore on its need for democracy.

An important point differentiating between these approaches lies in the delegation of authority in the EU and its effect on EU democracy. While per Dahl's approach, the EU cannot be democratic as a result of its chain of delegation, the other three approaches offer different points of view, ranging from the claim that the chain of delegation is flawed, though it could be fixed, through the claim that it is not flawed and therefore should not be fixed, and finally the chain of delegation had perhaps once been flawed but is currently on par with democratic standards.

This paper will attempt to add to the democratic deficit debate. I will attempt to consider how this term, "Democracy", could apply to the EU, and provide an answer to the question of the feasibility of democracy in the organisation. I will suggest different models for EU democracy, based on intergovernmentalism, supranationalism and transnationalism, as well as basic guidelines that may assist in judging whether democracy exists in the EU according to these models.

Having reviewed the previous literature on democracy in the EU, the next section will present the theoretical framework and assumptions used in this thesis, and in particular, three main approaches that will be used in this work: The rational institutionalist, bounded integration and the post-nationalist perspectives, that will assist in analysing the feasibility of EU democracy, as well as its possible potential structures.

Theoretical Framework

Having reviewed the previous literature on democracy in the EU in the previous section, in this section, I will present the theoretical framework and the theoretical assumptions used in this thesis and connect my proposed theory to the existing knowledge presented before. I will present the theoretical framework and assumptions used in this thesis, and in particular, three main approaches that will be used in this work: The rational institutionalist, bounded integration and the post-nationalist perspectives, that will assist in analysing the feasibility of EU democracy, as well as its possible potential structures.

First, in order to discuss EU democracy or its deficit, some terms must be clarified:

There is no single meaning to the often-heard term ‘democratic deficit’, and definitions are as varied as the nationalities, intellectual positions and preferred solutions of the scholars who write on the subject (Follesdal & Hix, 2006); therefore, we should look instead to a definition of democracy itself. As with the democratic deficit, defining democracy has proven to be a difficult task, as the term is similarly used indiscriminately by scholars (Gitonga, 1988). Despite what might be a common perception on the matter, democracy does not consist of a single unique set of institutions, and there appear to be many types of democracies, with diverse practices that produce a similarly varied set of effects (Schmitter & Karl, 1991).

In order to portray, reimagine or critic EU democracy, it is important to come to an agreement as to what is it that we are discussing. Two important definitions are at the basis of this thesis, and both are accepted as possible alternatives that will be used when formulating the different models:

The first widely accepted definition considers democracy as a system of popular control over governmental policies and decisions. A second often-used definition goes further and suggests that democracy is instead a system providing an extensive body of fundamental rights, freedoms, and opportunities that are essential to popular control and the functioning of the democratic institutions, as well as of those that tend to develop when governing democratically (Dahl, 1999).

Choosing one definition of democracy over another would lead to different answers regarding its existence, as the properties of democracy can only be identified after it has been defined adequately (Saward, 1994). In the same manner, the European Union's unique nature (Eliassen & Andersen, 1996)

requires us first to define what democracy might mean for such an entity, rather than simply debating on the extent of its democracy.

This research will not choose one definition of democracy over the other, but instead, offer different models based on these different definitions. These will allow reimagining EU democracy in ways that may differ significantly from its nation-state counterpart.

For the purpose of examining the question of the feasibility of EU democracy, as previously presented, this thesis will use the perspectives offered by the rational institutionalist, the bounded integration perspective and the post-nationalist perspective.

The rational institutionalist approach, which seeks to explain rational actors' collective decisions while focusing on the importance of institutions and how institutions shape actors' preferences and alternatives for action (Hall and Taylor, 1996), will allow me to explore how Member States operate as rational EU subjects whose preferences and actions are shaped by the EU's treaties and institutions, and how these Member States make choices relevant to EU democracy. According to this perspective, EU Member States pool sovereignty through QMV or delegate sovereignty to EU supranational actors to better cooperate, and promote national interests (Pollack, 2010).

A second analytical perspective used in this thesis is the bounded integration perspective. This approach views modern representative democracy as a process that co-evolved with nationalism. This implies that the nation-state represents a stable equilibrium capable of uniting large populations, partially due to setting boundaries and criteria as to the membership in the nation-state, that allows it to impose duties and extract resources from citizens (Cederman, 2001).

While the first generation of democracy emerged in the Greek city-states, and the second generation evolved in the modern nation-states, democracy might be transforming to a post-national stage (Dahl, 2008), and as Cederman (2001) states, the fact that democracy and the nation-state evolved together, does not mean that the two are indissolubly linked. Democracy may perhaps evolve beyond the nation-state, and in order for democracy to exist in the EU according to this perspective, it will have to be founded on supranational identity formation, nation-building and the existence of a collective identity constituting a people. Therefore, this approach views EU democracy as similar in its relationship with citizens, as the nation-state.

A third critical analytical perspective that will be essential for this analysis is the post-nationalist perspective, which seeks to transfer democracy beyond the nation-state, and accepts the existence of a 'thin' political identity, while focusing instead on a civic channel, on associative and electoral channels (Cederman, 2001). According to this perspective, citizenship and political identity are less important than transparency and the participation of those affected by the decision (Ibid).

These analytical perspectives offer rivalling points of view as to what would be required of a polity such as the EU to be defined as democratic. Accepting the bounded integration perspective would require the EU's citizens to have a strong sense of European identity, likely resulting in a supranational democracy, that bases itself first and foremost on input legitimacy.

In contrast, accepting the post-national perspective is likely to result in a different kind of democracy, that could base itself on democratic values and on throughput legitimacy, concepts unpacked in detail in Chapter 2.

Finally, basing EU democracy on the rational institutionalist approach will likely require the EU to operate intergovernmentally. Such a Union would not be required to be democratic in order to fulfil its purpose of promoting cooperation and national interests, but should it be deemed preferable for it to be democratic, such a democracy is likely to be based on the Member States as its basic blocks, rather than the European citizens.

This leads me to two important concepts for this analysis: methodological individualism and methodological statism.

Methodological individualism is an approach that positions individuals as the basic units of social analysis. This approach explains both private decision-making and collective decision-making by analysing the actions of individuals (Jupille, Caporaso and Checkel, 2003). In contrast, methodological statism sees states as the basic units of analysis in international relations (Keating, 2017), and, therefore, as the primary interface for decision-making processes in the European Union.

This research will suggest different models based on these different perspectives and methodological approaches, rather than accept one as the sole feasible model for EU democracy.

As previously stated, there are different views among scholars regarding the democratic deficit. While Follesdal and Hix (2006) is the result of European integration increasing the executive power

and decreasing the powers of national parliaments EU citizens with a strong European parliament, in contrast, Moravcsik (2002; 2003; 2004) notes that EU institutions are constrained by constitutional checks and balances, which include the principle of separation of powers, but more importantly, by a multi-level structure of decision-making by which Member states must ratify changes to EU treaties. The EU, according to this view, is not based on parliamentary sovereignty but on the separation of powers, which are divided horizontally among the Commission, Council, Parliament, and Court, and vertically among local, national, and transnational levels (Moravcsik, 2003). Additionally, Majone (1955) considers the EU a purely regulatory body (Majone, 1995), which likewise impacts what EU democracy might look like and whether it should be democratic.

The existence of a democratic deficit greatly depends, therefore, on whether the EU is considered democratically legitimate and how such legitimacy is generated. While such criticism as a weak parliament and distance from voters may perhaps lower democratic legitimacy, neither necessarily disqualify the EU from being treated as a democratically legitimate body.

EU democracy may be considered democratic based on representation, the promotion of policies or the process itself. According to Moravcsik, democratic accountability, that is, the degree to which citizens are able to influence decision-makers, is essential, and in the EU, these may affect decision-makers directly through the parliament and indirectly, through national elected officials.

It seems, therefore, that there is a significant difference between such scholars as Follesdal and Hix, Moravcsik and Majone in the way they examine the meaning of democracy in the context of the European Union. While the former argue, on par with the bounded integration approach, that EU democracy should resemble in a way that of the nation-state, Moravcsik views EU democracy as a more complex polity, which is based on accountability and the division of powers between different actors, which may be on par with the post-national perspective, as well as with rational institutionalist approach. Finally, Majone views the EU as an organisation used by its Member State governments as a kind of a fourth branch of government used to promote national interests, as supported by the rational institutionalist approach.

The difference between the views of these scholars is likely to be founded on a methodological gap in the way these researchers view the union, including a difference between methodological

individualism and methodological statism, and the acceptance of different basic units as the building blocks of the EU that should legitimate it. This gap can be presented as a gap between a Union of Citizens, as Follesdal and Hix view it, a Union of States, as viewed by Majone, a combination of the two, as suggested by Moravcsik, or as something else altogether.

The EU is a polity that is fundamentally different from the nation-state, and in order to understand its democracy or its deficit, it is crucial to understand who the demos of the EU are, what its purpose is, where its authority originates and how it is constrained legally. Answering these questions will allow me to suggest which models of democracy might be relevant for the organisation.

The next part will present the methodology used in this research, including how the case study, Brexit, will be analysed and how this case-study may support the theoretical framework, and assist in providing answers that may shed light on EU democracy; whether it is feasible and what might it resemble.

Having constructed the theoretical framework for analysis, the thesis will proceed as follows:

Chapter 1 describes the EU, including basic information about its history, its purpose and its structure. This background will be used in order to better understand the organisation, its structure and its evolution throughout the years, allowing me to better analyse the organisation.

Chapter 2 focuses on the concepts of democracy and legitimacy, and explore different approaches to democracy as well as theoretical alternatives for a democratic European Union. These alternatives will be based on intergovernmentalism, supranationalism and transnationalism.

Chapter 3 presents several key concepts relevant to EU democracy, including identity and citizenship, in order to examine the integration process and explore the question of who the basic units of the EU are. Additionally, the chapter will also present EU disintegration through Brexit.

Chapter 4 integrates the knowledge amassed in previous chapters towards a theory on EU democracy. In this chapter, I will discuss which of the models presented in chapter 2 might be relevant to the European Union, explain why, and attempt to provide basic guidelines that may help judge whether the European Union could be considered democratic according to these models.

Finally, in chapter 5, I conclude the discussion and summarize my findings, while acknowledging where I believe further study on this topic is needed.

Methodology

Having reviewed the main body of literature and the theoretical framework at the basis of this work, I will now present the methodological and analytical frameworks.

This thesis will attempt to answer the following question: What type of democracy, if at all, is feasible in the European Union, considering its geographic and substantive scope?

In order to answer this question, the EU's unique nature and scope⁴, defined by the EU's policy portfolio, structure, approach to citizenship, relationship with citizens and Member States, and its primary sources of legitimacy, will first be examined.

The research will further focus on citizenship, identity and democratic legitimacy sources in the era of Brexit, and these terms and their link to the democratic deficit issue will be unpacked in the following ways:

First, the concepts of citizenship, identity and legitimacy sources will allow me to explore democracy from a new angle and convey an understanding of who the demos of the European Union are, the citizens of Member States or the Member States themselves?

This thesis will also examine an alternative to the demos as the people, or as the Member States, presented by the concept of "Demoicracy", by which the EU might be constructed as a polity of polities, with multiple peoples, rather than one distinct demos.

Discerning the identity of basic blocks of the EU will be crucial in order to understand who may democratically legitimate the EU and how, and what might be expected of such an organisation, should it be based on democracy.

Second, this thesis accepts that democracy is a term often used by scholars, politicians and the general public alike in order to convey different things.

What a citizen in France or Ireland considers democratic may be different from what a UK citizen might consider as such. Likewise, the expectations from a national democracy may differ from those of an intergovernmental, supranational or transnational polity.

⁴ See Appendix 1.

In order to resolve this issue, this thesis will attempt to add to the democratic deficit debate not by concluding whether the EU currently suffers from such a deficit, but will instead suggest theoretical models for EU democracy that may be feasible, and state which models may be currently relevant for the organisation as a result of its scope.

Under each of three main models, based on supranationalism, intergovernmentalism and transnationalism, two sub-models will be presented.

Under intergovernmentalism, I suggest a Pure Intergovernmental or a Mixed Commonwealth Federation as possibilities for EU democracy. Under supranationalism, the EU could perhaps be constructed as a Federal Republic, or as a Supranational Democracy. Finally, under the umbrella of transnationalism, I suggest Transnational Discursive Democracy and Cosmopolitan Democracy as possible models.

These models will offer a different theoretical vision for EU democracy, which would require the EU to be constructed differently and depend on different legitimacy sources. What may be considered a democratic deficit in one model may be considered democratic by a different model, and perhaps even as necessary to guarantee democracy.

Third, in order to test these different models, I will analyse the scope of the European Union per its core treaties, as well as through an analysis of Brexit as a case study and the discourse surrounding its negotiations and outcome (November 2015 – December 2020). This discourse will be represented by official public appearances and interviews of EU and Member State officials, including Heads of State of the various member states, negotiators, and EU institutions' leadership⁵.

These texts will be analysed through a qualitative lens, using discourse analysis, a methodology widely used in political science and international relations. This methodological approach is often used to analyse textual data such as speeches at international organisations, as these speeches are considered expressions of member-state foreign policy (Watanabe & Zhou, 2020).

Regarding the EU, this method is considered helpful in observing the discursive nature of the EU, how it is regarded and on questions of identity, related to the EU. For example, the use of certain

⁵ For the full corpus, see Appendix 2.

collective terms in EU policy texts can show where the organisation stands concerning EU Member States and sovereignty. Likewise, this method is also suitable for identifying the values the organisation is based on, including regarding democracy (Aydın-Düzgit, 2016).

This method will be used, under the understanding that it is not enough to just study texts or ideas, but also context (Schmidt, 2008). Therefore, the analysis will explore a more comprehensive perspective regarding the texts analysed, including the meaning behind words, and their context regarding democracy. While whole speeches and treaties will be examined, the analytical units will be specific arguments in speeches and clauses within treaties, in order to focus on statements relevant for the question in hand, as each of the examined texts deals with a large number of issues. These will be aggregated through the grouping of different arguments into a position regarding the EU, its basic units and democracy, while transcending the context of a specific text. The analysis will be done through a middle-range conceptualisation of the discourse, using meso-discourse approach to find broader patterns that go beyond the details of the text (Alvesson & Kärreman, 2000). Treaties are examined in order to help identify how the founders of the European Union saw this polity and its purpose and assist in examining the evolution of the EU over the years, while statements and interviews will shed light on the EU's current relationships with both citizens and Member States and how these are viewed by decision-makers, which is especially important, as foreign policy, to which the EU could be said to belong, has long been associated with a strong role of executive elites, and in particular, heads of state (Wiener & Puetter, 2010).

Both the 'de jure' and the 'de facto' levels of analysis will consider the questions of identity and citizenship in the EU concerning the demos, in an attempt to better understand what sort of democracy could be feasible in the EU. Answering these questions and understanding the EU's sources of legitimacy will assist in identifying the relevancy of these models.

The texts analysed within this work were aggregated by collecting the main EU treaties and leading historical and contemporary texts. Statements made by Schuman and Churchill were selected due to the availability of English-written texts on topics relevant to this work and their representation of countries where analysis of contemporary leaders statements is also made. Other papers, reports and updates analysed here were likewise selected through convenience sampling as they were made

publicly available by EU institutions in English. Publicly available statements and texts in the English language, which is spoken by many European Citizens have implications on the discourse, particularly in Europe. According to Buzan (1993), language is part of political action and may assist in constructing international political reality. Therefore, the focus on the English language is not arbitrary but relies on the substantive significance of this language. Likewise, the internet, offers means for the effective transmission of information, by enabling and enhancing individual-representative communication (Dahlberg, 2011). By analysing documents which are available online and in a language that much of the public speaks, I can draw conclusions on information that officials saw as important to the European public and wished to convey.

Keynote speeches made by contemporary political leaders will provide me with insight on the European point of view, beyond that of the Member States, which may be strongly influenced by their national interests. I will focus on statements made by British Prime Ministers David Cameron, Theresa May and Boris Johnson, French President Emmanuel Macron, German Chancellor Angela Merkel, and EU officials such as Chief Negotiator Michel Barnier, President Jean-Claude Juncker and President Donald Tusk. The first group is made of EU Member States, and specifically of “the Big Three”, which are considered to be set apart from other Member States, and more involved in shaping policies across a broader range (Lehne, 2012). While Germany is considered to be a reluctant leader, the other two powers are considered to be more ambitious regarding EU foreign policy (Ibid). The UK is of particular interest, as this country is at the heart of the case-study, and its reasoning for seeking to withdraw from the EU, as well as this decision’s relationship and impact on democracy, will aid in guiding the analysis.

Specific speeches, sampled via convenience sampling, were selected based on one of three considerations: 1. as a result of public availability and language, 2. because of the existence of specific keywords: “Brexit” or “Democracy”, 3. in some instances, as these speeches represented important events on the timeline of Brexit. The documents⁶ were taken, when possible, from official EU or member-state websites, including the websites of the European Commission, the UK

⁶ For the full corpus, see Appendix 2.

government, the UK Supreme Court, the Élysée, and other official sources. Where unavailable from such sources, I made use of texts that appeared in mass media. Specific references are given in the discussion of each document. Treaties and supporting documents related to EU founding fathers and the nature of the EU were examined for the period running between 1949 and 2012, while contemporary statements, reports and speeches were examined for the period running between 2015 and 2020. All in all, I analyzed 34 documents of which 9 are speeches, 1 is a media article, 4 are treaties, 2 are court rulings, 1 debate and 1 book, and 16 are other official EU documents. Appendix 2 gives the full list of documents I used.

Following Schmidt's recommendation (2008), the analysis takes into consideration not only specific phrases used in treaties, statements and speeches, but also the political and historical context on democracy, on the EU and on Brexit, and as a result, offer a distinct point of view on how these are perceived by significant stakeholders, including founding fathers and contemporary political leaders, representing member-state level and EU level alike.

Fourth, following the analysis of EU treaties and public statements, I will suggest which of the six theoretical models may be feasible, and it is expected that more than one model is likely to be found feasible, resulting in alternative paths for EU democracy. The determination of the feasibility of each of the different models will be based on the discourse and the perception of what the EU is, and what it should, based on the corpora.

Finally, after presenting all models and selecting those that are currently relevant for the EU, I will discuss the EU's democracy and the democratic deficit in light of these models and suggest the kind of theoretical democracy that the EU is most likely to be capable of as a result of these models.

This work will analyse the issue of the democratic deficit in the European Union through the lenses offered by the rational institutionalist, the bounded integration and the post-nationalist perspectives, as previously detailed. These will allow me to analyse the EU while considering the interplay between interests and institutions, the collective choices of the different actors within the EU (Schneider & Ershova, 2018), and the EU's relationships with its citizens and Member States.

In order to further the discussion and the understanding of EU democracy, Brexit will be used as a case-study, and will assist in analysing, explaining and testing the different models for EU

democracy. Brexit as a case study will be used as this method excels in explaining ‘how’ and ‘why’ questions about contemporary events and phenomena over which the researcher has little or no control, and in particular in cases where the boundaries between phenomenon and context are not clearly evident (Yin, 1994).

A significant issue with this methodology is that qualitative single-case studies are inconsistent with statistical sampling procedures and often lack external validity (Eckstein, 2000).

In order to resolve this issue, while the analysis will be based on a case-study, it will be done from a holistic perspective that acknowledges that the EU itself, and democracy is more than the sum of its parts. Brexit will be used in order to identify how the EU as a whole, its Member States, and the only member-state ever to leave the Union view this topic, and will shed light on the different visions for EU democracy and democracy as a whole that may have led the EU from integration to disintegration during this period.

As mentioned, I emphasise here that this thesis will attempt to answer the following question:

What type of democracy, if at all, is feasible in the European Union, considering its geographic and substantive scope?

The research hypothesis at the heart of this work, is that among the six theoretical models, the supranational models will be found as irrelevant for the EU according to its scope. Additionally, though these are competing models, the transnational and intergovernmental models are likely to both be found as feasible, alternative models for EU democracy.

In accordance with the models selected as suitable for EU democracy, it would be possible to imagine the EU either as a minimalist Schumpeterian Democracy or a more substantial Deliberative or Liberal Democracy. An intergovernmental EU is likely to sustain only a minimalist democracy, while supranational or transnational models are expected to be able to sustain a more substantial democracy, which may be more on par with how democracy is perceived in the context of the nation-state, though they may still differ significantly in how such a democracy may be constructed.

Finally, Brexit, is expected to highlight the gap between the British government and the EU on how democracy is perceived, and thus, also on their vision for the EU. While the UK is expected to focus

on input legitimacy and representation as the foundation of democracy, the EU is likely to focus on throughput legitimacy as channels that may be used to democratically legitimise a polity.

As a result, the UK is expected to view the EU as an intergovernmental tool, whose purpose is to promote its Member States' policies as agreed upon by their elected governments, especially regarding policy issues that Member States are incapable of promoting on their own, without cooperation, thus, requiring an organisation that can successfully facilitate collaboration.

Contrary to the British point of view, the EU is expected to view itself as more than the sum of its parts and see its role as more than simply an arena or a forum used by its Member States to promote their internal and foreign policy.

The supranational models, or the EU as a Union of People, is expected to be rejected and found unsuitable for the EU in its current form. The EU is expected to instead promote transnationalism, rather than supranationalism as a path for democracy, and as part of the integration process, as the organisation aims to move from being a Union of States, to being a Union of Peoples.

Having presented the theoretical framework and methodology that will be used in this thesis, I will now present the European Union, particularly its foundation, purpose, and structure, to infer how these might affect its scope, and thus its feasibility for democracy.

Chapter 1: The European Union

Having outlined the theoretical framework and the methodology I intend to use, this first chapter will offer basic information on the history of the EU, its purposes and its structure. This background is essential for understanding the EU and will assist in analysing the organisation, assessing its scope, and eventually, reaching a conclusion on the organisation's feasibility for democracy.

Apprehending how this organisation differs from both nation-states and other more common international organisations due to its nature is essential to fully grasp its capacity for democracy.

Likewise, this analysis will also assist me in painting how EU democracy might be constructed in light of the organisation's structure and purpose, its legitimacy sources, and its relationships with such concepts as identity, citizenships and demos, which will be unpacked in the following chapters.

The chapter proceeds as follows: section A reviews the history of the European Union's formation.

Section B describes the goals and the purposes of the EU, while Finally section C examines the

structure of the EU. Combined, these three sections offer a broad view on the EU, which will assist me in analysing the European Union.

Sub-Chapter A: How the European Union Came to Be

I will begin the discussion with a presentation of the origin of the European Union in order to gain an understanding as to how this polity evolved from an idea to an organisation. This, in turn, will lead to a discussion on the purpose of this organisation and assist in mapping different possibilities for EU democracy that are compatible with the organisation, partially as a result of its structure, purpose, legitimacy sources and its relationships with its basic units.

The idea of a united Europe has taken different forms throughout the centuries. The first buds of unity could be traced to the confederative polities of the League of Delos and the League of Peloponnese of ancient Greece. Following their decline, Rome had provided another form of continental unity based on imperialism. A third variant of this idea was unity through Christianity. The rise of nation-states resulted in a need for stronger bond in order to unite the continent, which in the 18th century led to the formulation of new projects for unity in Europe through its radical reorganisation, by scholars such as de Saint-Pierre, Bentham, Rousseau and Kant (Vătăman, 2010).

The geopolitical aftermath of World War I led to the establishment of the League of Nations in order to promote international cooperation and safeguard against war. Furthermore, the following years saw the rise of a Pan-Europe movement that issued the principles for a coherent political reorganisation in Europe, which would be based on the American polity. This project attracted scholars and politicians' attention, and in 1929 received both French and German support, though that proposal was eventually rejected in 1931.

The idea resurfaced following World War II, as the winners, scarred once again from a disastrous war, were determined to create the conditions for lasting peace in the continent through the restructuring of Western Europe. As a result, the Congress of Europe of 1948 was the first step in the process that eventually led to the formation of the European Union. The Congress resulted in numerous resolutions, such as "Message to Europeans", which underlined the urgent need to unite Europe in a structure capable of ensuring security and social progress through a partial transfer of

sovereignty. At the same time, some European aspirations have been realised through the establishment of the "Western Union" and the "European Economic Cooperation" (Ibid).

In 1949, Britain softened its earlier opposition to the idea of a joint parliamentary assembly, and thus, the advisory Council of Europe was established. The three European Communities, "The European Economic Community", "The European Coal and Steel Community" and "The European Atomic Energy Community", were subsequently founded in the 1950s, marking the beginning of an evolution in two directions: The extension of the Communities through expansion, and institutional improvements that have led to integration.

These processes led to the Maastricht Treaty, signed in 1992, and eventually to the Treaty of Lisbon, signed in 2007, through which the European Union as we know it today, was formed.

Throughout the first years of modern European integration, there has been disagreement on the direction of the EU, where two leading interoperations of a united Europe were based on federalism vs intergovernmentalism (Dinan, 2014). Much of this disagreement may, in fact, be detected today in the democratic deficit debate, and the different expectations of scholars and politicians alike from the Union. These differing expectations are not limited simply to decision-makers and their critics, and have resulted in a rise of Euroscepticism in recent years, that has recently resulted in Brexit.

The process presented in this sub-chapter, shows the concept of a united Europe had taken different forms. The EU, as the current version of this idea, has been evolving since its infancy. This organisation, which was born after a calamitous period in Europe, was not without opposition, including a British one, and European integration was seen as a force that can lead the organisation in several directions, mainly towards an intergoveremntal or a federal polity.

An examination of the feasibility of EU democracy in light of this process will, therefore, require an understanding of the different alternatives, the EU's current goals, its structure, and the direction in which the EU is currently headed. These will be used in order to map out different models for EU democracy, based on the EU's structure, purpose and overall evolution. In recent years, this evolution could be detected regarding both the EU's goals and structure, and these are likely to have an effect not only on the type of democracy that may or may not currently exist in the EU, but on the feasibility of democracy in the EU, in on what kind of democracy my exist or evolve in the

organisation. It is expected that different structures and purposes would limit the organisation to different types of democracy, which may be different from those commonly found in nation-states. In order to continue the discussion on the feasibility of democracy in the EU, and the models that might fit this polity, the EU's goals and structure will therefore be described in the rest of this chapter. The next sub-chapter will focus on the goals of the EU, as seen upon its formation, and how they evolved over the years.

Sub-Chapter B: The Goals of the European Union

Having presented the background on the EU's formation, and briefly presented the topic of European integration, the conflicting views between intergovernmentalists and federalists in the EU, this part will present the goals and purposes of the European Union.

I suggest that these have a significant effect not only on the capacity for democracy but also on how this democracy might be constructed due to different legitimacy sources.

This presentation will include both how the organisation was seen upon its foundation and how its goals may have changed as a result of European integration.

As previously discussed, the EU's founders, deeply affected by the disastrous WWII, had wished to lay the foundations for lasting peace through the promotion of common interests on such topics as security and social progress, through collaboration and mutual respect, and at the same time, wished to guarantee the rule of law and perhaps even, to some extent, equality (Vătăman, *ibid*).

The Schuman Declaration of 1950, made by the French Minister of Europe and Foreign Affairs, calls for coal and steel production to be placed under a common High Authority. Its purpose was that the “solidarity in production thus established will make it plain that any war between France and Germany becomes not merely unthinkable, but materially impossible”, and that it “will lead to the realisation of the first concrete foundation of a European federation indispensable to the preservation of peace” (Schuman, 2005).

In a speech made at the United Nations General Assembly 3rd session, Schuman (1949) claimed that Europe would have to unite to survive and that “a renewed Germany will have to insert itself inside

the democracy of Europe”. Schuman envisioned this reconstructed Europe as democratic, which raises the question of how this EU founding father envisioned European democracy.

In his later writings, Schuman described the characteristics of a democratic state, which are according to him are: “the objectives that it sets and the means it deploys to attain them. Democracy is at the service of people and works in agreement with them”, he goes further to quote US President Lincoln: “[a] government of the people, by the people and for the people”, while claiming that democracy “does not concern itself with the form of government. Modern democracy in the sense” ... ”can be just as well a constitutional monarchy as a republic” (Schuman, 1963).

The EU core treaties allow us to examine whether the EU was founded upon these ideals and, for these purposes, to examine how it evolved over the years.

The preamble to the Treaty of Rome of 1957 emphasises that the signatories were interested in laying the foundations of an ever-closer union among the peoples of Europe. They aimed to ensure their countries' economic and social progress through joint action while strengthening the unity of their economies and ensuring their harmonious development, while at the same time pooling their resources to preserve and strengthen peace and liberty. The treaty's second article likewise claims that The Community “shall have as its task by “establishing a common market”, “to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the States belonging to it” (The Treaty of Rome, 1957).

The main goals of the EU were, upon its foundation almost exclusively, the promotion of peace, the well-being of EU citizens, and the development and economic growth of Member States. Additionally, it should be noted that the treaty reads “among the peoples of Europe”, rather than “people”, a vital distinction which is in line with Nicolaïdis's (2012) theory of ‘*demoicracy*’. These goals have somewhat changed throughout the years, as is apparent by subsequent EU treaties.

The preamble of the Treaty on the European Union (1992), notes that the Plenipotentiaries are resolved to mark a new stage in European integration, and confirm their attachment to such principles as liberty, democracy, human rights, fundamental freedoms, and the rule of law, while expressing their desire to enhance the democratic and efficient functioning of EU institutions.

Article B of the treaty also sets clear objectives for the European Union: The promotion of economic and social progress, asserting EU identity on the international scene, strengthening the protection of the rights and interests of the nationals of EU Member States through the introduction of a citizenship of the Union, the development of close cooperation on justice and home affairs, and maintaining the *acquis communautaire* while further building on it (Ibid).

While democracy in this context was first mentioned in the Declaration on European Identity (1973), this document focused on the definition of a European identity, and listed "the principles of representative democracy, the rule of law," ... "social justice", and "respect of human rights" as "fundamental elements of the European Identity", that should be defended, the Treaty on the European Union (1992) could be said to have introduced democracy not only as a guiding principle what what being European entails, but also as an operational goal for the first time.

The 1992 treaty goes further than the 1972 declaration, and the term democracy is used in Article F, which states that the "EU shall respect the national identities of its Member States, whose systems of government are based on the principles of democracy", and that "the EU shall respect fundamental rights". Likewise, Article J.1 notes that missions of the EU common foreign and security policy include the development and the consolidation of "democracy and the rule of law and respect for human rights and fundamental freedoms" (Ibid). Here, democracy is not seen simply as a part of European identity that should be maintained and theoretically defended, but as an active policy to be promoted by this polity and by its Member States.

Finally, the Treaty of Lisbon, which amended the Treaty on European Union, states in its preamble that Plenipotentiaries desire to complete the process of enhancing the efficiency and democratic legitimacy of the Union and improving the coherence of its action (Treaty of Lisbon, 2007).

The objectives set by treaty, as per Article 2, are: "to promote peace, its values and the well-being of its peoples", to "offer its citizens an area of freedom, security and justice", to "establish an internal market", the "sustainable development of Europe", the promotion of "scientific and technological advances", combating "social exclusion and discrimination", the "promotion of economic, social and territorial cohesion, and solidarity among member-states", the promotion of EU "values and

interests” around the world, including the “protection of human rights”, the “observance and the development of international law”.

Article 10A also adds that the EU will take action to advance democracy, the rule of law, the universality of human rights and freedoms, not only within the Member States, but around the world, and seek to develop relations and partnerships with entities that share these principles (Ibid).

It would appear that throughout the years, the EU had grown from an organisation whose primary role was simply to address policy issues that the member states were unable to resolve on their own, to one that promotes certain principles both internally and globally.

While I do not contest the fact that the promotion of values has always been a part of the mission of this organisation, it appears that in recent years, there has been a greater emphasis on the latter as an important role of the EU. This new emphasis shifted the EU’s focus from the improvement of standards of living and the well-being of EU citizens to an expanded role that goes far beyond addressing policy issues for the benefit of the citizens of EU member states.

As previously mentioned, different purposes and goals have implications for EU democracy due to the different legitimacy sources they represent. This shift suggests that new sources of legitimacy must be examined beyond those deemed necessary to provide it with legitimacy in its early years.

The following sub-chapter will present the structure of the European polity, including the different institutions and voting procedures in order to allow a better understanding of the relationship between the organisation, its Member States and citizens, and the implications of these relationships and structure on EU democracy, and the models that may be relevant for this polity.

Sub-Chapter C: The Structure of the European Union

The previous sub-chapters presented the EU as an organisation that had, and perhaps still is, changing. This evolution becomes apparent in examining its goals. Likewise, its overall structure had been altered, perhaps in order to better fit new purposes and goals, through new treaties that had set new rules for EU institutions and procedures. These changes adjusted how decisions are made, and have implications regarding the relationship between the EU, its Member States and its citizens.

Unlike the previous two sub-chapters, which focused on the evolution of the EU, this part will focus instead on how it is structured today and on its present-day dynamics.

This will allow me, in subsequent chapters, to attempt to infer which of the suggested models could perhaps be relevant, and additionally, what structural changes and reforms might be needed in order for the EU to be democratic.

It is essential to understand that EU institutions have a tremendous effect on its relationship with Member States and citizens alike, and the structure of the EU, therefore, affects the feasibility for EU democracy and how it may, in turn, be structured.

The European Union is a unique polity that is not fully compatible with any other political organisation. It differs in its institutions from nation-states and cannot be defined as either a confederation or an international organisation (Hadar, 2009). This polity's institutions are organised in a different hierarchy from those that exist in nation-states, and there are fundamental differences in the nature of the decisions made in them and how these decisions are made. The EU can be seen as a player in the international system, but also as an arena in which different players in the European system operate (Ibid), including both Member States and various EU institutions.

Among the leading EU institutions is the European Commission, consisting of one commissioner from each Member State, serving as its representatives. The commissioners' commitment is to the European Community, not to the Member States themselves; thus, representatives are not allowed to receive instructions from their countries of origin. The European Commission's role is to express the interests of the European Union and further promote the integration process. It is an initiator institution that holds some of the powers of implementation and supervision, which it shares with the European Union Member States (Ibid).

A second major institution is the Council of the European Union, also known as the "Council of Ministers". It consists of Ministers from Member States, and unlike with the Commission, the Council reflects each Member State's individual interests. The Council is the body that decides on the European Union's critical issues, coordinates between the policies of Member States, and makes decisions regarding legislation in question (Ibid).

A third institution is the European Court of Justice, in which there is one judge from each country, elected by the Member State that sent it. Rulings made by the court are binding for both Member States and citizens of the Union. It also has the authority to examine the legality of EU treaties,

agreements, and laws, and enforce the application of the treaties. It is important to note that European law prevails over that of Member States in areas entrusted to the EU, and that the European Court of Justice deals mainly with ensuring EU legal norms, prosecuting states for non-fulfilment of obligations under the treaties and reviewing the legality of EU institutions. The court may also provide legal relief to EU citizens whose rights have been violated by Member States' actions or by one of the EU's institutions (Ibid).

A fourth leading institution is the European Parliament, which is the only institution that EU citizens directly elect. Its representatives are elected once every five years in each Member State, and the national apportionment of seats for different states is determined by the state's population. Contrary to national parliaments, this institution does not serve as a legislative body, and has relatively few powers; most of which are advisory on proposed legislation, as well as limited decision-making powers, which include a veto on the budget framework and on accepting new members (Ibid).

Finally, the European Council constitutes the highest rank of political authority in the EU. It convenes at least twice every six months, and even more so in unique cases and is responsible for identifying the strategic interests and objectives of the Union, often regarding foreign policy. The European Council provides the European Union's political direction, particularly regarding the integration process, while setting the priorities that shape common foreign and security policies. The Council comprises of Member States' heads of state or government, the President of the European Council, the President of the European Commission, and the High Representative of the Union for Foreign Affairs and Security Policy also participates in the Council meetings. This institution, more than anything, demonstrates the ability of countries to influence the EU, and the representation of citizens by an elected national representative from the Member States (Mix, 2011). While some EU founding fathers may have hoped that the organisation would adopt a federal form of some kind, the EU displays elements combining both intergovernmentalism and supranationalism (Jordan, 2001), and interactions between intergovernmental and supranational actors make up EU governance (Schmidt, 2016)

The tension between Europeanism and nationalism is etched into the institutional make-up of the EU, and thus, the treaties allow the EU to operate like a quasi-federal state in some cases, while in

others, decisions are reached after intergovernmental bargaining. The EU is, therefore, given exclusive competence in some cases, shares competence with Member States regarding other issues, and supports, coordinates and supplements the actions of Member States in various other issues.⁷

The EU, in fact, transforms politics and government at the European and national levels into a multi-level, nonhierarchical, deliberative, and apolitical governance system. Based on trans-government and the new institutional approach, this approach recognises that the European Council and the Council of Ministers are intergovernmental bodies, representing Member States' interests. However, in contrast, the European Commission, Parliament and the ECJ are supranational bodies, attempting to meld national interests into a conception of the common good. The product of this combination is, in fact, a multi-tiered system of governance, in which the Member States are not the exclusive link between domestic politics and intergovernmental bargaining (Jordan, 2001).

Paul (2008) adds that intensive transgovernmentalism, such as the one that exists in the EU, differs from intergovernmentalism in that cooperation is of greater intensity and more dense structuring. EU Member State governments have taken extensive commitments that are uncommon in traditional forms of intergovernmental cooperation. At the same time, however, they have not been prepared to apply the full supranational institutional framework of the Community policies. This transgovernmentalism is thus characterised by the active involvement of the European Council in setting the overall direction of policy, the predominance of the Council of Ministers in consolidating cooperation, and a marginal role of the Commission, while at the same time by the involvement of a circle of national policy-makers.

The political cooperation between EU Member States has resulted in a new institutional dynamic, which is based on intergovernmental bargaining, the creation of transgovernmental communication networks between foreign ministers, politicians and other policy specialists, the codification of norms, increased involvement of European Community actors, as well as the establishment of a coherent policy formulation processes. The same norms push EU Member States toward a problem-solving decision-making style, appealing to common interests as opposed to bargaining. The latter

⁷ See Appendix 3.

does exist between EU member states and is reflected in attempts to pursue national interests through concessions and policy demands, or side payments to opposing parties (Smith, 2000).

The sovereignty of EU membership has transformed due to EU integration processes, as the Member States do not enjoy legal supremacy in areas entrusted to the EU. To be considered a sovereign, a state must have supreme authority in some areas, including defence, foreign policy, police and justice. The EU is in sharp contrast to this definition. While the Union has an extensive bureaucratic system, as an organisation formed through a series of international agreements, it derives its authority from its Member States, who delegate their sovereignty and often voluntarily choose to comply. This compliance may cease when the possible economic, political and symbolic loss arising from terminating membership in the EU would outweigh accepting EU organs' decisions that are drastically contrary to member-state interests (Tokár, 2001).

Voting procedures and representation in the different EU institutions is another critical issue relevant in the debate on EU democracy. The different EU bodies differ significantly on this matter: In the European Commission, decisions are made by an absolute majority, as stated in Article 250 of the Consolidated version of the Treaty on the Functioning of the European Union (2012)

In the Council of the European Union, there is a more complex system set for decision-making. While historically, a large number of decisions were the result of consensus, the Treaty of Lisbon states conditions for Qualified Majority decisions, as noted in Article 16 of the Consolidated Version of the Treaty on European Union (2012): A double majority, consisting of a majority of Member States and a majority of the population. When voting on a proposal made by either the European Commission or High Representative of the Union for Foreign Affairs and Security Policy, the majority of Member States needed is 55%. When voting on a proposal that did not originate from the Commission or the High Representative, the decision requires a reinforced majority of at least 72%. These Council members must represent at least 65% of the EU population in either case. An estimated 80% of all EU legislation is currently adopted through qualified majority (Nováky, 2021).

In the European Council, most decisions are made via consensus. The European Council President and the Commission President do not receive the right to partake votes. While the Lisbon Treaty expanded the use of QMV to the Council, as stated that the Council shall “act by a qualified majority

except where the Treaties provide otherwise” (Treaty of Lisbon, 2007), this change is considered incremental, and issues transferred to QMV are mainly technical (Sieberson, 2009).

The European Court of Justice, similar to national supreme courts, hears cases in panels of various sizes depending on the importance and complexity of the case, and decisions in this body are reached via majority, without any dissenting opinions made public (Wasserfallen, 2010).

The EU’s Parliament’s decision-making process is similar to that of the national parliaments. The number of members of parliament from each member-state is digressively proportionate to its population (Westlake, 2019), with the five largest EU Member States by population currently controlling over half of the seats in the parliament.

These different systems of representation and decision-making further reinforce the intergovernmental, supranational and transnational foundations of these institutions. Different institutions are likely to be more prominent in different models, and likewise, specific procedures, such as QMV, are likely to be better suited for some types of EU democracy, while they may contradict the foundations for EU democracy according to different models.

The impact of these institutions and procedures on the feasibility of EU democracy will be clarified in subsequent chapters, following the presentation of different models for EU democracy, and a discussion on such topics as legitimacy sources and the organisation’s relationship with its demos. In conclusion of this chapter, the EU is an organisation that had considerably changed over the years. These changes, which resulted in increased scrutiny of the organisation, can be traced in part to European integration, and can be detected in the goals and the structure of this unique polity.

While historically, the European Community did not intervene heavily in national affairs, and the democratic cycle within the nation-states remained intact, this has changed due to the Treaty on the European Union, and increased interest in the democratic component of legitimacy appears to have stemmed from the perceived intrusiveness of the EU in national affairs (Cederman, 2001).

The prominence of different EU institutions and their powers have important implications on EU democracy, as these actors are based on different legitimacy sources and convey different relationships between EU Member States and EU citizens.

Having described the essence of the EU, the next chapter will focus on the question of the feasibility of democracy in the EU in light of its structure and purpose, as well as its sources of legitimacy and its chain of delegation. Different models for EU democracy will be outlined as part of the discussion, and these will be further analysed in the subsequent section of this work when presenting Brexit.

Chapter 2: Democracy

The previous chapter discussed the evolution of the EU throughout the years and presented its current structure, institutions and procedures in order to better understand the organisation and the direction in which it is going, which will be necessary in order to build a case for the feasibility of democracy in the organisation, and how it, in turn, might be constructed.

In order to continue the discussion from a different angle, this chapter will explore the scholarly perspectives on democracy and offer alternatives for a democratic European Union: one based on states, another based on people, and finally, a transnational alternative that goes beyond the nation-state and focuses on democratic values and procedures.

Each of these alternatives will offer two distinct models for EU democracy, requiring different features and a different structure in the European Union in order to be democratic.

This will allow me to take the knowledge already gathered in the previous chapter, and together with the concepts that will be introduced in the following chapters, as well as the analysis of the case-study, attempt to conclude on the research question of what type of democracy is feasible for the EU. Beyond the presentation of the models, this chapter will discuss some key concepts required to analyse to infer on the feasibility of democracy. The chapter proceeds as follows: Following the presentation of the concepts of democracy and legitimacy, section A describes the concept of a democracy of states, based upon methodological statism. Section B examines the more commonly accepted notion of methodological individualism-based democracy of the people. Finally, Section C suggests an alternative, focused on peoples and values, rather than people or states.

To fully grasp the issue of the democratic deficit, one must first understand what democracy is. Schmitter and Karl (1991) argue that modern democracy is first and foremost a system of governance based on accountability and representation that organises the relationship between governors and

governees. This basic definition of democracy will be used in this paper, as it is wide enough to include different variations of democracy and accommodate the different suggested models.

Democracy, according to Schmitter and Karl's definition, does not consist of a single unique set of institutions, and there are different variations of democracy, with diverse practices, producing a similarly varied set of effects. Like other regimes, democracy is based on the presence of rulers possessing the legitimacy to make decisions. What separates democracies from non-democratic regimes is the source of decision makers' legitimacy and their accountability for their actions (Ibid). Defining democracy in this manner is similar to Schuman's description of democracy, previously presented, by which democracy is a system that could be constructed in different ways, as long as it is at the service of the people and works with them (Schuman, 1963). As democracy may be constructed through various institutions and practices, this thesis will focus on democratic legitimacy and accountability as vital properties for democracy. For democracy to exist in the EU, the Union would have to be perceived as legitimate by its demos, and there must be an element of accountability, though this may be done in various ways, and the identity of the demos could also differ significantly.

There is another common key aspect among the different variations of democracy, as it would be challenging to imagine using the word "democracy" regarding a polity that lacks an electoral attribute. Therefore, Møller Skaaning (2010) suggest that the electoral criterion is both a necessary and a sufficient condition for democracy and that any polity that holds elections could be counted as some instance of democracy. They suggest that other attributes, such as the rule of law, civil liberties and inclusive elections, will result in 'thicker' types of democracy (Ibid). I agree that this is a necessary criterion, though I reject that it is sufficient, as, without accountability and legitimacy, it would be difficult to describe a polity as democratic, despite the existence of elections.

There are two distinguishable and competing democratic traditions in contemporary political philosophy, the "republican" and "liberal" traditions. The first is based on the idea that the powers of government must be employed for the common good. The second prioritises the individual rather than the polity, and the state is justified by the need to protect individual interests (Scharpf, 2009).

These two traditions share some similarities with Dahl's (1999) approaches to democracy. As a reminder, these interpret democracy as an extensive body of rights, freedoms and opportunities, essential to popular control and the functioning of the democratic institutions, such as freedom of speech and assembly, as well as those that tend to develop among a people who govern themselves democratically, including the rights to privacy, property and non-discrimination, or, as a system of popular control over governmental policies and decisions and a system of fundamental rights.

The approach that views democracy as a rule of the people, or rather the demos, is the more common of the two. This democratic vision views the government as responsible for making political decisions through either direct or indirect representation, while requiring both accountability and responsiveness to the demos (Ibid.)

On the question of whether international organisations and institutions can be democratic, Dahl claims that international organisations are not suitable for democracy, according to the more common approach, as an absolute majority of democracies are based on delegation of power and responsibility through elected representatives. In international organisations, this delegation is likely to be so extensive as to move a political system beyond the democratic threshold and put into question the degree of control of the population over decision-making processes, while at the same time undermining the degree of democracy and empowering bureaucratic forces (Ibid).

Despite Dahl's harsh criticism, such organisations might be considered democratic if they resolve the question of delegation, or possibly, based on Dahl's second approach, if they manage to institutionalise and guarantee the rights, freedom and opportunities that are essential to popular control and the functioning of the democratic institutions. However, this would also require a source of democratic legitimacy, some level of accountability and elections, though these may be indirect. As mentioned in the previous chapter, the EU certainly does not fit the Lincolnian definition of democracy, as "a government of the people, by the people and for the people", although it might be considered as 'a government with the people' (Schmidt, 2004) or "for the people". It is important to note that while the EU does not fit this first definition, the will of the people is still expressed in the EU both indirectly through national representatives in the European Council and the Council of Ministers and directly through the EU parliament. At the same time, the EU works for the well-

being of EU citizens, promotes their political and democratic participation, safeguards rights and freedoms, and works to empower and facilitate democracy in EU Member States and beyond them. Since the EU does not fit this classical definition of democracy, it is crucial to understand the different types of democracy in order to identify the potential characteristics of democracy in the EU and suggest which may be relevant for the organisation.

Gutmann (2007) identifies six types of democracies that offer theoretically different answers as to what form of government is democracy⁸: Democracy as an institutional arrangement for arriving at political decisions, as the idea of the people ruling themselves as free and equal beings, as basic liberties, as participation and collective decisions, democracy as equality, democracy as participation and finally democracy as deliberation.

Using the typologies by Gutman (2007), Møller and Skaaning (2010), as well as the base definition suggested by Schmitter and Karl (1991), I create a ladder⁹ resulting in different levels of democracy that might be feasible in the EU, where all lower level, also fulfil the respective criteria of ‘thinner’ democracies higher in the ladder. The higher you go up this ladder, the ‘thicker’ democracy becomes, where, eventually, democracy is based not solely on the existence of these attributes but also on the purpose of the polity, its primary task, and its main sources of legitimacy.

There are two main models for democratic legitimacy, based on ‘inputs’ and ‘outputs’. Depending on different sources may result in a different kind of democracy altogether. According to the first model, legitimacy is based on the degree by which people with different and often conflicting interests are given equal recognition and access to the political decision-making process (Bang, H., Jensen, M. D., & Nedergaard, P. Ibid). This is often the primary source of legitimacy of states and could be considered a “democracy of the people”. The second model is based on the ability to cope with risk, problems, and challenges to improve the population's lives (Ibid). This sort of legitimacy could be traced to some international organisations as well as regulatory states. This sort of

⁸ See Appendix 4

⁹ See Appendix 5.

legitimacy could be linked to the concept of “a democracy of states”, which focuses on the people’s wellbeing, rather than on citizen representation, while giving prominence to nation-states.

In recent years, the integration process has resulted in the rise of Euroscepticism and nationalist populism across Europe. According to Kreuder-Sonnen (2018), the rise of nationalist populism, as highlighted by Brexit, and the spread of EU-level emergency politics are linked and mutually reinforcing; therefore, leading to a ‘cycle of authoritarianism’, by which European governance moves further away from the aspiration to be both effective and democratic, and thus, must choose one over the other. The suggested conflict between efficiency and legitimacy is vital to the democratic deficit debate and is clearly reflected in the political discourse of the recent decade.

This thesis does not accept the notion that European governance cannot be both democratic and efficient, as Kreuder-Sonnen’s definition of democracy relies on a comparison of EU democracy to that of the nation-state. While a conflict indeed exists between democratic legitimacy and efficiency, the EU may find a solution to this issue in various ways, including through an output-based democracy, which would focus on efficiency. As the EU continues to change and evolve, this conflict may be resolved through different alternative models, as will be presented below.

The rest of this chapter will focus on how the EU could be considered to possess democratic legitimacy, according to three different suggested alternatives: an intergovernmental democracy of states, a supranational democracy of citizens, as well as a transnational democracy based on values. Two different sub-models will be presented under each model, resulting in different types of democratic polities per the ladder of democracy previously suggested. These unique options for EU democracy may thus differ greatly from nation-state democracy, to which the EU is often compared. In order to do so, the different conceptual models and alternatives will be presented, alongside a discussion on the legitimacy sources needed in order to support these different types of democracy.

Sub-chapter A: ‘Thin Scope’ – A Democracy of States.

Having discussed some concepts relevant for democracy in general, including legitimacy sources, and having presented the ladder of democracy and the definitions that will be used in the following sub-chapters, this first sub-chapter will present the possibility of a democracy of states, and the models for EU democracy that can be based upon this loose definition.

Modern democratic polities are considered to be first and foremost constructed in order to aggregate and integrate the conflicting interests of people into collectively binding decisions (Bang, Jensen and Nedergaard. 2015), but that alone is not enough, as democracy implies that decision-makers must be electorally accountable in some way to its citizens (Fabbrini, 2017).

An often-heard claim is that EU decisions are made by unelected officials not subject to meaningful democratic accountability. This perceived unaccountability, together with a perceived significant distance from the European public, results in subjective democratic illegitimacy (Moravcsik, 2008). Could the European Union be considered democratic, despite this perception? According to the Schumpeterian model, democracy is the rule of the politician, who gains decision-making power via a competition over votes. The often-noted lack of a public sphere and direct accountability make the EU a good platform for such a democracy (Pausch, 2011) which might be possible in the EU. Beyond this minimalist model, could the EU have the capacity for a more substantial democracy? Despite the often-heard criticism, democratic control exists in the EU for nearly every critical decision-maker, usually through the constraints of national governments and parliaments, and through either direct or indirect accountability. The prominence of such national actors raises the question of whether or not the EU is, in fact, a democracy of citizens or states. A point towards the latter could be detected in comparing the Treaty of Lisbon and The American Constitution.

The first paragraph of the US' Constitution reads:

“We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America” (U.S. Const 1787).

In contrast, the preamble of the Treaty of Lisbon opens with a list of the heads of states and reads:

“DESIRING to complete the process started by the Treaty of Amsterdam and by the Treaty of Nice with a view to enhancing the efficiency and democratic legitimacy of the Union and to improving the coherence of its action, HAVE RESOLVED to amend the Treaty on European Union, the Treaty establishing the European Community and the Treaty establishing the European Atomic Energy Community” (Treaty of Lisbon, 2007).

These two preambles demonstrate a sharp difference between the two polities: While the United States is based on a *modus vivendi* of “We, the People”, with an apparent focus on inputs legitimacy and the attempt to solve how people with different interests and identities are assured free and equal access to political decision-making processes, the EU, in contrast, is seemingly based on a *modus vivendi* of “We, the Heads of States”, and output politics, meaning, on how political authorities manage to articulate and implement policies that meet challenges and solve problems in order to enhance the general well-being of the population (Bang, Jensen and Nedergaard, 2015).

Under the theoretical umbrella of “We, the Heads of States”, two distinct types of democratic models are likely to be plausible:

The first, an intergovernmental model, would be based on the EU acting simply as an intergovernmental organisation. According to this perspective, the Union’s purpose would be to promote its member states’ agendas and policies, and therefore, its actions would be legitimated by the agreement of Member State governments, who delegate a part of their sovereignty in order to promote policies more efficiently, as part of the EU.

Ruszkowski (2019) suggests that the delegation of competencies from the Member States onto the European Union happens on the basis of relevant regulations, which are often included in national constitutions, and may be considered sources of democratic legitimacy. Likewise, treaties negotiated and accepted intergovernmentally are another vital element in generating such democratic legitimacy (Ibid).

Not only is the EU, as an intergovernmental organisation, not required to be democratic, as according to this interpretation, this could undermine its purpose (Majone, 1994), but the threshold as to what might be considered democratic would be lower.

Decision-making processes based on qualitative-majority voting or consensus, as agreed upon by the Member States, could perhaps be sufficient for the organisation procedurally democratic. This version of democracy would be based on a simple chain of delegation running from Member State citizens to their governments, representing them in the EU.

This model is in line with the intergovernmental democracy model suggested by Tosiek (2018), by which the basic units in the EU should be the nation-states, and that the EU could perhaps be defined

as a "democracy of democracies". Therefore, this model is based on the presumption that the Member States should be equal and willing to cooperate.

The second model, based on the concept of a mixed commonwealth (Lobeira, 2012), would similarly be based on the Member States as the prime locus of authority and sovereignty. The Union would be less than sovereign and comprised of Member States, which are in turn composed of the citizens of those Member States, where the union would have the function of guiding and coordinating the unionised entities within it. These Member States would act as a grand coalition under the banner of subsidiarity (Endo, 2001), with a weak element of common citizenship or identity.

Indeed, when comparing compliance and legitimating relationships between citizens and governments in different institutional constellations¹⁰, there are apparent similarities between the EU and federalism, although the EU is far more dependent upon its Member States. From the citizens' perspective, compliance is demanded almost exclusively by national agencies, and from the EU's perspective, the compliance that matters is the willingness and ability of its Member States' governments to ensure the implementation of European law (Scharpf, 2009).

In order to be democratic, a polity such as the EU does not necessarily have to base itself on the principle of 'We the People' and input politics. Democracy could alternatively be based on output politics as well, and the EU could thus be considered a democracy of states, rather than of people. This would likely require it to be based on two key factors: democratic procedures and democratic legitimacy.

On the procedural side, the EU would need to base its decision-making processes on democratic procedures, such as democratic voting, while there are several possible sources for democratic legitimacy, including participation, deliberation, accountability, and delegation, according to these models, EU legitimacy would be based on the fact that all actions stem from the legitimate decisions made by Member States as the outcome of Treaty negotiations, and on output legitimacy based on delegated responsibility (Schmidt, 2004). Simultaneously, the EU has institutionalised a decision-making system based on the interplay between the intergovernmental European Council and the

¹⁰ See Appendix 6.

supranational European Commission, with a supervisory role played by the Court of Justice of the European Union (Fabbrini, Ibid).

When examining the EU today, it seems that in internal market policies, the legitimacy of the decisions derives from the horizontal interaction between institutions representing both national governments and European citizens. In contrast, in new policies, legitimacy is derived indirectly from the vertical relations between the intergovernmental institutions and the national parliaments representing national citizens (Ibid).

The debate on indirect democratic legitimacy is not limited to scholars alone, and EU officials have made remarks on this topic. In a 2019 speech, President Donald Tusk discussed the relationship between EU institutions and noted that "To some, the Parliament represents genuine European democracy because of its directly elected Members, while to others it is rather the European Council, because of the strong democratic legitimacy of the leaders. In fact, such disputes make little sense, as both institutions are democratic" (Donald Tusk, July 2019). These two approaches identify different EU institutions as democratic, based on their source of legitimacy: One based on direct legitimacy given to EU officials, and one based on indirect legitimacy, granted by the people, to their governments, and from there, indirectly to the EU.

The vision for EU democracy sees Member States as the basic units of the EU and, therefore, as the sole, or the leading players that influence EU policies and actions directly. While EU citizens may still influence EU decision-making, this would be done mostly indirectly via the nation-state.

The EU Member States and their governments, per this model, are directly accountable to their citizens, and the EU is used to promote the wellbeing of their citizens, and as a vehicle to advance and promote national agendas. This conceptual EU democracy is supported by the fact that output legitimacy remains relevant to European citizens, who place high importance on the capacity of EU policies to solve problems. Thus, policies perceived as beneficial by citizens are considered to possess some legitimacy, and as soon as people feel unfairly disadvantaged by EU policies, they sharply turn against the Union (Schäfer, et al., 2021).

Legitimacy is generated according to these models by the fact that from the perspective of member-state governments, EU membership and compliance to its decisions are justified in terms of their benefits (Scharpf, 2009), and thus, Member States make a rational choice to belong to the Union.

Accepting the notion that the EU may focus on output legitimacy as the basis of its democracy, leaves us with a few options regarding EU democracy: The EU, in that case, could possibly be constructed as a mixed commonwealth or simply an intergovernmental organisation, which could result in an elite-based Schumpeterian democracy. This type of democracy focuses on procedural minimalism and forsakes the notion of democracy as an ideal, rather than a procedure.

Sub-chapter B: 'Medium Scope' – A Democracy of the People?

The first sub-chapter in this part presented a suggested variant of democracy that differs from that common to nation-states, and that can serve as an alternative for EU democracy, as demanded by some EU critics. This possible EU democracy may be considered as too distant from EU citizens. In contrast, a more commonly perceived notion of democracy would require the EU to possess a system of popular control over government policies and decisions, as well as a chain of delegation that is in line with that common to nation-states. This sub-chapter will focus instead on EU democracy which could be called a democracy of the people and is more in line with nation-state democracy.

This perception of democracy would focus on the representation of EU citizens, an effective way for these citizens to influence the decision-making process and hold their elected officials accountable, and would be based on a shared national identity, at least to some extent. Such a democracy could be deemed as 'a democracy of the people', and there are two distinct routes for such an EU democracy may take:

The first, similar to the mixed commonwealth model previously presented, would be based on federalism, and would require the EU to possess a dual chain of delegation, from the citizens to both their governments and federal or supranational actors.

This form of state organisation, which combines shared rule and self-rule, is based on the structural representation of the constituent states in the horizontal decision-making system (Fabbrini, 2017).

Similar to the American or German models of federalism, this would require a shared national identity and representation of citizens on a federal level, combined with state rights to the Member States and with citizen representation within them. In federations formed via the aggregation of previously independent states, as would be the case for the EU, the system of separation of powers guarantees representation and influence to constituent Member States on all policy issues (Ibid)

In fact, the European Union could be said to be increasingly showing federal characteristics (Ibid), though this may be challenged by a lack of a strong sense of identity, as most EU citizens identify themselves primarily based on their Member States (Bang, Jensen and Nedergaard, *ibid*),

Unlike a mixed commonwealth, citizens in an EU federation are expected to have a critical role and a stronger sense of a collective identity. Likewise, EU authority is expected to be based on an integration Union, rather than on the Member States, which would be offered the ability to make internal decisions, while limited by the EU on other issues.

A second route that the EU may take, would be that of a supranational democracy, meaning, that EU Member States would fully cede authority and sovereignty, in order to allow the EU to represent its citizens directly, without the mediation of the Member States. This model could be likened to the democracy commonly found in unitary states, and is likely to entirely shift the role of the Member States in the EU, who may instead take on more regional or cultural roles.

While the previously mentioned federal model accepts a dual sovereignty, that of the federation and the states, in the unitary model, there is only one sovereign state. While the state may distribute certain powers to regional and local actors and become decentralised, the central government can take back the powers that it has given to regions and change or rewrite the constitution. Therefore, sovereignty in such a state rests in the hands of the people of the nation as a whole, represented by their elected officials (Fauzi, Purwadi, Ritonga & Valiev, 2020).

The end-result could range from a system similar to the devolution used in the UK, the decentralized system of administration found in Spain, the administrative divisions found in France, a unitary state with autonomous or semi-autonomous regions, such as Indonesia, to a unitary state such as Israel, where certain cultural groups have different education systems, and a special status is given to different languages.

These two routes differ in several ways, including their primary legitimacy source. While a federal EU is likely to depend mainly, though not solely, on outputs, a purely supranational Union would likely base itself on strong inputs. Regardless of the primary legitimacy sources selected for this version of EU democracy, this model would be based on supranationalism and the acceptance of EU citizens as the demos of the EU.

An issue that must be addressed when examining the issue of this model's feasibility in the EU, is the question of identity. While there is no self-evident relation between national and cultural identity and democracy, for such a democracy to exist, the EU would require a European public sphere and citizenship (Closa, 2003), which is currently limited in scope, or possibly even non-existent in the extent that is required.

Per the bounded integration approach, the EU would be required to construct a nation, and set boundaries and criteria as to the membership in this nation-state in order to impose duties and extract resources from its citizens.

EU citizenship, which is not based on national or ethnic identity, but on a commitment to a supranational and supra-state political community, could be used to legitimise the EU, which would become a community of citizens (Ruszkowski, 2019). a topic which will be discussed in chapter 3.

When examining the contemporary EU through the lens offered by Dahl's approach to democracy as the rule of the people through representation (Dahl, *ibid*), the EU may currently very well suffer from a democratic deficit due to insufficient contestation for political leadership and lack of public argument over the direction of the policy agenda (Follesdal & Hix, 2006).

Follesdal and Hix argue that these aspects, which mark the difference between democracy and an enlightened form of benevolent authoritarianism, are missing in the EU. They further argue that the executive actors are often beyond the control of national parliaments. Not only does the EU possess a weak parliament, per this argument, but the EU also weakens Member State parliaments and allows national ministers and bureaucrats to avoid public scrutiny when making decisions in Brussels (*Ibid*).

This argument is consistent with Dahl's argument that delegation of power may impair democracy in international organisations (Dahl, *ibid*), a claim backed by Rose (2020), who claims that given

structural obstacles to a full democratic representation of its citizens, the European Union is a system with a built-in democratic deficit.

Follesdal and Hix (2006) point out several factors that go further as to explain the democratic deficit in the EU: The European Parliament, a lack of actual 'European' elections that influence EU policy, and the distance of the EU from its citizens, both psychologically and institutionally. Another factor suggested by Follesdal and Hix is that the EU suffers from policy drift, and its policies do not enjoy the support of most citizens in most Member States. These issues represent an organisation with a seemingly problematic chain of delegation, and a flawed system of representation.

These flaws point at a need to restructure the EU while empowering its parliament in order to increase input legitimacy, and become democratic, according to these models. However, is parliamentarism the only way the EU could empower contestation and public argument over the direction of the policy agenda, and gain legitimacy?

According to Petropoulou and Eliantonio (2020), competing conceptions of democracy highlight different principles beyond the parliamentary dimension, which can be used to examine democratic legitimacy, including deliberation, transparency, and accountability. Therefore, there are alternatives through which the EU could be considered to possess democratic legitimacy, despite its weak parliament.

Participation represents one strand of democratic value, and while the majority of democracies are too large to place great weight on direct citizen participation, it remains a possible source for legitimacy. Additionally, as the gap between governments and citizens in most polities are already relatively large, the loss in the ability of individuals to participate directly is less meaningful, and polities may offer opportunities for citizens to exercise influence indirectly (Keohane, Macedo and Moravcsik, 2009).

In recent years, the EU began promoting a participatory dimension to its democracy by including citizens and organisations in shaping EU policies. The European Citizen's Initiative is an attempt by the European Union at utilizing direct democracy, allowing the people to express their will and submit legislative proposals to the Commission for consideration, which may fall under the parameters of input legitimacy (Fermanis, 2014).

Additionally, even without citizens direct participation and its weak parliament, which both result in citizens having less of an ability to influence the EU directly, it is essential to note that voting alone is not enough to legitimate collective decisions, and that decisions must be considered justified by those who are subject to them (Johnstone, 2008).

An alternative source for legitimacy could be found in democratic deliberation, by which decisions should be made via engagement in public debate, argument and reason-giving.

Democratic legitimacy through deliberation and possibly through participation are possible options for EU democracy, as supported by the widespread citizen support for more participation and transparency. According to a RECONNECT Citizen Survey, EU citizens would consider the union to be more legitimate if citizens were granted more participation channels and a better ability to monitor political processes at the European level more closely (Schäfer, et al. 2021).

EU citizens demand more opportunities for effective participation beyond parliamentary elections, with both citizen consultations and referendums seeming to be attractive options. Additionally, the preference for deliberative democratic instruments reveals that the citizens seem to place a high value on transparency and accountability, thus demanding higher input and throughput legitimacy regarding EU governance and that procedures matter to citizens (Ibid). As a reminder, throughput legitimacy is a concept related to efficiency, accountability and transparency, along with the ability to be inclusive and open to consultation with citizens (Bang, H., Jensen, M. D., & Nedergaard, P. Ibid). This suggests that positive outputs alone are insufficient to provide the EU with legitimacy, and alternatives should be examined, particularly in a Union in which representation is not the primary goal. Therefore, a democracy based on throughputs and deliberation will be presented as an alternative in the next sub-chapter, which discusses transnational variants of democracy, which differ significantly from the models of democracy presented in the first two sub-chapters of this part.

Sub-chapter C: ‘Global Scope’ – A Transnational Democracy.

The previous sub-chapters discussed potential models for EU democracy based on people or states as the main focal points. This sub-chapter will introduce an alternative focused instead on peoples and values, rather than people or states, and that will be based on different legitimacy sources.

For the past three decades, there has been an increasing interest in extending democracy beyond the nation-state level. Among the leading theoretical models of such a democracy is cosmopolitan democracy, which focuses on the importance of accountable institutions in the international system. A second leading model is transnational discursive democracy, which is based on a decentralized control over globally consequential discourses, and resonates with the theories of deliberative democracy, stressing communicative action in the public sphere (Dryzek, 2016).

Deliberative democracy is a concept rooted in the idea that discourse should not be affected by power or coercion, and that broadening the scope of political accountability through deliberation forces public officials to consider the interests of citizens and not citizens alike (Johnstone, *ibid*).

Another similar important aspect of EU democracy that should be discussed, is the organisation's impact on democracy in Member States and beyond its borders, which resembles the previous aspect, since according to this view, democracy is measured not only by its relationships and effects on internal actors, but also on external actors that are outside its immediate scope.

An important argument made by Pevehouse (2002) is that while democracy is often seen as the outcome of domestic political processes that are not influenced by external actors, regional international organisations can be associated with democratic transitions and consolidation. Thus, the European Union may contribute to democracy by placing conditions on membership associated with external pressure and by improving the quality of the existing democratic regimes, including through enforcement on Member States that break the democratic conditions of membership (*Ibid*). It should be noted that democratic governance is a primary requirement for EU membership, and in 1962, a year after Britain first applied to join the EEC, Spain, another applicant was rejected unanimously for not being democratic at the time. To become a member, an applicant must demonstrate the existence of a stable government guaranteeing democracy, the rule of law, human rights and the protection of minorities. Several previous applicants did not meet these criteria and were required to make changes before their application could be accepted. The EU could therefore be defined as a political club of democratic regimes (Bugarič, 2014), and the rise of some levels of illiberalism in some Member States represents a challenge for the organisation.

The case of Hungary, in particular, offers an example of the limited ability of the EU to effectively prevent democratic backsliding, and on how the EU loses a great deal of its leverage on countries once they become Member States. The EU has several instruments in its toolbox for this purpose, though these are often considered insufficient (Ibid).

As a result, in October 2020, the European Parliament adopted a decision proposing the “the establishment of an EU mechanism on democracy, the rule of law and fundamental rights”, “consisting of an Annual Monitoring Cycle on Union values” (European Parliament, October 2020). This decision acknowledges that while the EU is “founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights”, and “has codified in its accession criteria that Union membership requires that a candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities”, it “lacks effective tools to enforce those criteria once a country has become part of the Union” (Ibid).

Additionally, the decision notes that “the preceding decade has seen brazen attacks against Union values in several Member States”, and that such “breaches of the values referred to in Article 2 TEU, without proper response and consequences at Union level, weaken the cohesion of the European project, the rights of all Union citizens and mutual trust among the Member States” (Ibid).

The decision also states that “Union institutions are to maintain an open, transparent and regular dialogue with representative associations and civil society at all levels”. It also stresses the importance of involving different stakeholders, including members of the civil society, EU institutions and national organisations and institutions “in the protection and promotion of democracy, the rule of law and fundamental rights”. The decision also emphasises “the urgent need for the Union to develop a robust, comprehensive and positive agenda for effectively protecting and reinforcing democracy, the rule of law and fundamental rights for all its citizens”, in order for the EU to “remain a champion of freedom and justice in Europe and the world” (Ibid.)

This decision focuses on democratic values and on a dialogue with different levels and types of actors, which supports a transnational perspective, which appears to be on par with the post-

nationalist approach, and its focus on civic channels, transparency and participation, rather than on Member States and on national identity.

According to Bugarič, in order to make EU interventions in such cases as Hungary legitimate, the EU must be perceived not simply as an economic union, but as a political community of non-negotiable values, supported by adequate instruments that could be applied to protect them, including through sanctions when the edifice of democratic institutions “comes crashing down”. Among such key instruments is the ability to expel Member States, which would help better define the boundaries of the EU, and assert that there is no place in the EU for countries where democracy and the rule of law cease to function (Bugarič, *ibid*).

Despite current deficiencies in the EU's ability to intervene to protect democracy in such cases, multilateral institutions such as the EU can enhance the quality of national democratic processes in developing and well-functioning democracies alike. This may be done in several ways, including the restriction of powers held by special interest factions, empowerment of minorities, protection of individual rights, improvement of the quality of democratic deliberation, while at the same time increasing capacities to achieve important public purposes (Keohane, Macedo and Moravcsik, 2009). As previously mentioned, the EU's effect on countries beyond its borders is also relevant for the discussion on democracy. Beyond its efforts to protect democracy within its borders, the EU also attempts to support democratic movements in neighbouring countries. In 2009, as part of this endeavour, the Eastern Partnership was formed to strengthen democracy in Belarus, Ukraine, Moldova, Armenia, Azerbaijan and Georgia, and specifically in order to protect these countries from Russian interference, while promoting democracy and the rule of law in the EU's Eastern neighbourhood (Freudenstein, 2021).

Additionally, for some years now, the EU has been targeting civil society organisations in Russia directly, though to a limited extent, in order to promote projects related to democracy and human rights, including through the European Instrument for Democracy and Human Rights and the Non-State Actors and Local Authorities in Development, further pointing out that the EU aims at democratization not only within its political boundaries, but beyond them (Tafuro, 2013).

This foreign policy can be seen in a Council of the European Union decision from 2020, in which the council adopted the EU Action Plan on Human Rights and Democracy 2020-2024, while reaffirming "the European Union's strong commitment to further advancing universal values for all", and stating that "Respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights will continue to underpin all aspects of the internal and external policies of the European Union" (Council of the European Union, November 2020).

The decision also states that "The EU and its Member States will use the full range of their instruments"... "to further strengthen EU global leadership on"... "protecting and empowering individuals; building resilient, inclusive and democratic societies; promoting a global system for human rights and democracy; harnessing the opportunities and addressing challenges of new technologies; delivering by working together" (Ibid).

In order to achieve these goals, the decision lists several instruments, including: "political, human rights and sectoral policy dialogues with third countries and regional organisations", "human rights and democracy country strategies", and "actions in multilateral and regional human rights fora: EU-led thematic and geographical resolutions that address a wide range of human rights issues, support for other relevant resolutions, EU statements and interventions, participation in interactive dialogues, public debates and briefings, events in support of human rights and democracy" (Ibid).

These actions taken by the EU, prompt further examination of the concept of democracy beyond the nation-state's borders. Democracy should thus be examined on a global, or at the very least regional level, acknowledging the possibilities for the democratisation of the global system.

Archibugi (2004) raises several points on the globalization of democracy towards a cosmopolitan democracy, an expansion of democracy both within and beyond the nation-state. He makes these seven assumptions that will aid in examining the EU via this lens:

First, democracy is to be conceptualized as a process rather than a set of norms and procedures. This process of democracy is unfinished and far from having reached its conclusion (Ibid). According to this substantive view on democracy, procedural elements might not be necessary to produce a democratic system in an international organisation. As democracy continues to change and evolve,

the EU might be considered the next step in the development of democracy, which may be very different from nation-state democracy, and rely on different sources for its legitimacy.

Second, the absence of a peaceful international climate hampers democracy within states, while inhibiting freedoms and citizen rights (ibid). Therefore, in light of the EU's goal of preventing war in the continent and its commitment to safeguarding civil rights, the EU is likely to empower democracy in its Member States and beyond them.

Third, the presence of democratic institutions hinders the ability of governments to engage in war and risk the life and welfare of citizens (Ibid). While democratic states do not necessarily apply the same democratic principles and values to their foreign policy, states tend to nourish greater respect for rules when they are shared among a community, and the participation of states in international organisations and transnational associations may lead them to apply these principles beyond their borders. The EU, as a normative power (Manners, 2002), indeed relies on shared political, economic and cultural ties in order to promote democratic principles and norms through soft power, both in its Member States and beyond its borders. This may be seen in its actions to promote norms in neighbouring countries, including Russia (Veebel & Markus, 2018), its use of soft power in its relationship with Israel, which includes barring the allocation of EU funds to Israeli entities within the Occupied Territories (Pardo, 2015), and the EU's attempts to promote human rights values in its relations with other actors (Noureddine, 2021).

Fourth, global democracy is not simply the expansion of democracy, but the democratization of the international system as well as of its individual Member States (Archibugi, ibid). The EU is a multi-tiered system of governance, combining democracy at the national and regional levels. These different levels do not necessarily require equal or even similar procedures and legitimacy sources.

Fifth, globalization erodes states' political autonomy, requiring different political communities to deliberate together on matters of common interest (Ibid). The EU is a prime example of such collaboration and deliberation, allowing Member States and various interest groups within the Member States to work together with those beyond their national borders.

Sixth, stakeholder communities do not necessarily correspond with national borders, and many issues are regional or even global (Ibid). For this reason, there is a need for collaborations between

different parties, and even at different levels. The European Union is a product of this need, and the organisation allows its Member States to remain effective on regional and global issues.

Seventh, globalisation brings people and social movements together, and there is an emergent international public sphere (Ibid). Here, too, there is a need for collaboration between different states, as no single state can effectively deal with global or regional problems. The EU allows both nations and individuals to address crises, social matters, and deal with identity conflicts created by globalisation, while bringing together communities from different countries, united by common causes and values, rather than by national identity.

Indeed, the promotion of democratic values is a cornerstone of EU policy, and the EU appears to be an active agent in this regard. The organisation places a high value on democratisation and respect for human rights, as well as on the construction of a safer and more prospering international environment that goes beyond its original purpose, and far beyond other Western actors, such as the US, on various issues, such as global warming, despite having similar economic concerns. The organisation's attitude and the discourse that it promotes also appear to refer to different principles than those held by the US, and the EU, more than any other international actor, has developed the legal basis and the required set of tools for promoting human rights and democracy, both in Member States and globally (Lucarelli & Manners, 2006).

Another example of this EU policy, beyond its actions in neighbouring countries, could be found in a 2019 Council decision which notes that "One of the aims of the European Union's external action is to advance democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms", and that "It remains highly important to ensure the coherence of the EU's internal and external policies. As underpinned by the EU Global Strategy, supporting democracy, human rights and the rule of law externally is also in the Union's strategic interest, contributing to the EU's Common Foreign and Security Policy", including through strengthening the rules-based, effective, transparent and accountable multilateral system", promoting "accountable institutions and inclusive and participatory decision-making", creating "the conditions for sustainable peace and security and preventing violent conflicts through participation and accountability", and through

the construction of "inclusive and resilient democratic societies capable of creating opportunities for their populations " (Council of the European Union, October 2019).

In order to do so, the council agreed to "further develop a common and practical response based on a close cooperation between the EU institutions and Member States to these challenges", including through the strengthening of "the capacities of parliaments and (in a non-partisan manner) political parties, on national and sub-national levels, to play their essential role in democratic societies", supporting "international and local civil society and its enabling environment, as an essential pillar of a pluralist and inclusive democracy", increased "inclusiveness and credibility of the electoral process", the promotion of "greater transparency of democratic processes", and the strengthening of "e co-ordination with multilateral, international and regional organisations" (Ibid)

The EU, through the promotion and the safeguarding of democratic values, and through its ability to facilitate collaboration, appears to have a net positive effect on democracy in Europe and, likely, on a global level, in several ways, but might that enough for the EU to gain the necessary democratic legitimacy to be considered itself as democratic?

Falling back to Dahl's (1999) democracy as a system providing an extensive body of fundamental rights, freedoms, and opportunities that are necessary for the functioning of democratic institutions, as well as of those values that tend to develop when governing democratically, the EU could perhaps be considered Europe's most outstanding achievement. This political structure rooted in human rights and the rule of law, fraught by the contradictory pressures of globalisation and nationalism, is built on solving common problems, enjoying joint governance in light of common threats, and on a commitment to principles and procedures that can create peace, unity and freedom in a diverse world: democracy, social justice and human rights (Held, 2016).

The EU's ability to promote, support, sustain and safeguard the rights necessary for the functioning of democracy and those that tend to develop when governing democratically could, therefore, be enough to deem it democratic according to this perception, as long as the organisation is considered to be legitimate, accountable, and offers some procedural electoral decision-making mechanisms.

Ruszkowski (2019) suggests, therefore, that EU democracy may be the result of the community values upheld by the EU, primary among them are: subsidiarity, solidarity, protection of human

rights and minorities' rights, and plurality. The EU promotes and protects individual rights and acts as a defender of human rights and minorities. These values and actions concern different actors in Europe, such as Member States, regions, towns, and groups of people, while they also possess a European and a global dimension.

From the perspective of member-state governments, membership in the European Union would therefore be justified in terms of its contribution to peace and democracy on the European continent (Scharpf, 2009). Likewise, the EU's ability to promote values that EU citizens consider significant, such as human rights and the rule of law, may, in fact, provide it with democratic legitimacy.

Dryzek (2006) notes that transnational discursive democracy is not an electoral democracy, and instead, it resonates with theories of deliberative democracy stressing communicative action in the public sphere. In contrast, he suggests that cosmopolitan democracy favours an international system densely populated by institutions that both secure order and are democratically accountable in a direct fashion, and not through the mitigation of states (Ibid).

While these competing theories were formulated with the idea of global democracy, they are suitable for a polity such as the EU and offer two alternative visions for a transnational EU democracy, one based on institutions that are built on and promote democratic values, and one that focuses on a democratic process and deliberation.

Held (2006) suggests that cosmopolitan democracy might be developed by deepening and extending democracy across nations, regions and networks, which would involve the development of administrative capacity and independent political resources at regional and global levels in order to complement local and national polities. This would require the creation of political institutions that would coexist with the system of states but override them in activities that demonstrate transnational and international consequences, and construction of avenues of civic participation and deliberation. Held (Ibid) notes that a polity based on such transnational democracy would need to command widespread agreement and generate consensus among different actors, including states, citizens, and social movements, through consultation and deliberation. Three core issues need to be addressed: Who is to be represented, government or citizens? What would be the principle of

representation, one state, one vote? Proportional representation? A mixture of both? Finally, what are the proper scope and limits of action of this political organisation? (Ibid)

While Held raises these questions regarding a global assembly, these questions are relevant to transnational democracy in the EU, as both global and regional actors have similar cross-national issues, including their composition of multiple states, multiple peoples and transnational networks. The European Citizens' Initiative, which was previously suggested as a tool for increasing input legitimacy, may, in fact, be seen as a tool for generating throughput legitimacy in transnational democracy. Throughput legitimacy, recall, bridges between inputs and outputs, and focuses on the quality of governance, which is derived from both a participatory-orientated legitimacy and a performance-orientated legitimacy of output. Throughput legitimacy may be broken down into two categories: "institutional throughput", which refers to accountability, transparency, openness and inclusiveness, as well as "constructive throughput", which refers to the deliberation of policies and ideas in order to convey and justify decisions politically (Fermanis, *ibid*).

First introduced in the Treaty of Lisbon as a means for strengthening citizen participation, this process does not allow the citizens to legislate and cannot be seen as a vote. Instead, it allows the citizens to request legislative proposals from the Commission. Throughput legitimacy is thus secured through the interaction of civil society and citizens, via citizen committees, with the European Parliament and Commission" (Fermanis, *ibid*).

Additionally, it is also important to note that this process not only gives EU citizens the tools to exercise their rights across borders, it, in fact, requires transnational support and the cooperation of citizens in seven Member States through a citizen committee in charge of the initiative. The success of such initiatives thus hinges on transnational networks and transnational debate in the European public sphere (Conrad, 2011).

Likewise, the EU has been aiming further to increase the involvement of citizens in direct engagements, and another example of this may be found in the Conference on the Future of Europe, which was announced in 2019 and aims to offer European citizens the opportunity to debate on Europe's challenges and priorities. In 2020, the European Parliament passed a resolution that

stressed that “despite the pandemic, the direct engagement of citizens, civil society organisations, social partners and elected representatives must remain a priority of the Conference” and that the European Parliament is “looking forward to starting the Conference so as to build a more democratic, more effective and more resilient Union together with all EU citizens” (European Parliament, June 2020). It is important to note that the conference offers European, national, regional and local authorities, civil society organisations and citizens the opportunity to contribute.

Under the global scope and the umbrella of transnationalism, the EU could thus be based on either transnational discursive democracy or cosmopolitan democracy. While there are similarities between these competing models, they each have a different purpose and, therefore, would be based on different sources of legitimacy, and are likely to produce a different type of EU democracy.

Transnational discursive democracy is expected to focus more on the ability of citizens, states, networks and regional actors to communicate and participate in the democratic process and, therefore, would be based on input and throughput legitimacy. This is expected to result in deliberative or participatory democracy.

Cosmopolitan democracy, on the other hand, is expected to focus on the promotion of democratic values, while basing itself on a mixture of outputs and throughputs, and possibly resulting in a liberal or a social democracy.

A transnational democracy, under these models, could derive its legitimacy from the effectiveness of its policy outcomes, meaning, its success in promoting such values, or through its legitimacy from the quality of its governance processes, particularly whether the EU is accountable, transparent, inclusive and open (Schmidt & Wood, 2019) on how it works towards achieving policy outcomes.

This chapter contributed to the discussion by expanding the theoretical foundation through a focus on democracy, and presented the different scopes and democratic models, while providing with some preliminary analysis regarding their relevance according to decisions and actions taken by the organisation. This will be examined and analysed regarding the case-study in the next two chapters.

Having presented different models for EU democracy, the next chapter will focus on the concept of ‘demos’, and subsequently, identity and the integration process, EU citizenship, and Brexit, in order to offer a more complete picture on the feasibility of EU democracy.

Chapter 3: The Demos

Chapter 2 focused on the topic of democracy, both in general and particularly regarding the models used in this thesis. The chapter presented key concepts needed in order to understand EU democracy and offered alternatives for how this sort of democracy could be constructed, based on intergovernmentalism, supranationalism and transnationalism.

This chapter will continue the discussion on the feasibility of European democracy and how this democracy can be constructed by further presenting concepts needed in order to analyse the case-study and conclude on the matter of the feasibility of democracy in the EU. This chapter will focus on integration and disintegration, and will introduce the case-study used to support the analysis.

In order to better understand which of the models suggested in the previous chapters may be relevant for the EU, it is essential to understand the relationship between the European Union, the Member States and EU citizens. Therefore, this chapter will focus on these relationships from different angles, including an examination of the integration process and the concepts of identity and citizenship. These topics may shed light on who the basic units of the EU are, an imperative factor in the models suggested in this thesis.

This chapter will also present Brexit, its effects on the UK and EU citizens, and the importance of disintegration in this discussion. A fundamental issue that will be presented in this regard, is the meaning of the ability of member states to withdraw from the European Union, including this ability's effects on EU citizens in particular, and on EU democracy in general.

In order to first begin the discussion on EU demos, the process of European integration must be presented not only regarding the changes in EU institutions and purposes as was previously described, but also in the context of its effects on sovereignty and identity.

Following the presentation of these topics, the concept of European citizenship will be explored, particularly concerning its relationships with nation-building and democracy, as these are critical for the bounded integration perspective, and the supranational models.

After these concepts are presented, the case-study will be examined in detail, to further add to the discussion on EU democracy, as a result of recent events that are consequential to EU democracy and the discussion on democratic legitimacy.

The chapter is constructed as follows: Sub-chapter A presents the European integration process and the concept of a European identity. Sub-chapter B focuses on the European citizenship, which has important implications for EU democracy. Finally, sub-chapter C discusses the case-study, Brexit.

Sub-chapter A: Identity and Integration

In recent years, European integration has become synonymous with peace and prosperity. However, nothing was inevitable about this process, as politicians are averse to sharing sovereignty, and national politicians do so primarily when they perceive that it is in their countries' interests to do so. Despite an apparent public concern about European integration, it is still generally accepted by EU citizens, as it is considered worthwhile compared to less attractive alternatives (Dinan, 2014).

A significant difference between the nation-state and the EU stems from the fact that, unlike nation-states, the EU is not based on geographical boundaries, but on cultural elements. Article 49 of the Treaty on the European Union states that "any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union" (Treaty on the European Union, 1992).

While limiting admission to European countries may appear to be a geographical criterion, this may, in fact, be a limitation can be read as geographical, cultural or political, and prior events such as the attempted applications of Morocco and Turkey support the claim that this criterion is subject political assessment (European Parliament, 1998). Kylstad suggests that by not defining what a 'European State' is, while enforcing political and value-based criteria, the EU, in fact, embraces the notion that 'Europe' is not a fixed territory, but an idea (Kylstad, 2010).

The values on which EU membership is based include respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. The article also notes that these values are common to the Member States in a society where pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail (Ibid).

Additionally, Article 50 of the Treaty of Lisbon outlines the legal mechanism for withdrawing from EU treaty obligations. It states that each Member State may withdraw from the EU per its own constitutional requirements, by notification to the European Council (Treaty of Lisbon, 2007).

The article states that a member state which decides to withdraw shall notify the European Council of its intention, and that the Union shall negotiate and conclude an agreement with that state, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union (Ibid).

European integration has affected and transformed the sovereignty of the Member States (Tokár, 2001). The rise of globalization and issues that do not correspond with national borders, together with multi-tiered governance, stress the importance of considering whether competencies given to an international organisation that does not have to justify its actions directly to citizens, may be considered democratic.

Political players should not be exempted from justifying that their actions are compatible with the essence of democracy, and each political player must come to terms with other actors when competencies overlap. Archibugi (2004) claims that the use of the concept ‘sovereignty’ should cease, and that conflicts concerning the issue of competence arising from the different levels of governance, should be solved within the domain of global constitutionalism.

Kumm (2013) distinguishes between “Big C constitutionalism” and “Small c Constitutionalism”, and claims that the first, is based on the domestic level and involves a “We the People” establishing a constitutional framework of self-government within the framework of the sovereign state. “Small c constitutionalism”, on the other hand, is based on less centralized, more fragmented legal practices that are without reference to either “We the People” or a sovereign state.

The EU has successfully resolved overlapping competencies through small c constitutionalism, through exclusive competencies, shared competencies, supporting competencies and special competencies, under the principles of Subsidiarity, Proportionality and Conferral.¹¹ Wiener et al (2012) state that the EU could be considered the most successful example of constitutionalisation, based on constitutional law and constitutionalism as the dominant language of its politics. They point at the ECJ issuing a judgement *Kadi and Al Barakaat* that highlighted the constitutional dimension that results from the interaction between different political and legal arenas and reiterated

¹¹ See Appendix 3.

the centrality of the rule of law in protecting human rights. This case, they state, demonstrates how the interaction between different political and legal orders impacts individuals' fundamental rights and is thus a good example of how constitutional questions are emerging beyond the state.

Beyond the EU's effects of sovereignty and constitutional questions and going further beyond how the EU and European integration is perceived by national politicians and EU citizens alike, this process also affects how they perceive themselves.

Per the bounded integration perspective, it is essential to examine whether the EU has succeeded in creating boundaries to membership in the organisation, in a way that is similar to the nation-state, via a collective identity and the existence of a European people.

There are different ways by which belonging to the EU has increasingly become normalised within its citizens' lives. Among them is the growing consensus among the elites that European identity is about cosmopolitanism and diversity. While this identity was once mainly limited to European elites, there is some evidence that it has become a more general identity in recent years (Leith, Sim, Zwet and Boyle, 2019). Despite this change, it would be difficult to claim that there is an integrated demos in the EU. Instead, it could be said that it is composed of an interconnected and polyvalent demoi, while nation-states and national identities are still clearly still dominant, as the vast majority of EU citizens do not identify themselves primarily as Europeans (Bang, Jensen and Nedergaard, *ibid*), but also as Europeans, in addition to their national identities.

It is important to note that a demos is more than a mere aggregation of individuals, and there has to be some sense of community for democracy to have any meaning per this approach. Without understanding the mechanisms that limit or prevent a European demos from materializing, it is hard to gauge the chances of transcending the nation-state as the prime locus of political identification (Cederman, 2001). Modern political socialization requires mechanisms such as a high language, modern media institutions, and identity-conferring projects to create and maintain cultural boundaries. Not only are these identity mechanisms lacking or completely absent in the EU, but the continued presence of most of these mechanisms in nation-states, makes supranational identity formation difficult, as national identities are unlikely to change drastically once "locked" (*Ibid*).

Alternatively, the Habermasian post-nationalist perspective, by which globalisation renders the nation-states partially obsolete as the locus of effective and democratic decision-making, promotes a “thin” political identity while redefining the notion of democracy itself. This approach focuses on deliberative democracy, meaning a collective decision-making process that includes the participation of all who will be affected by the decision or their representatives through arguments offered by and to participants who are committed to the values of rationality. This approach places high hopes that democratic processes could lead to community-building, and thus democracy could be detached from the nation-state. Post-nationalist community-creating processes include various associative, electoral and civic mechanisms (Ibid).

Associative mechanisms focus on the deliberative dimensions of democratic governance, including transparency in multi-level policy-making networks. Electoral mechanisms aim to modify existing institutions in order to enhance political representation. Finally, The civic channel aims at the infrastructures of democratic governance: the demos and the notion of European citizenship and its relationship with its national counterpart (Ibid).

Identity alone, per this approach, is not enough to act as the foundation of democratic governance. The existence of European citizenship, the makeup of such, its relationship with national citizenship, and the EU’s relationship with non-citizens will serve as important tests for the feasibility of democracy in the EU and will be thoroughly presented in the next sub-chapter.

Sub-chapter B: The European Citizenship

The previous sub-chapter focused on European integration and how it has transformed the sovereignty of the Member States, and how it resulted in some changes in the identity of EU citizens. The sub-chapter also discussed the bounded integration and post-nationalist perspectives, and suggested that the EU lacks sufficient identity mechanisms in order to form a supranational identity, as needed by the bounded integration perspective.

This sub-chapter will instead focus on the concept of citizenship, and European citizenship, which is another topic important for the discussion of EU democracy, as should such a democracy exist, it is essential to understand who its citizens would be, and therefore the members of the polity. The

different approaches to citizenship will also be discussed in detail in chapter 4, as different models would depend on different approaches to citizenship.

Modern civil, political, and social definitions of citizenship were developed in the West during the eighteenth, nineteenth, and twentieth centuries, respectively. Liberal democracies were thus developed under the assumption that the state should be a neutral arbitrator, recognizing citizenship as a universal category that provides no privileges to specific cultural meanings, religious practices, or lifestyles (Nielsen, 2012). Citizenship can be examined from a functional and non-functional perspective. The first approach refers to an individual's membership of a political community, while the second concerns a sense of cultural identity (Rostek & Davies, 2006).

One major difference between the EU and the nation-state concerns the issue of citizenship. Unlike nation-states, EU citizenship, while formally constitutionalised in the Union's treaties, is dependent upon a national gateway to membership (Shaw, 2018), and thus has been described as parasitic upon national citizenship (Rostek & Davies, *ibid*).

The concept of European Citizenship was first introduced in the Treaty on European Union of 1992 to protect the rights and interests of the Member States' citizens and could be said to be growing increasingly critical (Adashys, 2020). The treaty states in its preamble that the plenipotentiaries are "resolved to establish a citizenship common to nationals of their countries". Article B in Chapter 1 notes that Union shall set itself as an objective "to strengthen the protection of the rights and interests of the nationals of its Member States through the introduction of a citizenship of the Union". Article 8 of Part Two states: "Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union", while listing several rights and duties of EU citizens (Treaty on the European Union, 1992).

Therefore, European identity is perhaps currently better defined in terms of culture rather than citizenship, as European citizenship is derivative of the national one and does not offer an alternative to national citizenship (Delanty, 1996), though perhaps that is not required.

EU citizenship is often compared to its national counterpart, which often results in it being found as incoherent, insufficiently inclusive and lacking in democratic legitimacy. The EU, as previously mentioned, is a multi-layered system of governance, consisting of supranational institutions, as well

as the national parliaments and governments of the Member States. As the EU Treaties clearly have spelt out since the 1997 Treaty of Amsterdam, EU citizenship is complementary to Member State nationality, and national citizenship is a constitutive element of EU citizenship (Bauböck, 2014).

Individual membership in the EU polity is determined neither by birthright, nor by residence, but is derivative of member-state nationality. While Member States retain control over the acquisition and loss of EU citizenship, EU citizens are granted transnational rights, including free movement within the EU, residential and employment rights, and participation of second country nationals in local and European Parliament elections. However, these EU citizens are currently excluded from political representation in their host country national government (Bauböck, 2014).

As a reminder, there are three alternative approaches for strengthening democratic citizenship in the EU: The "statist," "unionist," and "pluralist" approaches (Bauböck, 2007).

Current EU citizenship status is considered insufficient by scholars (Closa, 2003) as an institutional foundation of an EU democracy and a supranational democracy would depend on European citizenship becoming recognised and valued by citizens (ibid). The statist approach opts for a citizenship model that would reflect the principles applied within contemporary federal democracies. The unionist approach aims to strengthen EU citizenship by making it more important for its bearers and more inclusionary for residents. Finally, the pluralist approach, on the other hand, includes no general commitment to strengthening the concept of EU citizenship and instead seeks to apply norms of democratic legitimacy at both levels and balance these concerns where they conflict (Bauböck, 2007). These different approaches will be further discussed in chapter 4.

Additionally, Risse (2014), also points out that the British public sphere, in particular, was also the least Europeanized within the EU, having only a few transnational linkages, as discussed concerning Brexit. European integration had thus resulted in a democratic dilemma: citizens' ability to exercise democratic control over the decision-making versus the capacity of the system to respond satisfactorily to the collective preferences of its citizens (Closa, 2003).

This question was raised by the German Federal Constitutional Court, which examined the democratic legitimacy of the European integration process in 1993, and ruled that: "The democratic legitimation of both the existence of the inter-governmental community, and of the powers of that

community to enter into majority votes which are binding upon the Member States, is based on an Act of Consent to such a compound of States. The majority principle is, however, restricted by the constitutional principles and the fundamental interests of the Member States, which, pursuant to the principle of mutual consideration arising from allegiance to the community, must be respected.

b) The principle of democracy does not, therefore, prevent the Federal Republic of Germany from becoming a member of a compound of States which is organised on a supranational basis. However, it is a precondition of membership that the legitimation and influence which derives from the people will be preserved within an alliance of States.

b1) According to its own definition as a union among the peoples of Europe (Art. A, para. 2), the European Union is an alliance of democratic States which seeks to develop dynamically (see Art. B para. 1 final indent; Art. C para. 1 of the Maastricht Treaty); if it performs sovereign tasks and exercises sovereign powers, it is in the first instance the peoples of the individual States which must, through their national parliaments, provide democratic legitimation for such action (German Federal Constitutional Court, 1993). Additionally, the ruling states that: “the Maastricht Treaty establishes a compound of States for the creation of an ever closer union among the peoples of Europe, which peoples are organised on a State level (Art. A), rather than a State which is based upon the people of one State of Europe”, and that “The Member States have established the European Union in order to perform some of their duties and to exercise some of their sovereignty jointly” The ruling continues: “Art. F, para. 3 of the Maastricht Treaty does not empower the Union to acquire by itself”... “means it believes it requires to attain its objectives” (ibid). According to this view, the very notion of European demos is rejected. While European integration may involve a certain transfer of state functions to the EU, this is done through international treaties, answerable to national parliaments, and not through the redrawing of political boundaries. This leaves citizenship as the exclusive domain of Member States, who legitimate the EU (Weiler, 1996).

This ruling supports the rational institutionalist approach, by which the EU is a collective decisions tool for the member states, acting as rational actors to advance their agendas by shaping EU institutions in a way that supplements their ability to promote policies. At the same time, this ruling

also rejects the bounded integration perspective, as it implies that the EU does not create the boundaries for membership in the organisation.

As a result of lacking identity mechanisms, the development of a supranational European identity is hindered, and it is not surprising that the past two decades have seen a reversal of Europeanization and a perceived legitimacy crisis (Cederman, *ibid*), as socio-cultural and political Europeanization appear to be lacking popular appeal (Rensmann, 2019). This crisis may be seen as one of the reasons for Brexit, as one of the major themes throughout the Brexit campaign was the relationship between European and national identities, particularly the suggestion that a European identity had begun to threaten a British one (Leith, Sim, Zwet and Boyle, 2019), and therefore undermine democracy.

Brexit's effects on British and Non-British citizens alike are meaningful for the discussion on the existence of EU democracy at the moment and the feasibility of one in general. Notably, its impact on EU citizenship status and the rights of former and current EU citizens are important matters presented in the next sub-chapter.

Sub-chapter C: The Brexit and Separation

The previous two sub-chapters focused on the concept of European integration, and particularly, on identity and citizenship, while presenting the case that current EU citizenship and existing identity mechanisms in the EU, many not be sufficient in order for democracy to exist, should it be founded on similar foundations to that common to the nation-state, or, as presented in this thesis, on supranational models.

This sub-chapter will focus instead of disintegration, as presented by Brexit. Here, I will discuss the case-study and make a preliminary analysis that will continue in chapter 4.

Britain has long had one foot in the EU and the other outside of the organisation, earning the description of 'an awkward partner'. The relationship between the UK and the organisation was characterised by tension, and later, following the country's membership in the organisation, by the use of vetoes, while standing out as an alternative to the direction and ideas of European integration (Oliver, 2015). More on the UK's relationship with the EU, and the origin of the country's policy towards it could be learned from Winston Churchill's speech on the Schuman Declaration of 1950:

“I cannot conceive that Britain would be an ordinary member of a Federal Union limited to Europe in any period which can at present be foreseen. We should in my opinion favour and help forward all developments on the Continent which arise naturally from a removal of barriers, from the process of reconciliation, and blessed oblivion of the terrible past, and also from our common dangers in the future and present. Although a hard-and-fast concrete federal constitution for Europe is not within the scope of practical affairs, we should help, sponsor and aid in every possible way the movement towards European unity. We should seek steadfastly for means to become intimately associated with it” (Churchill, HC Deb 1950). Churchill continues: “No one can contend that sovereignty will be affected by our participation in the discussions in Paris which are the subject of our Motion and the Amendment tonight” ... “We are asked in a challenging way: ‘Are you prepared to part with any degree of national sovereignty in any circumstances for the sake of a larger synthesis?’” ... “The Conservative and Liberal Parties say, without hesitation, that we are prepared to consider, and if convinced to accept, the abrogation of national sovereignty, provided that we are satisfied with the conditions and the safeguards” (Ibid).

Churchill, who is recognised as one of the founding fathers of the EU, despite the UK not belonging to the “Inner Six”, the original group of member states who founded the European Communities (Troitiño & Chochia, 2015), offered in 1950 a glimpse into UK policy towards the EU that could perhaps be said to have lasted since then, through the UK’s membership in the organisation, and up to Brexit. On the one hand, the UK was willing to support joint endeavours in the continent, but on the other hand, it rejected full integration and the federalist vision for the EU. While the UK was willing to surrender some national sovereignty, this was done with clear limits and conditions. The UK had always considered itself somewhat of an outsider to continental players in Europe, and as a global actor of its own. Therefore, in other speeches, Churchill had demanded greater power to the UK in the European polity, as well as the right to withdraw from the EU in accordance with national interests (Troitiño & Chochia, *ibid*), as membership in the organisation was perceived, per rational institutionalism, simply as a means to an end for the UK.

In recent years, the topics of UK sovereignty and the price-tag of UK membership in the EU have become an important debate in UK politics. It did not come as a surprise that in 2013, in light of the

rise of Euroscepticism in British politics and particularly in the Conservative Party, UK Prime Minister David Cameron pledged to hold a referendum on the membership of the UK in the EU should the Conservatives win the upcoming elections.

In 2015, Prime Minister Cameron gave a speech on the future of the UK, Europe and the relationship between the two. In his speech, the Prime Minister stated that “The European Union needs to change”, including in the area of “greater democratic accountability to national parliaments” (Prime Minister David Cameron, 2015). The EU, according to Prime Minister Cameron, is seen “as a means to an end, not an end in itself”, and as an “instrument to amplify our nation’s power and prosperity – like NATO, like our membership of the UN Security Council or the IMF” (Ibid). Prime Minister Cameron continues and lists several issues in the EU that must be fixed, and states that there needs to be “a British model of membership that works for Britain and for any other non-Euro members”, as “The European Union is a family of democratic nations whose original foundation was – and remains – a common market” (Ibid).

Likewise, on the issues of democracy, legitimacy and sovereignty, the Prime Minister stated that “The commitment in the Treaty to an ever closer union is not a commitment that should apply any longer to Britain”, and that the British vision for Europe is that of a “a flexible union of free member states who share treaties and institutions, working together in a spirit of co-operation”, in order to advance their shared prosperity, and protect their citizens. Prime Minister Cameron claimed that this “vision of flexibility and co-operation is not the same as those who want to build an ever closer political union – but it is just as valid” (Ibid). He continued and stated that “It is national parliaments, which are, and will remain, the main source of real democratic legitimacy and accountability in the EU”, and that “We also need to address the issue of subsidiarity – the question of what is best decided in Brussels and what is best dealt with in European capitals” (Ibid).

Prime Minister Cameron’s speech mirrors Churchill, who expressed the willingness to participate in the EU, cede some level of sovereignty in order to better serve UK interests, while at the same time demanding a unique position for the UK in the organisation. Likewise, this speech serves as a prime example of the UK’s approach towards the EU, EU democracy and additionally to democracy as a whole. According to the British point of view, as expressed here, democracy is founded on input

legitimacy and national parliamentarism. The EU, according to this view, derives its democratic legitimacy from its Member States, and its purpose is simply to benefit these Member States. The EU, is, therefore, seen simply as an intergovernmental club of democratic nation-states, that cooperate, as per rational institutionalism and intergovernmentalism, in accordance with their national interests. The EU, therefore, does not need necessarily to be democratic according to this view, as it is a tool used by its democratic Member States.

Following the 2015 round of elections in which the Conservative party promised to hold a referendum should they form a government, a referendum took place on June 23, 2016. The referendum results showed a slight in favour of leaving the EU: 51.9% against 48.1% who voted to remain (UK Electoral Commission. 2016). This resulted in the Prime Minister's resignation, the formation of a new government, and the creation of the new position of Secretary of State for Exiting the European Union to oversee withdrawal negotiations.

In January 2017, Prime Minister Theresa May declared that "the British people voted for change", and that they "voted to leave the European Union and embrace the world". She continued and stated that it is "the job of this government to deliver it", while negotiating the UK's "new relationship with the EU". The Prime Minister presented her "Plan for Britain", which highlighted the objectives for exiting the EU and the reasons for Brexit (Prime Minister Theresa May, January 2017).

Among these reasons, she noted that "Many in Britain have always felt that the United Kingdom's place in the European Union came at the expense of our global ties, and of a bolder embrace of free trade with the wider world", and that the UK and other EU countries have different political traditions. She then stated a reason that resonates with democratic deficit critics: "The public expect to be able to hold their governments to account very directly, and as a result, supranational institutions as strong as those created by the European Union sit very uneasily in relation to our political history and way of life", while stating that she does not believe that this is unique to the UK, as "Britain is not the only member state where there is a strong attachment to accountable and democratic government, such a strong internationalist mindset," and that "there is a lesson in Brexit not just for Britain but, if it wants to succeed, for the EU itself," Finally, on this matter, she stressed

that Brexit “was a vote to restore, as we see it, our parliamentary democracy, national self-determination, and to become even more global and internationalist in action and in spirit” (Ibid).

The Prime Minister also stressed that the UK is interested in guaranteeing “the rights of EU citizens who are already living in Britain, and the rights of British nationals in other member states, as early” as possible, “Because it is the right and fair thing to do” (Ibid).

Later in January 2017, the UK Supreme Court upheld an earlier 2016 ruling, that claimed that the UK government had no authority to implement Article 50 of the Treaty of Lisbon without the approval from the Parliament (Bowcott, Rowena & Asthana, 2017). In their ruling, the judges stated that “Although article 50 operates on the plane of international law, it is common ground that, because the EU Treaties apply as part of UK law, our domestic law will change as a result of the United Kingdom ceasing to be party to them, and rights enjoyed by UK residents granted through EU law will be affected. The Divisional Court concluded that, because ministers cannot claim prerogative powers to take an action which would result in a change in domestic law, it was not open to ministers to withdraw from the EU Treaties, and therefore to serve Notice, without authorisation in a statute. In that connection, the Divisional Court identified three categories of rights: (1) Rights capable of replication in UK law; (2) Rights derived by UK citizens from EU law in other member states; (3) Rights of participation in EU institutions that could not be replicated in UK law” and that “many current EU rights fall within the first category.” They also state that “Given that it is clear that some rights in the first category will be lost on the United Kingdom withdrawing from the EU Treaties, it is unnecessary to consider whether, for the purpose of their present arguments, the applicants can rely on the loss of rights in the second and third categories” (UK Supreme Court, 2017).

This ruling is important, as it means that the UK’s decision to withdraw from the EU and deprive citizens of their European rights is based on a decision made in the parliament and legitimised through a parliamentary chain of accountability within the member-state. Citizens are deprived of these rights through this decision, whether they supported Brexit or not, as decided by their national parliament, rather than based on a personal decision, the decision of a national government, or of supranational or transnational players. The ability to deprive EU citizens of rights and citizenship in this manner is especially important, as, under a supranational model, this should not be possible.

Once this approval was finally obtained, UK Prime Minister May signed a letter on 29 March, which was delivered to the European Council's president Donald Tusk, triggering Article 50. The letter, among other provisions, reads: "I am writing to give effect to the democratic decision of the people of the United Kingdom. I hereby notify the European Council in accordance with Article 50(2) of the Treaty on European Union of the United Kingdom's intention to withdraw from the European Union" (Prime Minister Theresa May, March 2017).

Prime Minister May emphasised that the legitimacy of this action is the democratic decision made by UK citizens. She noted that "We should always put our citizens first. There is obvious complexity in the discussions we are about to undertake, but we should remember that at the heart of our talks are the interests of all our citizens. There are, for example, many citizens of the remaining member states living in the United Kingdom, and UK citizens living elsewhere in the European Union, and we should aim to strike an early agreement about their rights" (Ibid). While under an intergovernmental model, it is expected that each side would focus on their own citizens, in a transnational model, it is more likely to additionally focus on other populations and communities.

Therefore, it is not surprising that the protection of current EU citizens' rights is clearly defined as a goal in an EU Commission working paper from May 2017, which stated that "The Withdrawal Agreement should protect the rights of EU27 citizens, UK nationals and their family members who, at the date of entry into force of the Withdrawal Agreement, have enjoyed rights relating to free movement under Union law, as well as rights which are in the process of being obtained and the rights the enjoyment of which will intervene at a later date" (EU Commission, May 2017).

Operating under an intergovernmental model, per the rational institutionalist approach, the Member States would likely focus on how they could better use Brexit to promote their own agendas in the EU. Additionally, under the supranational model, and per the bounded integration perspective, the ability of a member-state to deprive its citizens of an EU citizenship is unlikely in the first place, as this citizenship and European rights would stand above the nation-state. Finally, the transnational model and the post-nationalist approach appear to be suitable for what is described here, with the aim of maintaining rights belonging to a population that would no longer hold an EU citizenship.

In September of the same year, French President Macron spoke on the future of Europe, in light of the significant challenges of the current times, including Brexit. In his speech, President Macron claimed that “Only Europe can, in a word, guarantee genuine sovereignty or our ability to exist in today’s world to defend our values and interests”, and that facing modern challenges, “an inward-facing country can only hope to offer limited responses” (President Macron, 2017). Among Macron’s suggestions are “a sovereign, united and democratic Europe”, which will “hold democratic conventions”... and “organize a huge debate on the same issues and identify the priorities, concerns and ideas.” Macron suggested to “organize an open, free, transparent European debate”, and that Europe should be “more transparent” and “less bureaucratic” (Ibid). Likewise, Macron argued “for transnational lists for 2019 that will enable Europeans to vote for a coherent, common project”, “where people vote for the same MEPs throughout Europe”, and noted that “the real step forward will be half of the European Parliament being elected on these transnational lists” (Ibid). In his speech, Macron aimed at strengthening the European Parliament and stated that “France has often seen the European Parliament as the second division of national politics, and I say it here to several French members of parliament and MEPs. That’s a serious mistake. If we want to build a sovereign Europe, pool our competencies in order to be stronger, make our trade policy more transparent and control the budget we need for the eurozone, this Parliament of Europeans must be the crucible for our shared project” (Ibid.) Brexit, Macron suggested, is an opportunity for “overhauling Europe”, and he suggests that Europe in 2024, will have to be founded on “the values of democracy and the rule of law”, and on “the single market, which is still the best guarantee of our power, prosperity and attractiveness” (President Macron, 2017).

While Macron’s 2017 and Cameron’s 2015 speeches share a similar language on the importance of change in the EU, including on the topic of democratic legitimacy, the former UK Prime Minister suggested an intergovernmental vision for the EU, and the French President suggests that solution to the democratic deficit could be found in transnationalism instead.

Cameron’s view on the Union is that of a tool for nation-states, and as such, its democratic legitimacy could be based only on accountability and representation within the nation-states. In contrast, Macron acknowledges that the EU is a construct created in order to defend interests and

values, but unlike Cameron, he suggests that the nation-states cannot address modern challenges alone. While Cameron promoted disintegration as a solution to the democratic deficit in his speech, Macron suggests that the democratic deficit could be addressed through further integration. Unlike Cameron, Macron offers transparency as a tool for generating legitimacy. The British vision, expressed by Cameron, who stressed the importance of national parliaments and national decision-making, and by May, who claimed that the public expects to hold national governments accountable directly, is offered an alternative by Macron, who suggests that democracy could be strengthened through transnational EU parliament lists and on more transparent European debates, which will assist in including the public.

Likewise, Germany and Chancellor Merkel have also made several noteworthy statements on the possibility of overhauling the EU following Brexit and Macron's speech. While in September 2017, her spokesman said that the Chancellor "welcomes" Macron's "verve" and "European passion", "with an open mind", he also stated while the Chancellor's opinion it was "too early for a detailed assessment" (Maurice, 2017).

In 2018, France and Germany adopted a joint declaration during the Franco-German Council of Ministers. The declaration states that "France and Germany share a common ambition for the European project: a democratic, sovereign and united Europe"... "a Europe that is a basis for prosperity and defends its economic and social model and cultural diversity, a Europe that promotes an open society, based on shared values of pluralism, solidarity and justice, upholding the rule of law everywhere in the EU and promoting it abroad". The declaration, similar to President Macron's proposal, states that "In reforming Europe we should listen to the voices of our citizens. France and Germany are therefore committed to pursue the citizens' consultations on Europe in order to keep the democratic debate alive ahead of the next European elections". As per President Macron's suggestion, the declaration also calls to "put in place transnational lists for European elections as of 2024" (Meseberg Declaration, 2018).

Additionally, in November 2018, Chancellor Merkel gave a speech to the European Parliament, in which she said that "In your House, we can feel the heart of European democracy beating". During her speech, she stressed that "it is becoming ever more important for us Europeans to take a united

stance”, and said that the “hallmarks of Europe”, are “solidarity as a universal, fundamental value; solidarity as a responsibility for the community; and solidarity in terms of one’s own rational interest”, while calling for increased integration, specifically regarding security, economy, refugees and migration, while (Chancellor Merkel, 2018).

I believe that the German vision for the EU following Brexit is in line with Macron’s plan, even if the French President offered a somewhat broader, more expansive and more detailed vision. The fact that the two major EU powers have released a joint-statement calling for transnational lists and increased integration is meaningful, as it implies the direction that these powerful Member States will attempt to steer the EU towards.

Following the triggering of Article 50, formal negotiations with the EU started on 26 June 2017, and later that year, the EU Commission and the UK Government published a joint report, detailing the status of the negotiations on the protection of rights of EU citizens in the UK and UK citizens in the EU, and on the framework of addressing the unique circumstances in Northern Ireland (EU Commission, 8 December 2017).

The report states that “the overall objective of the Withdrawal Agreement with respect to citizens’ rights is to provide reciprocal protection for Union and UK citizens, to enable the effective exercise of rights derived from Union law and based on past life choices, where those citizens have exercised free movement rights by the specified date” (Ibid).

The joint report lists the common understanding reached by the parties, offering protection in the personal scope and the material scope (Ibid), while not fundamentally altering many of the core rights given to individuals, other than the group of rights previously marked by the UK Supreme Court as rights of participation in EU institutions.

On the matter of Northern Ireland, the report states that the withdrawal from the EU presents challenges concerning the island of Ireland, and that “Both Parties affirm that the achievements, benefits and commitments of the peace process will remain of paramount importance to peace, stability and reconciliation”, and that “the Good Friday or Belfast Agreement” ...” must be protected in all its parts”, while recalling the UK’s “commitment to preserving the integrity of its [The EU’s] internal market and Northern Ireland’s place within it”, with a commitment to a

“guarantee of avoiding a hard border” (Ibid). Here, both parties also acknowledge that “the 1998 Agreement recognises the birth right of all the people of Northern Ireland to choose to be Irish or British or both and be accepted as such”, allowing Northern Ireland citizens who hold an Irish citizenship to “continue to enjoy rights as EU citizens, including where they reside in Northern Ireland”, and that “the Withdrawal Agreement should respect and be without prejudice to the rights, opportunities and identity that come with European Union citizenship for such people” (Ibid). The fact that the EU worked in order to promote rights to a specific community, that should have been deprived of their rights following Brexit, with the result that the members of this community may retain their EU citizenship, points at the transnational model being possibly relevant for the EU.

Later that month, the EU Commission published a recommendation for a Council decision supplementing the decision to authorise negotiations with the UK, by which arrangements for the UK’s withdrawal from the European Union will be made in order to be able to move to the second phase of the negotiations. The preliminary explanatory memorandum notes that According “the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union,” and that these “rights, freedoms and principles will continue to be fully preserved and protected in the Union, both during the process of negotiation with the United Kingdom under Article 50 of the Treaty on European Union, including any transitional arrangements, and after withdrawal of the United Kingdom from the Union” (EU Commission, 20 December 2017), the focus on rights, freedoms and values that are linked to democracy during the negotiations is another example of for behaviour that appears to be fitting to a transnational model, rather than a supranational or an intergovernmental one, as this view holds transnational rights and values as the foundation for democracy, rather than a national identity.

Finally, after a UK white paper on the future relationship with the EU was rejected by the Union, On 13 November 2018, the two sides have reached a draft agreement for the withdrawal, which was soon after approved by the EU.

The UK House of Commons rejected this suggested withdrawal agreement draft in three separate votes, which had finally resulted in Prime Minister May’s resignation, and the formation of a new

government by Boris Johnson. Prime Minister Johnson's first Brexit proposal was rejected in early October 2019, partially due to disagreements over the Northern Ireland Protocol.

The Northern Ireland Protocol, which was previously agreed upon by the United Kingdom, under Prime Minister May, and the European Union agreed in November 2018, was called by Prime Minister Johnson, in a letter addressed to European Council President Donald Tusk: “simply unviable”. In his letter, Prime Minister Johnson claims that: “The problems with the backstop run much deeper than the simple political reality that it has three times been rejected by the House of Commons”, and that it is “anti-democratic and inconsistent with the sovereignty of the UK as a state”, and that it would weaken “the delicate balance embodied in the Belfast (Good Friday) [Parentheses at source] Agreement”...” by removing control of such large areas of the commercial and economic life of Northern Ireland to an external body over which the people of Northern Ireland have no democratic control” (Prime Minister Johnson, 2019).

Replying to Prime Minister’s Johnsons claim, Chief Negotiator Barnier (September 2019) stated that it is fundamental “because it is in Ireland where Brexit creates the most problems. It is in Ireland that Brexit creates the most risks”, and stressed that “It is not good enough to explain why the backstop needs to be removed. We need legally operational solutions in the Withdrawal Agreement to reply precisely to each of these problems and to prevent the risks that Brexit creates”. Barnier also commented on Prime Minister Johnson’s statement on the democratic dimension of the backstop and commented that “It is obviously for the British government itself – who will sign the Withdrawal Agreement on behalf of the whole United Kingdom – to ensure that it has the support of the Northern Irish institutions” (Ibid).

The difference of views between Barnier and Prime Minister Johnson regarding the democratic legitimacy of the backstop is similar to the difference between Cameron and May, on the one side, and Macron and Merkel on the other side. While the British Prime Ministers appear to suggest that democratic legitimacy could only be generated via direct inputs, the EU and other Member States, represented by the two other ‘Big Three’ countries, France and Germany, express contradicting views, that accept indirect inputs, as well as transparency-based throughputs and values, rights and common good-based outputs as sources of legitimacy.

The European Union's strong focus on protecting of citizen rights in the negotiations also could further be noticed in a letter written by Chief Negotiator Barnier to Steve Barclay, Secretary of State for Exiting the European Union from 17 June, where Barnier notes that the EU aims at achieving an "orderly withdrawal by agreeing a Withdrawal Agreement with the UK Government"... "which addresses, in a comprehensive manner, all issues resulting from the departure of the United Kingdom, and first and foremost those affecting citizens" (Michel Barnier, June 2019), and that "the Withdrawal Agreement is the best way to safeguard the rights of citizens affected by the United Kingdom's withdrawal, both in the European Union and in the United Kingdom", including residency-related rights, work-related rights, and other aspects that affect the daily life of citizens (Ibid), here we can once again see that the EU, throughout the negotiations was interested in protecting transnational rights belonging to its current citizens, as well as it should-to-be past citizens, as a result of Brexit.

The topic of democracy also appears in the Revised Text of the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom as agreed at negotiators' level, where the second paragraph in the introduction notes that the "Union and United Kingdom are determined to work together to safeguard the rules-based international order, the rule of law and promotion of democracy, and high standards of free and fair trade and workers' rights, consumer and environmental protection, and cooperation against internal and external threats to their values and interests" (European Commission, 17 October 2019). In the Core values and rights section, it is noted that the "Parties agree that the future relationship should be underpinned by shared values such as the respect for and safeguarding of human rights and fundamental freedoms, democratic principles, the rule of law and support for non-proliferation" (Ibid). This, too, is in line with the transnational model and the post-national perspective. Additionally, another text that provides a perspective on the EU's view on democracy throughout the negotiations is a letter from the President of the European Commission, Jean-Claude Juncker, to the Presidents of the European Council, Donald Tusk, in which he notes that Brexit "was the will of the majority in the United Kingdom", and that "it is something that we must respect" (Jean-Claude

Juncker, 2019). This emphasises the importance of representation and input-based legitimacy, but at the same time, also that of the democratic process itself, and thus also throughput legitimacy.

An agreement was finally reached later that year, and the Withdrawal Agreement Act received royal assent on 23 January 2020, and was officially ratified by the Council of the European Union on the 30th of the same month, allowing the UK to withdraw from the EU the very next day.

The agreement signed between the two parties covers various topics in order to provide a layout to the relationship between the Union and its former Member States. The agreement also includes a clause detailing a transition period in which EU law and membership in several other aspects of the EU would continue to apply to the UK.

On the matter of citizen rights, the agreement recognises “that it is necessary to provide reciprocal protection for Union citizens and for United Kingdom nationals”, in order “to ensure that their rights under this Agreement are enforceable and based on the principle of non-discrimination; recognising also that rights deriving from periods of social security insurance should be protected” (EU – UK, 2019), as fitting a transnational model, and per the post national perspective.

The agreement details how the rights of EU and UK citizens will continue to be protected, including Article 13, which states that “Union citizens and United Kingdom nationals shall have the right to reside in the host State under the limitations and conditions as set out in Articles 21, 45 or 49 TFEU and in Article 6(1), points (a), (b) or (c) of Article 7(1), Article 7(3), Article 14, Article 16(1) or Article 17(1) of Directive 2004/38/EC”. The same protections are offered to family members and other nationals who have enjoyed similar rights in the past, while the agreement states that the “host State may not impose any limitations or conditions for obtaining, retaining or losing residence rights on the persons referred to in paragraphs 1, 2 and 3, other than those provided for in this Title. There shall be no discretion in applying the limitations and conditions provided for in this Title, other than in favour of the person concerned” (Ibid). The agreement also defends such rights as the right for exit and of entry, right of permanent residence, and provides a framework regarding citizen statuses, the safeguarding of rights, non-discrimination, the right for employment and employee rights (Ibid), and therefore offers non-EU citizens, and UK resident EU citizens with rights similar to what they possessed while the UK and its citizens were part of the EU.

On the issue of Northern Ireland, the agreement emphasises “that in order to ensure democratic legitimacy, there should be a process to ensure democratic consent in Northern Ireland to the application of Union law under this Protocol”, which requires that within “2 months before the end of both the initial period and any subsequent period, the United Kingdom shall provide the opportunity for democratic consent in Northern Ireland to the continued application of Articles 5 to 10”, and that this “decision expressing democratic consent shall be reached strictly in accordance with the unilateral declaration concerning the operation of the ‘Democratic consent in Northern Ireland’ provision of the Protocol on Ireland/Northern Ireland made by the United Kingdom on 17 October 2019, including with respect to the roles of the Northern Ireland Executive and Assembly” (Ibid), thus, the two negotiating sides stressed the importance of giving Northern Ireland citizens a say on the arrangements in place that directly affect Northern Ireland.

In a speech made by Prime Minister Boris Johnson in December 2020, he proclaimed that “It is four and a half years since the British people voted to take back control of their money, their borders, their laws, and their waters and to leave the European Union. And earlier this year we fulfilled that promise and we left on Jan 31 with that oven-ready deal” (Prime Minister Johnson, 2020).

His speech emphasised British desire for freedom from EU imposed limitations, while using such terms as “taken back control” and “sovereign equals”. Likewise, the Prime Minister used the term “our” 31 times in his short speech, in a context such as “our economy”, “our agenda”, “our companies”, “our destiny”, “our standards”, in such a way that differentiated British identity, from the EU identity, which is on par with the criticism presented by the bounded integration perspective, by which in order a polity needs to create boundaries and collective identity. The mechanisms for the creation of such are considered lacking in the EU, which is competing against such mechanisms in the nation-state, which has successfully, in the British case, created a national identity, or a demos, which could serve as the foundation for democracy.

An important part of the speech may be found in the following paragraph: “We have taken back control of laws and our destiny. We have taken back control of every jot and tittle of our regulation. In a way that is complete and unfettered. From Jan 1 we are outside the customs union, and outside the single market. British laws will be made solely by the British Parliament. Interpreted by UK

judges sitting in UK courts. And the jurisdiction of the European Court of Justice will come to an end. We will be able to set our own standards, to innovate in the way that we want, to originate new frameworks for the sectors in which this country leads the world, from biosciences to financial services, artificial intelligence and beyond” (Ibid), this paragraph stresses the British point of view by which direct inputs via nation parliaments are the key for democracy, while ignoring indirect inputs, outputs and throughputs as sources for democratic legitimacy, and presenting a conflict between sovereignty, democracy and membership in the EU.

This suggested conflict is not surprising, as throughout the campaign leading to Brexit, the negotiations, and in the aftermath of Brexit, the concepts of democratic legitimacy, citizenship, identity and sovereignty were often discussed, while the latter was often used as a justification for Brexit, the reasoning behind it, and the goal for the future of the post-Brexit UK. While in the period before the referendum, coverage of Brexit was marked by a conflict between national and supranational sovereignty, the period following the referendum stressed the conflict between popular, parliamentary and supranational sovereignty (Rone, 2021), meaning, the discourse surrounding Brexit dealt with the British desire for its citizens to have a direct say on political matters, but also on the sovereignty of the UK and its ability to make decisions, independent and unconstrained by a supranational, or a transnational polity.

While the agreement between the EU and the UK was briefly presented, the key issue relevant to this thesis is the topic of citizens’ rights. Beyond the agreement itself, other issues that are of particular importance regarding Brexit are the ability of a member state to withdraw from the EU, how it is done, its effects on member-state and EU citizens alike, and the source of democratic legitimacy behind this mechanism, and behind Brexit itself.

Article 50 of the Treaty on European Union states that “Any Member State may decide to withdraw from the Union”, and that this will be done “in accordance with its own constitutional requirements” (Treaty on the European Union, 1992). Since all EU countries are democratic, and their power is limited by a constitution, or constitutional norms, the power of the executive branch is therefore limited, allowing citizens to influence the EU indirectly and elect representatives who will commit to taking actions in the EU, reform it, or alternatively, implement Article 50 and withdraw from the

EU altogether, as happened in the case of Brexit. This ability is held in the hands of national parliaments, who represent the nation-states' citizens and delegate powers to the executive branch. Citizens who are not satisfied with the EU, can therefore act through a national channel in order to provide a remedy to their dissatisfaction, and the very fact that in the majority of Member States, Eurosceptic political parties do not receive widespread support, points at the fact that the EU is perceived as legitimate by the majority of citizens in a large majority of the member states.

Likewise, in the British case, the importance placed on sovereignty, and the conflict between national and supranational sovereignty, as well as the conflict between popular and parliamentary sovereignty is especially interesting, as it represents the conflict between input legitimacy, and throughputs and outputs, with UK rhetoric stressing the essentiality of input legitimacy both concerning the EU, and internally.

Another critical issue is the impact of Brexit on UK citizens in the context of their European citizenship. As previously mentioned, according to the Maastricht Treaty, European citizenship depends on a national gateway. Thus, European citizenship is not inherited, nor does it depend on residency or the place of birth, but entirely depends on continued citizenship in a Member State. This means that by implementing Article 50, citizens are deprived of their EU citizenship, regardless of a personal choice, as happened in Brexit to some 65 million UK citizens, including many who voted in favour of remaining in the EU and British nationals living in EU member states. Thus, with a stroke of the pen of a Head of State alone, the rights of millions of EU citizens were extinguished (Guild, 2016).

Brexit shows that being an EU citizen is not a personal decision, but one made at the national level (Hobolt, 2016). EU membership, and EU citizenship, are a product of the foreign policies of EU member states. Member State citizens have the opportunity to influence the EU at the national level, and political competition exists within the borders of the nation-state, regardless of the existence or lack of political competition at the EU level. Nevertheless, while the UK and EU citizens both lost certain rights due to Brexit, the EU had succeeded in protecting the rights of many of its current and past citizens through the agreement.

Likewise, throughout the negotiations, the EU stressed the importance of democratic values as the foundation of the future relationship between the EU and the UK, which is similar to how the organisation attempts to operate both in the internal sphere, and as part of its external foreign policy, as suggested before in cases such as Hungary and Russia.

Having presented Brexit, it is crucial now to understand what this crisis means and what insights can be gained from this case-study regarding EU democracy. The next chapter will examine the issue from several theoretical points of view.

In order to examine this issue, I will address the source of the EU's legitimacy, the issue of accountability, the meaning of Article 50 of the Lisbon Treaty, the interests underlying the EU, and the objectives of this body.

Four questions will thus be answered: Where does the authority lie in the EU? What is the primary task of the EU? What is the EU's approach towards citizenship? Finally, the issue of whether the EU is legally constrained will be examined.

As a result, the different models will be outlined, their feasibility presented, and the conceptual democracy that the EU can reach through each of the models will be suggested, per the ladder of democracy previously presented.

Chapter 4: A Theory of the European Union's Democracy

Having presented the different models, the case-study, different legitimacy sources, and such concepts as identity and citizenship, this chapter will attempt to integrate the amassed knowledge collected from different texts and the case-study¹² towards a theory regarding democracy in the European Union. Here I will attempt to explicate which models suggested here are relevant to the European Union, explain why, and attempt to provide basic guidelines that may help judge whether the European Union could be considered democratic according to the relevant models.

While the EU's apparent limitations in providing its citizens with direct representation may appear to be contradictory to its ability to be democratic, therefore reinforcing the claim that a democratic deficit exists in the EU, in reality, that is not necessarily the case. The feasibility of democracy does

¹² See Appendix 7.

not require the EU to provide a direct outlet for EU citizens interests via representation, unlike the kind of a democratic political system common to nation-states. Therefore, the EU may be democratic despite these limitations.

Indeed, it would seem that in order for democracy to be feasible in the EU, it would have to differ significantly from its nation-state counterpart, but that is hardly surprising given the significant structural and conceptional differences between the two types of polities.

The EU's composure as a multi-level system of governance, and its reliance on interconnected and polyvalent demoi rather than on a single demos, open the EU to different models of democracy, while allowing it to be based on different sources of legitimacy and relationships with its citizens, that do not necessarily depend on direct representation, as will be unpacked below.

As previously detailed, I suggest six possible models¹³ for EU democracy under the three main categories of internationalism, supranationalism and transnationalism.

The EU as an intergovernmental democracy would be based on the sovereignty of the Member States, who, on some level or another, would have to find membership in the EU justified, thus legitimising the organisation. Two distinct types of democratic models are plausible under this category: A fully intergovernmental democracy that would act as a treaty-based 'democracy of democracies', and a 'mixed commonwealth', that will assist in guiding and coordinating the unionised entities within it.

The second form of democracy would be based on a supranational model, in which EU citizens are represented directly in the EU and are the Union's demos. The EU would need to be justified by EU citizens in order to be democratic, rather than being justified simply by the Member States, and there would have to be some kind of a chain of accountability going directly from EU institutions to the citizens. This sort of democracy could be based on federalism which would require a dual chain of delegation, from the citizens to both national governments and the federal entity. A second alternative is a 'supranational democracy', in which the citizens are represented in the EU directly,

¹³ See Appendix 8.

without the mediation of the Member States, thus imitating national democracy, based on parliamentarism, at the EU level.

Finally, a third possibility is an EU based on transnationalism, a model by which globalization had perhaps made the nation-state an outdated form of social and political organisation. This model is based on the importance of shared values common to democracies, and according to this model, the EU would mostly be justified by its ability to contribute and promote values that are common to democracies, such as human rights and the rule of law. The model depicts a decline in states' authority, the redefinition of sovereignty, and the dependence on globalised processes and inter-state, intra-state and ultra-state practices. This political structure involves multiple overlapping jurisdictions, sets of identities, and social orders that are no longer contained by borders (Vertovec, 2009), often to represent the common good that transcends the sum of individual state interests (Cronin, 2002). Here I suggest two routes for EU democracy: as a 'transnational discursive democracy' that focuses on deliberation and the ability of different types of actors to communicate and participate in the democratic process, or as a 'cosmopolitan democracy' that focuses on the promotion of democratic values.

The concept of a democratic regime beyond the nation-state has been discussed in detail by different scholars throughout the years, and regarding different organisations. An important question regarding any international organisation viewed via a democratic lens, is whom it represents, or better put, who provides it with legitimacy. Lopes and Casarões (2019), assert that in the case of the UN, for example, it is the Member States, rather than the citizens represented by the organisation, which may very well be the case for the EU as well, should the intergovernmental model be accepted.

The relevance of the models suggested in this thesis depends, first and foremost, on the sources of democratic legitimacy and its relationship with, as well as the identity of, its demos. In order to better comprehend the EU's democratic feasibility, first, three questions should be asked: Where does the authority lie in the EU, what is the primary task of the EU, and what is the EU's approach towards citizenship? Answering these questions is not a simple task, and there are no clear answers.

However, Brexit offers us a lens through which it is possible to examine the EU to deduce which models are suitable for the EU.

Concerning the EU's authority, this may come either from the member states themselves, or from an integrated union. As previously presented, authority currently appears to reside in the Member States' hands, rather than in the Union itself. International organisations combine both delegation and pooling of authority, and while the delegation grants an organisation contingent authority to perform specific limited tasks, pooling reflects the transfer of the authority to make binding decisions from Member States to a collective body (Lake, 2017). In the case of the EU, it should be noted that although the integration process had resulted in higher levels of pooling, the EU still bases its authority mostly on delegation (Hooghe and Marks, 2015).

Brexit may be considered to be in part a result of the tension between delegation and pooling, and it appears that UK policy was that it was willing to delegate some authority but not pool and shed sovereignty to a supranational organisation. The Treaty of Lisbon, which was a step forward in terms of EU integration, increased the use of pooling of authority, including through its changes to Qualified Majority Voting in the Council, by extending this procedure to policy areas that previously required unanimity.

While the UK ratified this treaty, this was not without objections, particularly by the Conservative Party, whose official standing post-ratification was that "political integration would have gone too far, the Treaty would lack democratic legitimacy in this country and we would not let matters rest there" (Miller, 2009). Additionally, while UK polls did not necessarily show that the public rejected the agreement or further integration, several polls during that period showed that the public was interested in either a referendum on the UK's membership in the EU, on the Treaty, or on what was viewed as further transfers of power from the UK to the Union (Ibid). Therefore, it comes as no surprise that the Conservative Party declared a referendum based on dissatisfaction with the general direction of EU integration, as the party was in power, and had sufficient support in the parliament. Furthermore, while Brexit may be the result of the view among UK citizens and politicians that the Member States are losing their grip on their sovereignty and their ability to influence the decision-making process directly, Brexit, in my opinion, is, in fact, of particular importance as it proves

otherwise. While the UK's negotiations were held between the UK and the EU as a whole, rather than bilaterally between the different states, which may appear to support this suggestion as it stresses the vital role of the EU on matters such as foreign policy, Brexit highlights the supremacy of the sovereign Member State. Not only does Brexit show that a disgruntled Member State can withdraw from the Union should such an internal democratic decision be made, but it also shows that this is regarded by the Member States and the EU alike as a key democratic right possessed by Member States, as expressed by various statements, including by President Juncker (2019).

This view on the supremacy of the Member States is in line with the German Federal Constitutional Court ruling (1993), by which based on the EU treaties themselves, the organisation can be regarded as simply an alliance of states and therefore exercises powers given through national channels (Hooghe and Marks, 2015). While the EU has an extensive bureaucratic system, it is nation states that hold sovereignty, and it appears that the EU derives its authority from normative supremacy and voluntary compliance. It is important to remember that the EU is generally dependent on Member States' consent, and that these can veto decisions in many cases, refuse to cooperate, and should it be deemed necessary, Member States can also withdraw from the EU, as seen in the case of Brexit. A Union that bases its authority on the Member States rather than on an integrated union is more likely to be based on intergovernmentalism.

The second important question is the matter of the EU's primary task. Here, EU treaties historically had a strong focus on the promotion of wellness of EU citizens and particularly on providing economic value. However, in recent years there has been a growing emphasis on providing some level of representation, as well as on the importance of democratic values. While EU citizens are represented in the parliament, it is considered a weak institute regarding democratic representation. In order to resolve this issue of low input legitimacy, there has been a growing trend of involving EU citizens in the decision-making process via such methods as citizen initiatives and the Conference on the Future of Europe. At the same time, there have been attempts to improve decision-making process transparency. This increased transparency, deliberation and participation does not necessarily mean that the EU shifted its purpose to representation, and these actions do not necessarily increase input channels but instead appear to provide throughput legitimacy to the EU.

When considering Brexit, much of the discourse surrounding Brexit was that the Union is not democratic, as citizens were unable to influence the decision-making process directly. This represents a gap between different definitions of what constitutes as democracy, as can be detected by the different approaches to EU democracy, and democracy as a whole, offered by Prime Minister Cameron (2015) and President Macron (2017). These two leaders not only headed two of the ‘Big Three’ of the EU during that period, with the third, Germany, considered less ambitious regarding EU foreign policy at the time and somewhat supportive of the French policy on this matter, they also represent two opposing camps regarding European integration, those focused on nation-state sovereignty and intergovernmentalism, represented by Cameron (Mölder, 2018), and those who focus on Europe as a whole and either supranationalism or transnationalism, represented by Macron (Laffan, 2019). The two can be seen as the representatives of those camps at the time, as the heads of large EU Member States with a clear vision on EU integration, the role of the EU and its relationship with democracy. The two also promoted significant moves on the matter: Macron’s proposals for reforms, and Cameron suggestions and his Brexit referendum. While the first promoted an intergovernmental EU, based on greater democratic accountability and a more decisive role for national parliaments, the second presented an alternative vision, based on transnationalism, transparency and deliberation. While Cameron’s view on democracy is more in line with what has been historically accepted as democratic when compared to the nation-state, scholars in recent years, as presented throughout this thesis, have come to accept transnationalism and throughputs as possible foundations for democracy beyond the nation-state. Thus, I suggest that both alternatives are viable for EU democracy, and as they represent a fundamentally different democracy, it is not surprising that this gap resulted in dissatisfaction among British citizens and politicians.

The decision to withdraw from Union, which was made on the national channel, represents in many ways the desire of some UK citizens for more substantial inputs over throughputs and outputs. UK citizens could be said to have voted, to “take back control” and increase their ability to influence decisions directly, even at the possible expense of their wellbeing, as the extent of European integration began to threaten British sovereignty in eyes of many “Leave” voters (Carl, N.,

Dennison, J., & Evans, G. (2019), as a result of the view that democracy should be founded on representation.

The idea that that the EU is not democratic as a result of low inputs though, ignores the fact that the EU could be seen as a democracy, democratically run by its Member States, rather than their citizens, or perhaps even as a democracy run with the people, rather than for or by them. A Union formed in order to promote the wellness of its citizens, rather than to provide them with representation may fall under any of the three leading models, though, it is far less likely that this Union would be based on the sub-model of Supranational Democracy, whose primary focus is direct representation.

Finally, on the topic of the EU's approach towards citizenship, it is essential to remember that, unlike nation-states, the EU is not based on geographical boundaries, but on cultural elements, and that while belonging to the EU has increasingly become normalised within its citizens' lives, there appears to be no integrated demos and likewise, the EU lacks identity-conferring mechanisms. Additionally, EU citizenship is not the direct result of the two common ways of obtaining citizenship (Mignot, 2019). Thus, EU citizenship does not stem from *ius soli* in the EU or *ius sanguinis* of EU citizens, but is dependent upon a national gateway to membership, and is based on the citizenship laws in the Member States. More importantly, Brexit shows that EU citizenship is dependent on the continued membership itself, and therefore, EU citizens may be deprived of their citizenship.

When examining Brexit through Bauböck's (2007) approaches to citizenship, the three approaches have different prospects for the loss of citizenship status. While a statist model of EU citizenship would allow member-state authorities to be in charge of implementing the federal nationality, under some common basic rules, other approaches to citizenship are even more strict. The unionist approach would question the linkage between national and supranational citizenship and can be detected in a proposal in the early 1990s that aimed to provide EU citizenship to EU residents after some time, regardless of citizenship in a Member State. Finally, a pluralist approach would seek to constrain the sovereignty of the Member States without fully reversing the hierarchy between the different levels, while balancing them with each other.

It is expected that withdrawal from the EU would result in a loss of EU citizenship in case of a weak statist citizenship as it would be parasitic of national citizenship, and that they will be able to maintain their citizenship in a stronger statist, and in a unionist citizenship, as EU citizenship at the very least as developed as the national one. Regarding the pluralist approach, here, it would be reasonable for the different sides to agree upon conditions by which certain transnational rights are kept, after withdrawing from the Union, or setting conditions that would allow individuals to maintain their citizenship. The latter case is more likely than others to result in legal action without an agreement that will allow citizens to maintain their EU citizenship, as it will be considered not the result of a national citizenship or as something that is meant to replace or supersede it, but as an addition to the national citizenship, that once gained, is not directly related to national citizenship. The treaties currently support the claim that EU citizenship does not replace Member States' nationality, which questions whether EU citizenship could be defined as such, which is reinforced by the fact that the treaties do not provide EU citizenship with duties. The fact that EU citizenship may be wholly dependent on national citizenship may render it meaningless (Lashyn, 2021).

Brexit, which was and still is a test for EU citizenship, shows that currently it is either a weak version of the statist citizenship, or pluralist, and does not seek to emancipate itself from member-state citizenship, but either support or supplement it.

The ability of the Member States to withdraw from the Union, while subjecting their citizens to a loss of EU citizenship, rejects the unionist model. Additionally, the Brexit agreement, which allowed former and current EU citizens to maintain many of their rights in their current country of residence, whether a current EU Member State, or a former one, shows that the pluralist model is plausible, as is the statist model, although in a limit form.

As a result, this dimension also limits the EU's ability to follow a supranational model for democracy, while supporting the intergovernmental and transnational models.

Having examined these three crucial dimensions, it is possible to see that the supranational model could be deemed as unfitting to the European Union in its current state among the three main models.

A democracy based on a supranational model, would be based on methodological individualism, and thus require EU citizens to be represented directly in the EU, and act as demos, under the notion that political and democratic representation is necessary for democratic legitimacy (Piattoni, 2013). The EU in such a model would need to be justified by EU citizens in order to be democratic, rather than simply justified simply by the Member States. Such a Union would have to possess a chain of accountability going directly from EU institutions to the citizens. This sort of democracy could be based on federalism which would require a dual chain of delegation, from the citizens to both national governments and the federal entity, or alternatively, as a 'supranational democracy', in which the citizens are represented in the EU directly, without the mediation of the Member States, thus imitating national democracy, based on parliamentarism, at the EU level.

This model for democracy, I suggest, is currently unfeasible in the EU in, as it would be difficult to claim that the EU possess a single, unified demos. The EU has failed to, or deliberately refrained from creating the conditions needed in order to form a thick supranational identity or to strengthen its citizenship sufficiently per the unionist or statist approaches to citizenship (Bauböck, 2007).

According to the bounded integration perspective, which is suitable for examining democracy on a national or supranational level, democracy cannot exist without setting boundaries and criteria for membership in the polity, without identity formation, nation-building and the existence of a collective identity constituting a people (Cederman, 2001), which the EU appears to lack.

Brexit, and the ability of governments to deprive their citizens of their membership in the European polity and their European citizenship supports the claim that this model is currently irrelevant for the EU, though this may change as a result of further, and a more radical future integration.

Much of the criticism regarding the democratic deficit, including specifically regarding the chain of accountability, the EU's comparatively weak parliament, the lack of European general elections and distance from voters (Follesdal, & Hix, *ibid*), could be said to be based on this model, and therefore may be irrelevant for different models.

Contrary to the bounded integration perspective and the claim that the lack of a shared national identity would result in the inability for democracy to exist, and thus for the EU to be democratically legitimate, other views lead to different conclusions.

The Treaty of Lisbon reserves the concept of “the people” to the member states, which suggests that the principle of democracy in the EU should be settled differently (Innerarity, *ibid*), in a way that is more in line with a second model suggested in this thesis, which is the intergovernmental model.

The EU, under either of the two intergovernmental sub-models, would be based first and foremost on the sovereignty and even supremacy of the Member States, who will act as *demos* for the organisation. According to these models, the Member State would have to find membership in the EU justified, thus legitimising the organisation.

Two distinct types of democratic models are plausible under this category: A fully intergovernmental democracy that would act as a treaty-based ‘democracy of democracies’, and a ‘mixed commonwealth’, that will assist in guiding and coordinating the unionised entities within it. As an intergovernmental democracy, the EU and European integration are the result of Member States acting on the basis of goals that were determined through domestic preference formation (Meunier & Vachudova, 2018). The EU is expected to act as a democratic coalition of states, that are interested in promoting their agendas through intergovernmental bargains and cooperation.

Accountability in this sort of democracy is based on the fact that it is the democratically elected governments of the member states who dominate the intergovernmental structure of the EU, and thus, citizens may democratically affect decisions indirectly (Moravcsik, 2004).

The second form of democracy that may exist under this model is a mixed commonwealth, meaning a polity based on weak orchestrating and watered-down versions of identity and commonality. This view may find its roots in Majone (1998), who suggests that the EU is a regulatory state with limited competencies that relies on extensive delegation of powers to independent institutions.

While similar in their foundation, based on methodological statism, these two sub-models differ somewhat in their relationship with EU citizens. While both of these models accept the Member States as the *demos* and see the Union itself as a grand coalition of, the EU as a purely intergovernmental organisation would not require creating a collective identity for its Member States’ citizens, nor provide them with a supranational or transnational citizenship, as it would simply exist as an organisation in which the Member States operate.

In contrast, a mixed commonwealth would act as a confederacy, in which the Member States are the main actors, but there is still a common identity and a Union's citizenship, although weaker than those that exist in the Member States themselves, as well as traditional unitary or federal polities.

These models are best described via rational institutionalism, as both of these models describe polities rationally created in order to reduce transaction costs and facilitate cooperation. In both of these models, the EU institutions would exist simply to support member state agendas. Likewise, EU identity and citizenship would exist according to the second intergovernmental model for the very reason, as they benefit the Member States.

Here, the notion of representation as delegation is accepted, by which governmental representatives act either as delegates of their national constituencies (Piattoni, 2013), thus the principal-agent model still exists, resulting in a chain of accountability, whether singular or dual, that is sufficient for democracy to exist in the EU.

These models are not only theoretically plausible but demonstrate both how the EU was seen during its formation, as an institution capable of ensuring security and social progress through a limited transfer of sovereignty, as well as some of the political discourse within the organisation since its inception and until this day, as represented by the British point of view, presented in this thesis regarding the direction that the organisation should head.

It should be noted, though, that an output-based organisation, whether a regulatory state or a grand coalition of sorts, does not necessarily have to be democratic, but should it be deemed necessary for the organisation to be democratic, there would have to be an electoral element to it, accountability and democratic legitimacy.

In a Union based on the Member States as the demos, the fact that they can freely withdraw from it, yet choose not to, as a result of strong outputs, is enough, in my opinion, to legitimate it. Likewise, accountability could be generated via direct or indirect channels. Since it is formed by democratic Member States, who are in turn governed by democratically elected governments who are accountable to their citizens, the EU could be said to also offer enough accountability.

It is important to note that when examined through a statist perspective, the EU is currently lacking in the electoral dimension. The ability to make decisions in the EU is shared among governments

that act as demos, in many cases and particularly in the Council of the European through Qualified Majority Voting, which is affected by population size, and in the European Council either by consensus, unanimity or similarly by Qualified Majority. Likewise, in the parliament, the number of Member States' representation is digressively proportionate to their population, in a way that allows the five largest EU Member States to control over half of the seats in the parliament.

This is a violation of the principle of political equality, by which the voice of every voter should count equally. It would be expected for a democratically run polity to be based on this principle even if the demos is constructed of Member States, rather than people, an issue that would need to be adequately resolved in order for the EU to be democratic according to these models, though, this may not be the case for a supranational or a transnational democracy, where the principal may be rivalled and may and therefore accommodated differently in different institutions in order to compensate for inadequate weighting (Habermas, 2017).

Finally, a third possibility is an EU based on transnationalism, a model by which globalization had perhaps made the nation-state an outdated form of social and political organisation. This model is based on the importance of shared values that are common to democracies, and the EU, according to this model would mostly be justified by its ability to contribute and promote values that are common to democracies, such as human rights and the rule of law, and through its ability to increase the organisation's throughputs, through increased transparency and deliberation.

This model, which depicts a decline in the authority of states, the redefinition of sovereignty, and the dependence on globalised processes, as well as inter-state, intra-state and ultra-state practices, involves multiple overlapping jurisdictions, sets of identities and social orders that are no longer contained by borders (Vertovec, 2009), often in order to represent the common good which transcends the sum of individual state interests (Cronin, 2002). This category includes two possibilities for EU democracy: a 'transnational discursive democracy' that focuses on deliberation and the ability of different types and levels of actors to communicate and participate in the democratic process, and a 'cosmopolitan democracy' that focuses on promoting democratic values. Accepting Nicolaïdis's (2012) claim that the EU could be seen as a '*demoicracy*', by which it is not a union of people, but of multiple peoples governing together, alongside states, or, put differently,

that it is composed of the entire citizenry of Europe, on the one hand, and of the different peoples of the participating nation-states, on the other (Habermas, 2015), opens up the EU to this possibility of transnationalism-based democracy, by which the EU would need to represent the interests and values of Member States, citizens and communities alike.

While these models do not share the intergovernmental model's long history of recognition and backing, a shift towards this direction can be detected in the EU, as Brexit and the gap between the French and British visions for EU democracy demonstrate.

Contrary to the British view on how EU democracy, the organisation as a whole, and its relationships with its Member States and their sovereignty should be modelled, Macron suggested that through further integration, and the promotion of a Union based on values, transparency, deliberation and transnational lists, rather than national lists, the EU could be democratic. This French proposal also received support from the German Chancellor.

This transnational element could also be found in how voting works in several of the EU bodies, where the Treaty of Lisbon set the conditions for QMV, meaning, a double majority constructed not only of states, but of people, thus, weakening the intergovernmental elements, and increasing transnational ones. The fact that a large majority of decisions are now adopted this new way emphasises, in my opinion, how transnationalism is growing in lieu of intergovernmentalism.

Additionally, the EU's recent attempts to generate legitimacy via The European Citizens' Initiative, which is in line with the vision presented by Macron, is another tool that generates throughput legitimacy while institutionalising transnational interactions between civil society and citizens with different EU actors. Here, EU citizens are given the opportunity to have their voice heard-out in EU public debates, setting up for a transnational political public sphere, as it requires support and cooperation across different Member States (Greenwood, 2019). Contrary to the bounded integration perspective, and in line with the post-nationalist perspective, this appears to offer a solution to the boundary problem, by consulting with all of those affected by decisions, whether they are citizens of a specific Member State or a national identity, under the view that democracy should not be reduced to a simple vote, and that participation and deliberation are meaningful (Saunders, 2012).

Brexit also highlights the transnational element as Brexit negotiations focused on European rights. While Brexit emphasised the fact that Member States may hold control over the acquisition, the EU focused in its negotiations on maintaining transnational rights to its current and past citizens, including residential and employment rights, in a post-Brexit reality. This may further be proved an important point, as there is a pending case standing before the European Court of Justice, that is waiting to be discussed in 2022, on the matter of whether Member States, who control the acquisition of EU citizenship, may also deprive citizens, via Brexit and similar withdrawals, of their EU citizenship and all its rights (Adashys, *ibid*), under the pluralistic view that this right is not derivative of, but in addition to national citizenship.

Having rejected the supranational models, I suggest that both the intergovernmental and transnational models, and as a result, the four sub-models under them, are possible models for EU democracy, based on different attributes¹⁴.

While a Pure Intergovernmental or Mixed Commonwealth Federation EU would rely on the Member States as demos, and a non-existent, or a weak statist approach to citizenship, the Transnational Discursive and Cosmopolitan Democracy would rely on both citizens and states as demoi, under the principle of a “double sovereign”, and be based on a pluralist approach to citizenship. The models also differ in their source of authority, which according to the first two models, would be based, unsurprisingly on the states, whether the other two models would base their authority on an integrated union.

The primary task of the EU in all four models but the Transnational Discursive Democracy would be based on promotion, rather than representation. While the intergovernmental models would aim to promote the interests of the states, in the Cosmopolitan Democracy, the EU would aim to promote certain democratic values, and as a result, their sources of legitimacy would be different; While the intergovernmental models would be based solely on output legitimacy, the transnational models would be based mostly on throughput legitimacy, and either inputs for a Transnational Discursive

¹⁴ See Appendix 8.

Democracy that seeks to give citizens a voice or outputs for a Cosmopolitan Democracy that seeks to promote democratic values.

This difference in the source of legitimacy is crucial for discussing whether or not such a polity could be democratic. Legitimacy can be seen primarily as the social question of the acceptance of authority that is crucial for democracy. This can be generated via the consent of the addressees, the substantive quality decisions, or via the procedural fairness of the process (Dingwerth, 2017), thus possibly resulting in democracy, even in cases where representation is not the focus of the polity, nor its primary source for the generation of legitimacy.

Having concluded which of the models may be both feasible and relevant for the EU, two further issues will briefly be presented, the type¹⁵ of democracy that may evolve as a result of these models, and the question of the democratic deficit resulting from legal constraints.

The intergovernmental models, which are based on the notion that the EU's basic units are the Member States, seeking to use the EU to generate positive outputs, do not require the EU to be democratic in order to fulfil its purpose, and democracy may even be considered to be inconsistent with achieving its goals (Majone, 1994). Regardless, the Member States may still find it beneficial to run the EU democratically and elect to do so.

The question of democracy in an intergovernmental EU, or the deficit of one, can be described as the struggle between constitutionalist sovereigntism and nationalist authoritarianism (Kreuder-Sonnen, *ibid*). A democratic intergovernmentalist EU, based on Constitutional Sovereigntism, would depend on the fact that Member States have final authority over all political questions affecting them, resulting in collectively welfare-enhancing functions for the EU. Therefore, such a Union would be made of Member States in which political authority is democratically constituted and legally constrained according to their respective contexts. In contrast, a Union marked by nationalist authoritarianism would similarly be based on political authority resting with the Member States, but their regimes would be autocratic arbitrary, and without accountability.

¹⁵ See Appendix 5.

Should democracy exist in the EU, it would be based, first and foremost, on democratic procedures, and its legitimacy would be based on the fact that its actions stem from the legitimate decisions made by Member States as the outcome of Treaty negotiations, and on output legitimacy based on delegation. These facts are enough, in my opinion, in order to constitute the two of the first three necessary criteria for democracy used in this thesis¹⁶. The final criterion, accountability, could perhaps be examined in two ways: First, the EU and its organs should be accountable directly to the Member States, and secondly, the EU should be accountable indirectly to Member States citizens who should be able to influence decisions through their governments. Should these three criteria be met, the EU could be considered democratic.

These criteria appear to exist in a Pure Intergovernmental EU; thus, the EU could be described according to this model, as a 'thin' democracy, based on the Schumpeterian definition. Additionally, a Mixed Commonwealth Federation, not only fulfils the same criteria, but also goes somewhat higher on the ladder, as the existence of citizenship may allow a slightly thicker version of democracy, based on a Polyarchic vision for a Populist Democracy, in which there is room for the popular will, in addition to rights and freedoms for citizens.

The supranational models, while theoretically feasible, were concluded as not relevant unless radical changes are taken in the EU. Should the EU be reformed in the future, this democracy is expected to be similar to that of nation-states, either unitary or federal, thus resulting in thicker models for democracy, more in line with the expectations for democracy that exist in the nation-state. Here, democracy and its deficit can be described as a struggle between federal constitutionalism and European authoritarianism (ibid).

Federal constitutionalism, similar to the liberal constitutional systems common to the domestic level of Western democracies, would be based on the rise of supranational authority that is incrementally matched with elements of parliamentary democracy. In contrast, in European authoritarianism, European political authority would follow the path of autocratic self-empowerment and legally unconstrained exercise of authority through unaccountable and non-majoritarian institutions.

¹⁶ See Appendix 5.

I suggest that in a supranational EU, the very fact that the Union would be based on ‘the people’, would allow it to go higher in the ladder of democracy presented in this thesis, and be constructed as a liberal, social, participatory or as a deliberative democracy.

The Federal Republic model, based on the notion that the citizens have joined together to form a federation in order to promote their interests, such as certain rights and freedoms, is most likely to result in a liberal or a social democracy, that would be aimed in order to guarantee and promote social and political rights.

The Supranational Democracy model, which is based on the representation of citizens in the polity and input legitimacy, may therefore result in similar types of democracy, but may also result in a participatory or a deliberative democracy, which would focus on the inclusion of citizens in the decision-making process.

Finally, the transnational models, which go beyond early EU treaties and the democracy common to nation-states, would be based on the existence of *demos* rather than *demoi*, which will include the different peoples of Europe and the Member States, and offer an essential role to other players, such as communities and civil society organisations and on the quality of decisions, the successful inclusion of citizens or the successful promotion of democratic values, and existence of competitive and inclusive elections, accountability and legitimacy, the protection of liberties and the rule of law. This would also require the EU to resolve another issue, and move further towards transnational constitutionalism and away from European authoritarianism.

Transnational constitutionalism is a term similar to Kreuder-Sonnen’s (ibid) federal constitutionalism, although I suggest that instead of being based on the representative elements of parliamentary democracy, it is instead focused on democratic values.

While transnational constitutionalism does not reject the existence of an EU parliament, based on transnationalism, I suggest that contrary to a supranational Union, parliamentarism would only be one leg on which the EU would be founded. Therefore, I suggest a more significant role, according to this view, for the European Court of Justice and the European Commission. While both of these institutions are not based on representation, and may be described as elitistic, thus, distancing the EU from Dahl’s (1999) definition as a system of popular control over governmental policies and

decisions, they may serve an important role in guaranteeing fundamental rights, freedoms, and opportunities essential to popular control and the functioning of the democratic institutions, as well as of those that tend to develop when governing democratically, as per Dahl's alternative definition. Similar to the supranational models, this democracy, though very different from that of the nation-state, could be placed higher up the ladder of democracy, resulting in thicker democracy than those possible in intergovernmental models for EU governance.

Regarding elections, these would be required to exist both within the Member States and transnationally rather than nationally, within the EU as a whole, thus generating accountability. The EU would also generate either input legitimacy from either the inclusion of citizens in the debate directly, or output legitimacy through the successful promotion of democratic values.

A transnational discursive democracy, which would be based on the inclusion of citizens in decision-making processes through deliberation, is most likely to be constructed as a deliberative or participatory democracy, based on the different mechanisms used in order to increase transparency and participation of citizens, such as the European Citizen's Initiative, which increases throughputs and inputs by allowing citizens to submit legislative proposals.

In contrast, a cosmopolitan democracy, focused on the promotion of democratic values within and beyond the EU, is likely to result in a liberal or a social democracy, based on the promotion of different democratic, social, and human rights, as well as freedoms.

Chapter 5: Conclusion

This thesis argues that EU democracy is feasible and may be formed according to different models. This contribution's humble addition to the fields of political science, and specifically, to the study of the European Union, European integration and the democratic deficit debate, is in the claim that much of the criticism on EU democracy, whether coming from scholars, politicians and citizens, is grounded in the comparison of this unique polity to the nation-state.

While it is theoretically feasible to reimagine the EU and remodel it after the nation-state, thus requiring it in order to be democratic to have similar structures, processes and most importantly, legitimacy sources, it is not necessary, nor it is likely that this endeavour will be successful, as it would require radical changes.

In contrast, different models for democracy, based on different definitions, structures, processes, and legitimacy sources, would require less dramatic changes and, therefore, more likely to result in a European democracy.

Based on intergovernmentalism or transnationalism, these models both appear to have support in the political sphere, as presented by the British, French and German calls for changes in EU democracy. Likewise, according to different scholars, both models can be traced to accepted theoretical models for democracy.

The main differences between all suggested models lies first and foremost in the identity of the demos – whether it is the citizens, the Member States, or a *demos* that combines both. Likewise, the different models are also based on different sources of authority and legitimacy, and have conceptually different relationships with EU citizens.

These different models may result in different types of democracy, that goes from a ‘thin’ Schumpeterian democracy for the Pure Intergovernmentalist EU, to thicker forms of democracy in the case of supranationalism or transnationalism-based EU, such as deliberative democracy, a conceptual democracy that may be especially fitting for the EU, in light of such projects as the European Citizens’ Initiative, that pushes the EU further towards a transnational model of deliberation and participation of the people, who share some level of sovereignty with the Member States, reinforcing the hypothesis on this matter.

I suggest that while modern democratic theory focuses on the interactions between governors and the governed, governors may legitimate themselves not only via inputs, but also via outputs and throughputs. While the first two sources of legitimacy are based on the polity’s purpose – representation or the promotion of well-being, the third source focuses on how this purpose is fulfilled and the polity’s efficiency, accountability, transparency, inclusiveness and openness to consultation.

The degree of democratic legitimacy of the EU certainly varies from one model to the other, and while the EU certainly seems to suffer from low input legitimacy, this source seems to be irrelevant to the EU in its current form.

It is important to note that while I suggest that the EU may be founded on intergovernmentalism-based or transnationalism-based democracy, the first concept may be considered by many as a too minimalistic view of democracy, while some may consider the second as too far-reaching. Thus, these models may be considered to widen democracy beyond what is generally accepted as democratic as it stands today.

Brexit as a case-study highlights both the supremacy of Member State, as it shows that disgruntled Member States can withdraw from the Union, and likewise, citizens may indirectly influence EU decisions. As importantly, Brexit allows us to examine the EU's approach to citizenship and attempt to rule which of the citizenship models used in this thesis may be suitable for the EU. As a result of Brexit, it appears that the Union's approach towards citizenship is far from the unionist model, and that it may be based instead on a weak version of the statist, or on the pluralist model. This is enough, in my opinion, to currently reject the supranational model as a possibly for EU democracy. As a result, the central hypothesis at the heart of this thesis, that among the theoretical models, the supranational models will be found as irrelevant and that the transnational and intergovernmental models will be found as feasible for the EU, according its scope, is confirmed.

Brexit has also successfully highlighted the gap between the British government and the EU on democracy and their vision for a democratic Union. While the UK government was shown to express a strong focus on input legitimacy and representation, the EU was shown to express a move towards throughput legitimacy and deliberation.

While this may imply that according to the British point of view, per the models presented here, the EU should thus be based on inputs in order to be democratic, in fact, Britain promoted an intergovernmentalism vision for the EU, based on the supremacy of the Member States. EU democracy, according to this vision, would be based on the fact that it is successful in promoting outputs, as a tool used by Member States to promote agendas while not interfering with member-state internal inputs.

This gap between how EU democracy is viewed, may very well, in my opinion, partially explain Brexit, and may be used in order to assess the likelihood that other Member States will withdraw from the Union in the future. As the EU travels further along the paths described in these models,

countries where public opinion strongly reject that model, and support others, may therefore use their democratic right to trigger Article 50, and withdraw from the Union.

I also believe that further study is required in order to better assess where the EU could be placed on these models, and particularly after the European Supreme Court of Justice will rule on the matter of individual European citizenship as a result of Brexit. A ruling in this case, may be enough, in my opinion, to decide not only which of the models are feasible, as this study has done, but also to suggest which model would best describe current EU democracy, or its current aspirations for democracy.

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Appendix 1: The Types of Democracy Feasible in the European Union by its Scope

<p>The Scope of the EU: (The basic structure of the European Union concerning its Demos)</p>	<p>‘Thin Scope’: The member states are the basic units of the EU. Citizens may influence the EU’s policy indirectly, via the nation-state. Should a member-state leave, the citizens will lose their rights in the EU, as a result of the member-state choosing to leave. This scope is represented by a European Union that is based on the promotion of wellness and by the delegation of authority. One example of this scope can be found in Article 1 of the Treaty on the European Union, which strengthens the claim that the European Union is given competence by its Member States in order to achieve particular objectives that are in the interest of these states (Consolidated Version of the Treaty on European Union).</p>			
	<p>‘Medium Scope’: The citizens of the member states are the basic units of the EU. They can affect the EU directly and indirectly, and in case of a departure from the EU, citizens will be allowed to retain a ‘European Citizenship’. This scope can fit an organisation that is based on representation or promotion of wellness, and is founded on supranational authority. An example of this scope can be found in the EU’s growing number of citizen dialogues and online consultations (Citizens’ dialogues and citizens’ consultations Key conclusions, 2019).</p>			
	<p>‘Global Scope’: The EU offers an important role to both citizens and states, and both will be limited in their ability to influence the EU alone, and the EU is likely to focus on democratic values. Withdrawal from the EU is likely to result in a legal case in an international court, or with an agreement which guarantees transnational rights. This scope is represented by a European Union that is based on strong throughputs, as well as either inputs or outputs. Examples for this scope include The European Union’s external policy of supporting democracy and democratisation throughout the world via the use of soft-power (Zamfir, 2018), as well as various initiatives that support human rights (Zamfir and Dobrova, 2019).</p>			
<p>The EU’s Democracy: (Different models to the European democracy, corresponding to the three suggested scopes. Each of the different scopes is characterised by different features for a democratic European Union, and a non-democracy European Union.)</p>	<p>Democratic: (The EU is Legally Constrained)</p>	<p>‘Thin Scope’: The Member States are in control of decision-making processes in the EU and are accountable to the citizens. The member states are expected to have an equal say in the decision-making processes. This sort of democracy would favour a powerful European Council and a powerful Council of the European Union.</p>	<p>‘Medium Scope’: The citizens of the member states enjoy both representation and the ability to influence decision-making processes in the EU. This sort of a European democracy would favour a strong European Parliament and involvement of citizens in European affairs, without the need of the member state to serve as an agent, or alternatively, a dual chain of delegation as exists in federations.</p>	<p>‘Global Scope’: The EU would have a strong focus on transnational communities, as well as values. It is expected to be guided by and to act in order to promote universal rights, associated with democracy. This sort of a European Democracy would be characterised by a strong European Commission and a strong European Court of Justice. The European Union would aim to spread and stabilise democracy in the member states and beyond them, via the European enlargement policy.</p>
	<p>Not Democratic: (The EU is Unconstrained)</p>	<p>‘Thin Scope’: The demos of the European Union are the member states, but the ability of the states to influence the decision-making processes would be limited by non-democratic constraints, such as the majority of the political power being held by a small group of member states, or by bureaucratic officials in the European Union.</p>	<p>‘Medium Scope’: The citizens of the member states act as demos, but do not enjoy democratic rights or the ability to influence decision-making processes. This might be the result of limitations created by the member states or by the European Union.</p>	<p>‘Global Scope’: The EU would fail to enforce its transnational or democratic elements, this could be the result of a lack of mechanisms requiring transnational communities, or EU that fails to enforce or promote democratic values among its Member States and beyond its borders.</p>

Appendix 2: The Corpus Analysed in this Research

	Type	Name	Author/Speaker	Year	Abbreviation
EU Core Treaties and Supporting Documents	Treaty	Rome Treaty	European Union	1957	-
	Declaration	Declaration on European Identity	Nine Member Countries of the European Communities	1973	-
	Treaty	Treaty on the European Union	European Union	1992	-
	Treaty	Treaty of Lisbon	European Union	2007	-
	Court Ruling	Decision of the German Federal Constitutional Court of October 12, 1993 In Re Maastricht Treaty	German Federal Constitutional Court	1993	2 BvR 2134/92, 2 BvR 2159/92.
	Treaty	Consolidated Version of the Treaty on the Functioning of the European Union	European Union	2012	-
EU Founding Fathers	Speech	Germany and the European Community	Robert Schuman	1949	-
	Speech	The Schuman Declaration	Robert Schuman	1950	-
	Debate	Schuman Plan	Winston Churchill	1950	-
	Book	Pour l'Europe	Robert Schuman	1964	-
Brexit Negotiations, Background and Results	Speech	Prime Minister's speech on Europe	David Cameron	10 November, 2017	-
	Speech	The government's negotiating objectives for exiting the EU: PM speech	Theresa May	17 January 2017	-
	Letter	Prime Minister's letter to European Council President Donald Tusk.UK Government	Theresa May	29 March 2017	-
	Position Paper	Position paper transmitted to the EU27: essential principles on citizens' rights	EU Commission	24 May 2017	TF50 (2017) 1
	Report	Joint report from the negotiators of the European Union and the United Kingdom Government	EU Commission	8 December 2017	TF50 (2017) 19
	Position Paper	Recommendation for a COUNCIL DECISION supplementing the Council Decision of 22 May 2017 authorising the opening of negotiations with the United Kingdom of Great Britain and Northern Ireland for an agreement setting out the arrangements for its withdrawal from the European Union	EU Commission	20 December 2017	COM (2017) 830
	Court Ruling	R (on the application of Miller and another) (Respondents) v Secretary of State for Exiting the European Union (Appellant)	UK Supreme Court	24 January 2017	[2017] UKSC 5
	Speech	President Macron gives speech on new initiative for Europe	Emmanuel Macron	26 September, 2017	-
	Newspaper Article	Macron to sell EU plan in Tallinn	Maurice, Eric – Citing Steffen Seibert, Merkel's Spokesman	28 September, 2017	-
	Letter	Reply from Michel Barnier, Chief Negotiator, to Steve Barclay, Secretary of State for Exiting the European Union, on citizens' rights	Michel Barnier	June 2019	-
Speech	Speech by President Juncker and Chief Negotiator Barnier at the European Parliament plenary session, 18 September 2019	Michel Barnier	September 2019	-	

	Letter	Letter to European Council President Donald Tusk	Boris Johnson	2019	-
	Letter	Letter from the President of the European Commission to the President of the European Council, 11 March 2019	Jean-Claude Juncker	2019	-
	Agreement	Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community	EU - UK	2019	CI 384/1
	Declaration	Revised Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom as agreed at negotiators' level	EU Commission	2019	TF50 (2019) 65
	Speech	Prime Minister's statement on EU negotiations: 24 December 2020	Boris Johnson	2020	-
Democracy	Declaration	Meseberg Declaration	France-Germany	19 June, 2018	-
	Speech	Speech by Federal Chancellor Angela Merkel to the European Parliament	Angela Merkel	13 November, 2018	-
	Resolution	Council Conclusions on Democracy	Council of the European Union	October 2019	12836/19
	Resolution	Council Conclusions on the EU Action Plan on Human Rights and Democracy 2020-2024	Council of the European Union	November 2020	12848/20
	Speech	Report by President Donald Tusk to the European Parliament on the last European Council meetings	Donald Tusk	July 2019	-
	Resolution	The establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights	European Parliament	October 2020	2020/2072(INI)
	Resolution	European Parliament resolution of 18 June 2020 on the European Parliament's position on the Conference on the Future of Europe	European Parliament	June 2020	(2020/2657(RSP))
	Resolution	Council Conclusions on the EU Action Plan on Human Rights and Democracy 2020-2024	Council of the European Union	2020	12848/20

Appendix 3: Division of Competences within the European Union

Exercise of Competence ¹⁷			
<ol style="list-style-type: none"> 1. <i>Principle of Conferral</i> 2. <i>Principle of Proportionality</i> 	<ol style="list-style-type: none"> 1. <i>Principle of Conferral</i> 2. <i>Principle of Proportionality</i> 3. <i>Principle of Subsidiarity</i> 		
Types of Competence ¹⁸			
Exclusive Competence	Shared Competence	Supporting Competence	Special Competence
<ol style="list-style-type: none"> 1. The customs union 2. Competition rules for the single market 3. Monetary policy for the eurozone countries 4. Marine plants and animals regulated by the common fisheries policy 5. Common commercial policy 6. International agreements under certain conditions 	<ol style="list-style-type: none"> 1. Single market 2. Employment and social affairs 3. Economic, social and territorial cohesion 4. Agriculture 5. Fisheries 6. Environment 7. Consumer protection 8. Transport 9. Trans-European networks 10. Energy 11. Security and justice 12. Public health 13. Research and space 14. Development cooperation and humanitarian aid 	<ol style="list-style-type: none"> 1. Public health 2. Industry 3. Culture 4. Tourism 5. Education and training, youth and sport 6. Civil protection 7. Administrative cooperation 	<ol style="list-style-type: none"> 1. Coordination of economic and employment policies 2. Definition and implementation of the Common Foreign and Security Policy 3. Under strict conditions, the EU can take action outside its normal areas of responsibility

¹⁷ As outlined in Title I (common provisions) of the Consolidated Treaty on European Union.

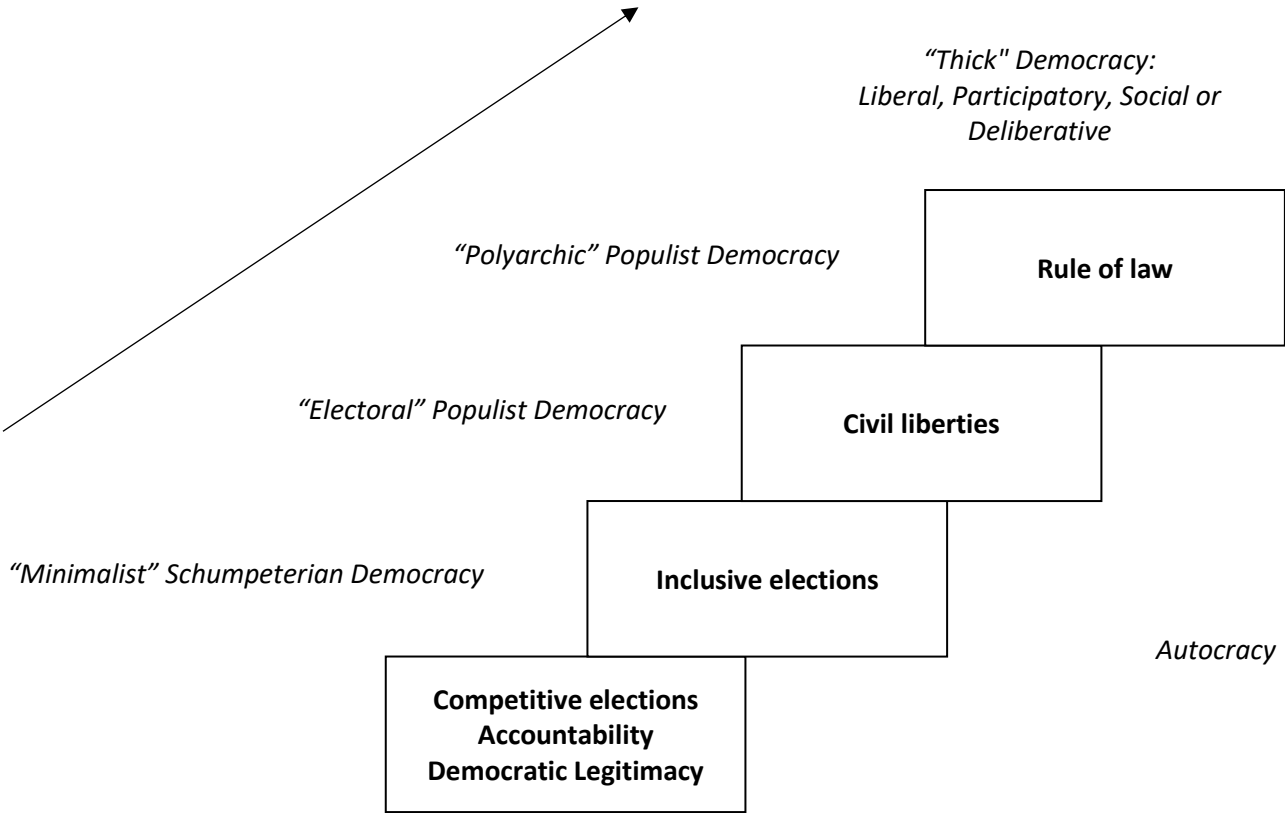
¹⁸ As outlined in Title I (categories and areas of Union competence) of Part I of the Consolidated Treaty on the Functioning of the European Union.

Appendix 4: Types of Democracy¹⁹

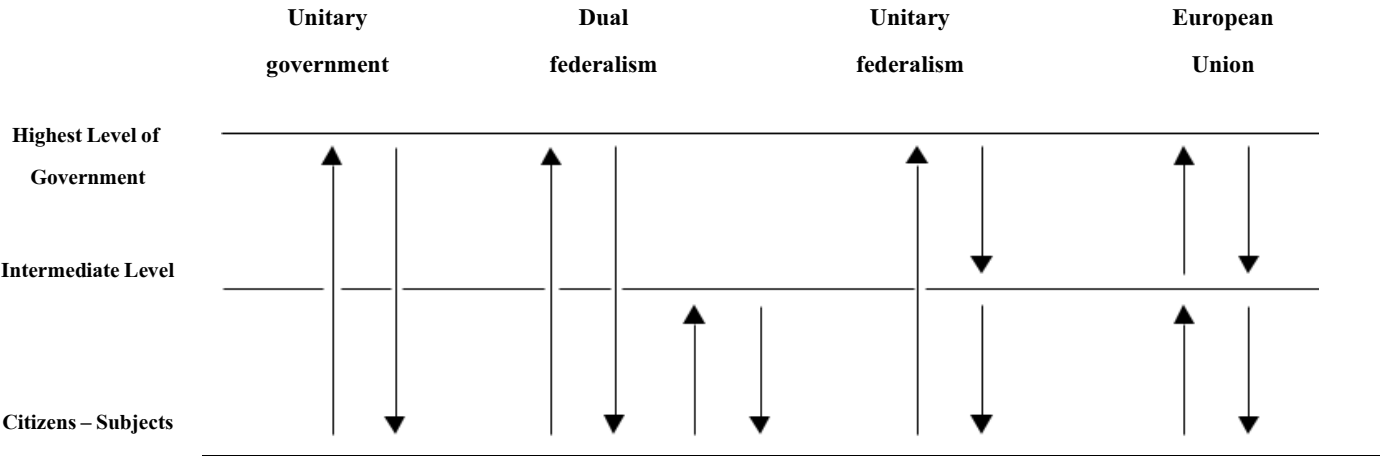
Schumpeterian Democracy	Populist Democracy	Liberal Democracy	Participatory Democracy	Social Democracy	Deliberative Democracy
<p>Democracy as an institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means a competitive struggle for peoples vote. Democracy according to this concept is based on procedural minimalism and forsakes democracy as an ideal.</p>	<p>Democracy as the idea of the people ruling themselves as free an equal being. This concept of democracy is based on political freedoms, the rule of law, formal voting equality and the enfranchisement of all able adults. This type of democracy is substantive and is based on revealing the popular will via procedures.</p>	<p>Democracy as basic liberties that take priority over popular rule and its conclusions. The foundation of liberal democracy is the idea that people should be free and equal. This version of democracy is often based on tempering popular will by means such as checks and balances.</p>	<p>Democracy as the idea that participation is an important aspect of democracy, and that given the opportunities, citizens would voice their political views and make collective decisions that are currently delegated in other forms of democracy.</p>	<p>Democracy as the idea that different realms that are considered private should be subject to democratic principles. This form of democracy puts its emphasis on economic, social and even sexual inequalities.</p>	<p>Democracy as an integration between populist and liberal ideas. Deliberative democracy attempts to employ popular rule to express and support the autonomy of all persons and values popular rule as a means of encouraging public deliberation.</p>

¹⁹ As outlined by Gutmann (2007).

Appendix 5: The Ladder of Democracy²⁰



Appendix 6: Compliance and legitimation in multilevel governments²¹



²⁰ Based on Gutmann (2007) and Møller & Skaaning (2020).
²¹ See Scharpf (2009).

Appendix 7:

EU Scope in Light of Brexit²²

Source of Sovereignty		Primary Task ²³		Citizenship Approach		
<u>Member States²⁴</u>	<u>Integrated Union</u>	<u>Promotion of Welfare and Well-being</u>	<u>Representation</u>	<u>Statist</u>	<u>Unionist²⁵</u>	<u>Pluralist</u>
The UK Leaving and having the right to do so.	EU negotiating with the UK, as a whole, instead of bilateral.	Cameron’s portrayal of the EU as a flexible union of free member states who share treaties and institutions, working together in a spirit of co-operation in order to advance shared prosperity.	The perception that Britain withdraw from the EU, as a result of low inputs.	The UK’s ability to deprive its citizens from EU citizenship, including residents of EU Member States.		The EU acted in order to defend the interests of EU nationals living in the UK, and others.
The ability to withdraw from the EU is legitimised through a parliamentary chain of accountability within the member-state.	Macron’s claim that the EU should be more integrated and	May’s portrayal of the EU as coming in expense other interests.	Macron’s statement that the EU should be more transparent to its people, and less bureaucratic, including mechanisms to consult the people.	May’s statement that maintaining rights in a post-Brexit reality is a British interest.	-	Brexit agreement, which allowed former and current EU citizens to maintain many of their rights in their current country of resident, whether a current EU member-state.
Polls during the years prior to Brexit showed that public opinion questioned the transfers of power from the UK to the EU.	‘sovereign’. ²⁶	Macron’s statement that the EU is the only way to defend values and interests.				Northern Ireland’s citizens ability to acquire dual citizenships.
		The framework for the future relationship between the two parties, which focuses on safeguarding rights and freedoms.				An ongoing EU legal case regarding the ability of British citizens to maintain their EU citizenship, should they choose to do so.²⁷

²² The most substantial factors are bolded.

²³ Here, the different factors carry a similar weight, and it should be noted that the British point of view is also supported by the treaties, and in particular Article 2 of the Treaty of Rome, The preamble of Treaty on the European Union, Article B of the Treaty on the European Union, and Article 2 of the Treaty of Lisbon.

²⁴ This is also supported by the treaties, as well as the German Federal Constitutional Court ruling of 1993.

²⁵ There are no factors, claims or statements relevant for Brexit that that show that a unionist approach is currently exists in the EU or is actively pursued by the organisation.

²⁶ This claim reinforces the fact that it currently not integrated and sovereign, but that there are some actors who wish for it to become so.

²⁷ This is an ongoing case that is yet to be settled, and would strongly support the pluralist approach.

Appendix 8: EU Democratic Models

	Thin Scope		Medium Scope		Global Scope	
Model Name	<u>Pure Intergovernmentalism</u>	<u>Mixed Commonwealth Federation</u>	<u>Federal Republic</u>	<u>Supranational Democracy</u>	<u>Transnational Discursive Democracy</u>	<u>Cosmopolitan Democracy</u>
The Demos	<i>States (Demos)</i>		<i>Citizens (Demos)</i>		<i>Citizens and States (Demoi)</i>	
Approach to Citizenship	<i>None.</i>	<i>Statist (Weak)</i>	<i>Statist</i>	<i>Unionist</i>	<i>Pluralist</i>	
Source of Sovereignty	<i>Member States</i>		<i>Integrated Union</i>		<i>Integrated Union</i>	
Primary Task	<i>Promotion</i>		<i>Promotion</i>	<i>Representation</i>	<i>Representation</i>	<i>Promotion</i>
Main Sources of Legitimacy	<i>Output</i>		<i>Output</i>	<i>Input</i>	<i>Throughput and Inputs</i>	<i>Throughput and Output</i>
Legally Constrained	<i>Constitutionalist Sovereignism vs Nationalist authoritarianism</i>		<i>Federal Constitutionalism vs European Authoritarianism</i>		<i>Transnational Constitutionalism vs European Authoritarianism</i>	
Highest Level of Democratic Feasibility	<i>Schumpeterian Democracy</i>	<i>“Polyarchic” Populist Democracy</i>	<i>Liberal Democracy, Social Democracy</i>	<i>Liberal Democracy, Social Democracy, Participatory Democracy, Deliberative Democracy</i>	<i>Deliberative Democracy, Participatory Democracy</i>	<i>Liberal Democracy, Social Democracy</i>