

**The democratic governance in the EU:
Does the direct civic participation in science-based policy-
making translate to the higher legitimacy of legislation?**

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Abstract

Democracy in the EU is in the state of crisis. Lowering turnout, longer legitimacy and accountability chain, more interdependent world and bigger than ever before science input to policy-making. There is number of possible solutions for that problem but the most promising is democratic governance. Active public involvement in decision-making process is a chance for higher legitimacy of legislation and renewed democratic commitment. Institutions such as Consensus Conference or Citizen Summit try to balance the tradeoff between public fear and experts input to produce the most appropriate policy. These institutions are novel and need to be assessed to clear if they are a progress in democratic society or just another failed experiment. From the available data the picture is mixed. These institutions certainly involve public and help to create a forum to exchange opinions between citizens, politicians and experts. On the other hand their impact to actual policy-making is still negligible. The future developments will determine the fate of these institutions and their role in the democratic process.

*“It remains crucial for governments, and the individuals
who constitute them, to continue their search
for innovative mechanisms for making government
work better and to serve society better”*

(Peters, 1996:2)

Chapter 1: Introduction

Background

Democracy in the European Union is one of the most treasured values. The freedom of expression, freedom of faith, freedom of convictions are accompanied by the citizens involvement in self-governing. The democratic principle states that: those who are subject of law should be the creators of law. European citizens are voting in elections and are part of policy process in many indirect ways, opinion polls, pressuring representatives in national and European parliaments. In many cases citizens are also directly engaged through referenda. However, many citizens demand more access to the policy making expressing that through unconventional political behavior (Barnes, Kaase, 1979) and indirectly through distancing themselves from the political process.

“The tension between ideals and reality [is] healthy for the future of democratic governance, since this indicates the emergence of more critical citizens, or dissatisfied democrats, who adhere strongly to democratic values but who find the existing structures of representative government, invented in eighteen and nineteenth centuries, to be wanting

[...]. For advocates of direct democracy, the forms of governance in the nation-state need to evolve to allow more opportunities for citizen decision-making than an election for government every few years. [...] The challenge is to reform existing institutions and to widen citizen involvement in governance, with the evolution of new channels to link citizens and the state” (Norris, 1999:2-3)

Pippa Norris (1999) gives a complete review of theories of crisis of democratic regimes. Erosion of confidence in representative democracies was widespread from late 1960s until today. The distrust and suspicion towards the elected representatives become the leitmotiv of developed democracies (Norris, 1999) for the whole 1980s and 1990s. The turnout was constantly decreasing from 1950s. In 1950s average turnout for democratic countries was 79.8%, in 1970s – 71.2%, in 1990s – only 60.7% (IDEA, 1997). Other sources claim that the picture is not that grim (Aarts and Wessels, 2002) and we can observe the opposite tendency in many countries. We need a historical perspective to fully assess the gravity of the situation but we may act against lowering participation of young and educated people (Topf, 1995). Lowering participation and interest in politics is not the only symptom. The number of street protests against international organizations rises in recent years. The sovereign state is loosing its independence in more interdependent world of multinational organizations and powerful interest groups. The new challenges we face need global response: terrorism, climate change, economic growth so the sovereignty of the state is being slowly suppressed for the welfare of society. How to deal with this apparent regress of democracy? How to deal with that in policies where science has the last word, as biotechnology or environment?

To many scholars governance is the answer. What is governance? It is “a method or mechanism for dealing with the broad range of problems/conflicts, in which actors regularly arrive at mutually satisfactory and binding decisions by negotiating and deliberating with each other and cooperating in the implementation of these decisions” (Schmitter 2006:161). Typical use of such a tool is restricted to the industry, advising experts, government’s agencies, and some NGOs. To boost legitimacy of such organization novel institutions are created (for example: citizens’ jury, consensus conferences) to accommodate public initiatives and to listen to the vox populi. There is a special group of policies which, by most, are considered domain for just a group of experts. Policies related to nuclear energy, biotechnology, environmental protection. The same policies carry the highest load of risk, so the public inference is both challenging and required. The opinions of the public with limited knowledge are driven by fear and industry PR. The situation excludes civic discourse. Is the institutional setting able to change that and give true opportunity for the public to engage in the policy process? And if yes, is that process more feasible?

Such institutional novelties like involving citizens directly into the policy-making process may as well define future of democracy. Analyzing those is glimpse into the future and will help to prepare proper framework for a technological breakthrough which will enable us to direct involvement that Greek citizens 2500 years ago were experiencing. It is not pure political fiction. Direct engagement of public can alter the way we come to shared solutions and the way policies are being crafted. This paper analyses the direct engagement of ordinary citizens in complex policy-making process using the governance perspective.

The governance approach is not the only one explaining the complex policy-making in cotemporary Europe. Another prominent perspective is intergovernmental perspective

(Moravcsik, 1991, 1993), which does not focus on non-state actors since as the only agent of change considers the state. Policy-making is just a constant bargain between states and their interests and all other actors are subjugated to state control. The final outcomes then do not reflect the strength of an argument but relative power of the state. This perspective also claims that the role of European institutions and its policies is not sovereign but is the sole effect of particular interests of certain most powerful states. This perspective is however not sufficient for analysis of public involvement because it almost completely ignores it. The big politics is however very much dependent on the public opinion towards certain policies, which is the best reflected in the transatlantic GMO or environmental dispute or in intra-EU dispute on biotechnology or gene testing (Gruber, 2003; Skogstad, 2002). Therefore I will use governance approach to analyze public involvement in policy-making.

In the background of my research lays the impact of technological and scientific progress on public policy and the ways this public policy is created. Dissemination of technological novelties and technology assessment is a very important issue but it will play just a minor role since this study is focused on policy processes and not on technology itself. The focus is on the efficiency of certain institutional novelties boosting public participation. Special focus will be devoted to the democratic anchor of governance and the way it constructs the framework where politicians, experts, industry and citizens interact to produce democratically legitimate policy outcome. I will examine the formal institutions and practices guarding the policy process (Ostrom, 1990), especially in the high science fields like environmental policy, medical and agricultural biotechnology, and I will assess the impact those institutions of direct engagement had on the policy outcomes.

In the second chapter, I discuss the crisis of democracy and main reasons for its occurrence with the focus on the science role. In the third chapter, I describe proposed remedies for the crisis with the focus on democratic governance. In the fourth chapter, I describe institutional novelties which are promoting participatory decision making through high level of public involvement into the policy-making process. In the fifth chapter, I analyze the features of those institutional novelties and assess their feasibility. In the sixth chapter I make final conclusions and describe future prospects.

Methodology

My research require looking at the problem from two separate perspectives. On the one hand I need to analyze and describe the actual institutional setting of policy-making process on the lowest level. Another perspective will require assessing the impact the public consultations and public input via NGOs makes on the final policy outcome through concrete examples of the use of active public participation in policy making.

For the first, preparatory, field mapping task the institutional perspective is employed. I will research the formal institution setting, typical role in policy making and rules guarding that involvement in policy-making. For the second and central task more qualitative approach is needed. The inquiry is based on the secondary sources referring the outcomes of the particular policy implementation and its aftermath. The unit of analysis is a single policy issue across different nations (EU and OECD countries since only there this approach is widely used).

Before clearly stating the scope of this paper through research question it is worth to mention the issues I will not discuss in detail. I will not discuss particular policy texts, just the voice of the public in implementation of those policies. I will not focus on the European integration although it is the background of many problems mentioned in my work. I will not deliberate on the decision-making process itself. It is vast and highly researched problem and it does not fall into this specific paper. Issues for further research will be developed in the conclusion part of my thesis

The limits of my research

Just nation policies – I am leaving out the whole (mostly Nordic) tradition of higher public involvement and consultancy on municipal levels.

Just active co-production of policies - no case studies of stand alone media campaigns, awareness campaigns, government transparency legislations, government-public connection and control through computer based technology, regular public opinion surveys.

No welfare state policies – only life science related policies connected with high involvement of experts.

The conclusions can be only generalized to other developed democratic nations with high level of administrative capacities.

Research question

Does the new form of public involvement in the governance of biotechnology and environmental legislations in the EU countries lead to higher legitimation of those policies?

Hypotheses

- More transparency and consultancy in policy-making increases legislation input and output legitimacy through:
 - a. The results of public consultations are incorporated into the legislation.
 - b. The new modes of democratic governance broaden the number of actors involved.
 - c. The complexity of issues (and therefore public reluctance) is overcome through the public consultation, openness of the process and transparency. In other words: The public has more knowledge on the subject.

Chapter 2: Democracy Crisis

Do the governments take the voice of public into consideration while creating the legislative framework of state regulations? The simple answer is: yes! Governments and representative bodies in democratic regimes are elected and so in their interest lies to implement legislation which has wide public support. That is the ideal model however. The classical model of democratic regime presupposes that after elections the public control is put under certain restrictions and the voice of the elected officials is the only voice of the people. The freedom from electoral constraints secures that representatives are making decisions with long-term consequences and not only with short-term interests of electorate. However, in modern societies the complexity and uncertainty of legislating areas requires more than just people's representatives. The experts, advisory boards and industry input is the common feature of every legislation but they are usually representing only one perspective on the issue¹. All of them, with no direct accountability and legitimacy for making binding decisions, are co-creators of the public policy. Their increasing role is diminishing the public input. Can the policy designed by the experts with no electoral responsibility be legitimate and can it appropriately address the public concerns? What is the alternative? The public with its limited knowledge and capacity to take numerous factors into consideration and even more troubling aggregation of interests is unable to create "good policy". Or is it? New institutional developments increasing public input and at the same time securing high quality of legislation might be the answer.

Nation-state is loosing its sovereignty and capabilities for charting the course of a nation (Held, 1991; Csaba, 2005). The proposed constitutional treaty of the EU introduced

¹ That is something that European Union explicitly tried to avoid (European Commission, 2001).

participatory democracy to the EU arena. It followed the recommendations of the White Paper on European Governance (European Commission, 2001) which called for higher level of public involvement as a way to increase the trust and legitimacy of the European institutions. Behind that legislation there was a hope that it would stop one of the biggest endangerment the democracy in the EU and not only here is facing. “Contracting out of public functions by governments to independent agencies and private actors raises questions about democratic accountability to the electorate” (Pollack, 2005:38). Those agencies without direct responsibility are unelected and therefore illegitimate to create public policy.

The EU role

The role of the EU (and OECD) is especially significant; twofold, firstly negative as the reason for decreasing the strength of traditional democratic institutions via decreasing state sovereignty and secondly positive by trying to find a new solution for that problem. In recent years the European Union took a stand in the increasing legitimacy of its policies and policies of its member states by strengthening public opinion and recently published white paper on governance (European Commission, 2001) established this mode of power sharing as the new orthodoxy in Europe. Strengthening public information units, education in crucial areas of policy-making and increasing the value of transparency and public consultancy are the clear signal that the EU is going the same path as many of the Western European countries in their effort to regain legitimacy and itself is leading the change. The main goal for many European and national institutions in the field of biotechnology is to guard and regulate the genetic revolution. “Creating an environment in which the inputs from different stakeholders – commercial, professional and public – can be balanced and evaluated [...]. With respect to genetic testing, a balance needs to be struck between the

extent of regulatory intervention required and the need for innovation”. That is the official statement from the policy document “Ethical, legal and social aspects of genetic testing: research, development and clinical applications”² (European Commission, 2004). Recognizing the need is just the first step. Implementation and later assessment of those policies is the next one. There is much to be done to properly translate the public interest to the policy-making process. Competing with the public ignorance and fear, the legitimacy problem is even more visible. The changing form of governance equals to more openness, more transparency, higher level of public consultations and more “public friendly” style of policy-making. This should strengthen and secure the input legitimacy (Scharpf, 1999; Moravcsik, 2002) of bio-policies instead of just output regulatory legitimacy. The crucial challenge for the EU is its supranational character which means that most of its policies and actions are implemented by the member states. Therefore, in the focal point of this analysis there is a nation member state and not the EU as an organization.

One may ask why the regulations could not be left to the market. Regulatory framework is necessary to guarantee the quality of genetic testing, PGD, stem-cell research and other vital medical procedures. Without government oversight, the market mechanisms would promote certain solutions without looking into the long-term health or environmental issues. In the field of agriculture and environment, the free trade principle must also be taken into consideration, since the innovation is necessary for global competitiveness and plays crucial role in policy agenda setting (Gruber, 2003). Between regulation and innovation lies the scope of European responsibilities in this area. For its member countries it must secure good international environment for trade and growth and for its citizens it must preserve the high quality assurance. The European Union has little to say in matters

² http://europa.eu.int/comm/research/conferences/2004/genetic/pdf/report_en.pdf

regarding healthcare since this policy is restricted to national states. However, in this subject the medicine and internal market overlap in case of pharmaceuticals and other health related products. Combining that with the member states policies gives us the complex picture of guarding biotechnology. Nation states are cooperating and competing with the EU on the grounds of patenting, agenda setting, and responsibility in the policies of biotechnology and beyond them.

Another factor endangering the democracy is multi-level structure of responsibilities in the EU. Multi-level governance was coined by Gary Marks (and Hooghe, 2001) to describe the crucial role of the European Union in deregulating and decentralizing national governments in regards to structural funds. The idea behind the concept was simple. The more power would be delegated to the lower instances of the Union the more effective the spending would be since the local governments know best what are the needs of local population. Increased role of regional governments and European central institutions devolve the member nation states powers. To encompass the new situation the multi-level governance concept was created. The power distribution become more dispersed than before. The EU, nation states, local governments are all creators of regulations and are in interdependent constraints of multilateral agreements. When the power is confined to the democratic nation state the answer to the question of accountability and legitimacy flows from the concept of sovereignty of the people who are creators and subjects of laws through elected officials. In the EU framework those officials are loosing those powers to central European level. That undermines the direct relation between citizens and their

representatives and therefore endangers the legitimacy of the legislation created on higher European level³.

In the age of constant scientific progress and vicious technological competition there is no doubt that the need for creation of active policy in biomedicine and agricultural biotechnology is urgent for the well-being of the people and for the competitiveness of the European industry. Proactive policy is created not only in response to the international pressure but even more to internal fear of those technologies. “Technological change, with global competition in emerging technologies, has also driven the EU policy. The exploitation of biotechnology, both within the EU and within the US set the framework within which European policies had to be defined and developed. US and European companies were competing to capture new patents and potential markets, as European and American scientists compared research findings and environmental NGOs exchanged their concerns.” (Wallace, 2005). This quotation is highlighting another issue which is the background of this research. Supranational organizations, international competition and free trade are the core elements of the reality where contemporary states are facing new challenges on an everyday basis. The capacity of the governments to face those challenges is limited. New scientific breakthroughs must be assessed and fitted to the existing economic policies with proper risk assessment. Such process is too complicated for the state apparatus alone. Therefore, the state is creating external expert agencies that are independent not only from the public but also from the elected bodies. They take over the regulatory responsibilities of the more accountable institutions which create the legitimacy void. Responding to the policy challenge through creation of super-agencies just deepens the problem of democratic accountability.

³ For more detailed discussion about the impact of globalization and Europeization on policy-making process in the EU see Csaba, L (2005). *The New Political Economy of Emerging Europe*. Budapest: Akadémiai Kiadó.

In the EU governing of the health and agricultural related biotechnology is done through a complex network of central level European institutions, national representative bodies and numerous advisory organizations (Dodds, Thomson 2006). Recent efforts of increasing this club to incorporate the public interest groups will complicate it even more. The important question about the efficiency of policymaking should be stated. According to the literature on network governance it should even increase the efficiency since broad deliberations decrease the chance of rejecting implementation (Sørensen, 2006). However, the increasing role of the EU does not obliterate nation-state responsibilities. Nation states have to deal with new reality where their maneuverability in bio-politics policy area is limited and the demand of the citizens for better regulation is growing. However, before I will address the often-proposed solutions to that problem, I attend closer to the democratic deficit, technology and experts and their role in diminishing democratic basis of our societies.

Democratic deficit

Another reason lies in the accountability problem. One of the few permanent leitmotivs in the EU politics is the “democracy deficit” (Moravcsik, 2002). The lack of transparency and complexity of the decision making process created the feeling that there is no democratic representation in central stages of power (Borras, Jacobsson, 2004). The folkway ideas recreate the Commission and the European Parliament as the soul-less, massive bureaucracy organizations with no connection with the common person and more and more national parliaments are following in that citizens’ assessment. The longer is the legitimacy chain the thinner is the fabric of democracy (Brunkhorst, 2003). As a post-state

entity, the EU has major problem with sustaining its legitimacy and since it has major influence over the member state policies the democratic deficit is transferred down.

In the process of European integration more and more crucial functions of national governments are transferred to the central Brussels level. Usually it is with the concurrent responsibility between member states and the Union but recently the exclusive Union responsibility is more visible. Certain functional boundaries were moved up and public connection might have been lost in the process. Now the international trade, environmental protection, consumer protection and immigration comes exclusively into the EU responsibilities. This problems from the functionalist point of view are much better dealt with on the central level than national one but the popular opinion is that what is going on in the summits of power has little in common with the interest of an average person, or even worse it is against their interest.

All large forms, which are extending their functional scope, are doomed to distance themselves from the subjects which, in this case, are the citizens of the member states. This process “does not simply diminish democracy in the sense of individual disempowerment, it also fuels the separate and distinct phenomenon of de-legitimation. Democracy and legitimacy are not coterminous” (Weiler, 1998:265). The problem of democratic deficit was widely discussed in the reference to the EU by many scholars (Majone, 1996; Moravcsik, 2002). The most important feature of it is the undermining of the consolidation process which cannot gain support from public which feel that has nothing to say about the way the community should go. The same process may be as well observed on national level.

The democratic control through the European Parliament and through elected national officials is not sufficient. The community tries to counterbalance that with the openness for input from civil society (Moravcsik, 2002). As an entity in creation the EU can use all the best practices towards the wellbeing of democracy. Increasing the input legitimacy and opening the process of decision making the EU and the member countries try to alleviate all perceived imperfections. Although the European Constitution⁴ is not reality yet, there is still some room to operate.

The discussions about democratic deficit (CEC, 2001) make the need for new way of governing more obvious than ever before but before I describe some of the proposed remedies I need to portray another important factor of diminishing public influence. I have mentioned it before but “scientification” and “expertisation” of certain public policies is the core issue in modern governing and therefore deserves closer attention.

Science, experts and progress in democratic context

Scientific progress is one of the most serious risk for the wellbeing of democratic regimes since its impact is rarely realized. We are witnessing the technological breakthrough of utmost importance. The medical biotechnology is changing our understanding of life, death and personal liberty, agricultural biotechnology solves many

⁴ The failure of constitution stopped the Union from fixing some of the problems. The proposed constitution would enhance the parliamentary scrutiny which in effect would lower the perceived democratic deficit by heightening the control of democratically elected representatives. The scope of legislation would be as wide as in case of national parliaments and therefore would attract more attention. The treaty would additionally create the position of the President of the Commission elected by the parliament. Besides those provisions there was a number of secondary provisions strengthening the role of national parliaments, giving a right to control over secondary implementation measures by parliament and opening the process to and for the public. It gives a right to direct contact by petition signed by one million Euro-citizens. The petition have to be than considered by the Commission and might become the part of the body of law in the EU. Changing the optic of responsibility to the elected representatives the relative power of citizens increases. If the chain of power is shorter the pressure exercised by an average citizens has much more power to reach the highest “command posts”.

problems in area of human nutrition and creates as much. These breakthroughs enable us to develop preventive healthcare and personalized pharmaceuticals; eradicate genetically transmitted diseases and disabilities; help to decrease the psychological and financial cost of healthcare. The agricultural biotechnology leads to famine eradication, more efficient and cleaner ways of food production. Both issues are highly controversial and most of the European public is suspicious about these technologies (Gruber, 2003). The historical context of eugenic policies of interwar period and food scares in agricultural biotechnology in 1990s renders these policies sensitive and politicized. In the environmental field the constant tension between industry and public makes this policy the most debated one. In the field of nuclear energy, the public still remembers the Chernobyl catastrophe and remains cautious. All together it creates the picture of distanced and possibly hostile adversaries: experts and public. Nevertheless, the public distrust towards this subject is not the only factor that makes scientific progress an endangerment to the democracy. We are living in a risk society (Beck, 1992) and in that society science, public and democracy are often on conflicting positions.

Effectiveness has virtually overtaken the public input through elected representatives when production of public policy is concerned. For the sake of technological progress the human factor is omitted. For many it may seem logical consequence since no public is able to make a rational choice in the subject where there is only fear and misunderstanding of basic facts. However, the real picture is somewhat opposite. Contemporary science creates more potentially dangerous discoveries than ever before and those discoveries are closer and closer to us (food, nano-particles). It creates more fallout through more complexity and unforeseen developments. On the other side of the equation, the governmental oversight is

not more effective than it used to be. There is a tension between science, industry, public and politics over the scale of input into policies from all sides.

Complexity of science sector

The role of science in contemporary Europe is not only educational since the industrial revolution, but recently science has more impact on our everyday lives than ever before. We are entering the age of knowledge-based economy and scientific progress is as much a part of the economy as automakers or banks. It is an industry on its own. The main challenge for the policy of innovation (and R&D and education) is the multi-levelity and complexity. Throughout the process in which there are literally hundreds of subjects engaged. From a single scientist, research team, R&D division in a corporation, university, to a local government, state and finally international bodies like OECD and the EU. For each level, different expectations are to be met, different roles of separate levels are to be coordinated and assessment criteria are to be established. The lowest, the most active and basic level of single team or a scientist is the most creative and goal oriented subject. It defines the targets, the objectives of the scientific research and conducts it in a proper manner. The middle level of Universities, companies and local government are responsible for helping the researchers with the organizational side of the process. Providing the founding, coordinating the larger scale effort, creating the incentives for the specific field of science. The highest level of governments and international organization is responsible for creating the framework for the both lower levels; creating the friendly environment of law and administrative rules which does not inhibits the creative process. This level is also responsible for the organizing money for the long-lasting, big, international and interregional projects but predominantly this level deals with the regulations of the outcome

of scientific process of research and development. The role of the EU is of specific flavor. It cannot replace the state in its responsibilities towards the society and finance the research directly. It cannot create a policy on its own since it is a creation and tool of the member states. Its main responsibilities were to set some benchmarks for the achievements of the member states for them to compare and adjust certain innovative policies. With that complex picture let us not forget that this is only one side of the problem. Beside the science world there is also public and its political representation. They are all engaged in various regulations on the state and above level, and since more and more policies require high level of scientific proficiency the debate becomes too technical. The internal relations in scientific world are somewhat insulated from the public control and therefore the public must be especially diligent in controlling the outcomes of scientific progress.

“Individual scientists increasingly "know more and more about less and less," and thus can hardly foresee the consequences of their discoveries for related fields, let alone the possible applications that could result from interactions with other fields. Such an excessive differentiation of roles implies both a formal and a substantial delimitation in individual role responsibility” (Schomberg, 2007:4). These factors force the policy-makers to broaden the external control over the science and at the same time broaden the scientific input into policy making to assure the highest quality of governmental regulations. The questions of nuclear energy, climate change, multiplying human DNA and introducing GMO into the environment are currently under the political debate in most developed countries which means that politics and science are as close as never before. European Commission (2000:10-12), for example, acknowledges that public concerns must be considered on equal footing when science and politics are coming together.

EU and biotechnology

Biotechnology issue in the European context is multifaceted and therefore a good example of policy-making. Soon after every member country accepted Lisbon Strategy (Begg, Boeri, Csaba, 2005), which indicated biotechnology as the leading industry of the future, the transatlantic dispute arose. Between the EU and the USA, two biggest trading entities in the world, there are several collisions concerning GMO issues based on different perception of the role of the science and moreover on different public approach. However, the genetically modified organisms generate much more than just collision of two different approaches to scientific development exhibit in the USA and in the EU. “Global governance becomes even more difficult as one issue can touch on several non-economic value systems. Trade in genetically modified organisms, for instance, arouses ethical and religious concerns, health concerns, and environmental concerns” (Zahrnt, 2004:65). This issue exhibit in the clearest terms how complex is contemporary governing between international organizations and trade blocks and national public (Safrin, 2002). Number of European countries that did not comply with WTO pro-GMO ruling did so under the pressure from citizens who were under the influence of media scare over modified food. This case showed clearly limits of policy-making above the heads of ordinary citizens (Gruber, 2003) and underline the need for proactive and involving public policy response.

On the one hand the EU has been pushing towards the information and high science age of economic development through intensifying the biotechnology; on the other hand many Europeans presented hostile reaction towards them. Number of food scares, connected to the BSE, modified corn, dioxins made it a highly contested political issue (Matulionyte, 2004:6). The inability to properly cope with the issue by member states and EU itself lead to

decreased credibility of central institutions to manage any further developments. From that point in time on the European public remains deeply distrustful towards any genetic manipulation in the agriculture and beyond. Whatever measures required by the WTO to settle the dispute might be employed the final problem is the consumers' approach. The acceptance or not is not a central issue any more. It is the question of communication between governments and people. To solve the dispute on transatlantic front the European countries must look inward for internal support (Matulionyte, 2004:11).

The GMO is one of the most debated issues in recent years in Europe. Policy-makers have developed a number of proposals to tackle public reluctance: more and stricter rules on release GMOs to the environment, more detailed risk assessment procedures, obligatory labeling, stricter oversight and new agency: European Food Safety Authority. Many member countries defies the EU regulations and applied stricter regulation on their own. "From the point of view of political science Member States' non-compliance with the EU-level regulation of GMOs provide evidence of the EU's weakened legitimacy in complex decision-making, and the inadequacy and insufficiency of output legitimacy in particular. Consequently, the recent initiatives to restore EU GMO regulatory authority through new, more effective regulation affirmed the importance of both input and output legitimization measures" (Matulionyte, 2004:15). With the situation like that member countries must search for a new support in the general population.

Constant "scientific uncertainty" in the field of biotechnology requires special measurements for policy creation: meeting international standards, proper risk assessment or pertinent precautionary measures (Ladeur, 2003). But who should decide what precautions are sufficient. If left just to experts the policy-makers may realize in the future

that public had different assessment and therefore the regulation is not effective. The proper balance between science/public interest/public fear/policy options must be found to assure maximum effectiveness. Now the fear before the GMO is main motivation behind public reluctance. Opening the debate and stripping it from presuppositions and suspicions would alter that picture (Matulionyte, 2004:45).

Experts' role

Whenever on the level of local government or on the level of global governance the complex issue comes to be dealt with the lack of sufficient scientific data is obvious (Zahrnt, 2004). If it comes to issues of international trade or new economic agreement the fall-out might be just slower economic development or adjourned opening of new market due to different regulation clash⁵. However when to negotiating table advisors and officials bring the misconception of the risk assessment of some new technology or just divergent concepts, human life might be at stake. Especially in the fields with high impact on living organisms scientific expertise is necessary.

To fully comprehend the role of the scientific experts it would be useful to sketch a parallel picture without their presence. In the age of highly processed food and chemical omnipresence in every bite, public policy regulating that area would be paralyzed without experts. Without chemicals in the food the natural sources would never be sufficient for sustaining current Earth population, so without experts knowledge and control there would be permanent hunger or millions of deaths from chemical poisoning. Experts' role however decreases legitimacy of elected officials and lowers public scrutiny through technical input.

⁵ The case of GMO dispute between USA and EU in WTO arena is an example (Gruber, 2003)

The “expert bodies” are prone to over-technicizing the problems (Jasanoff, 1990) and discuss it only in relation to other technical details and not to the wellbeing of society. “Democratic discourse implies relevant and valid information[...]. Expert attend to issues of knowledge (means); citizens and politicians attend to issues of political values (ends)” (March and Olsen, 1995:81). The trick is to combine the expertise and public concerns for the good cause of meaningful legislation.

In 1979 the poll was conducted asking citizens what group should be primarily responsible for making right choices in highly contested issues such as nuclear power or food additive regulations. Majority of responses indicated that scientists dealing with the subject are most qualified for resolving contested issues (Jasanoff, 1990:12). In recent years in special issue of Eurobarometer (2006:47) about biotechnology the data about the trust towards experts dealing with genetic engineering and other biotechnological issues confirmed the results from 2002 and once again put the experts in the field as the most trusted. According to the same polling data public is trustful towards experts much more than towards government and elected officials. Should we then let the scientist to undertake all the decisions?

The growing role of the expert advise in government work is certainly not a new dilemma. Sheila Jasanoff in her book “The Fifth Branch: Science Advisers as Policymakers” (1990), where she describes role of science in public policies, cites an early XX century work: “So we discover in the administrative service one official who knows all that can be known about the control of water-borne diseases, another who has at his fingertips the substance of all available information on wheat rust, and another who cannot be “stumped” on appropriations for the national park service. These men are not merely

useful to legislators overwhelmed by the increasing flood of bills; they are simply indispensable. They are the government” (White, 1926: preface).

Nowadays the problem with inclusion of science into policy making is two fold: Governments often ignore the scientific advice and proceed without acknowledging crucial scientific warnings based on best information available. This “technocratic fear” is especially visible in the 21st century. Economic needs are in evident collision with environmental concerns. Ignoring the more and more visible indicators of global warming problem would lead to doomsday scenarios. Another fear is “democratic fear” and is opposite to the technocratic one. Scientific arguments are usually enough to introduce new regulations without consulting public opinion. This problem is connected with normative assessment of the impact of new regulations. Scientists do not have to bother with all long-term and usually unforeseen consequences and when industry is concerned there is also no long-term considerations. The risk assessment must then be done through political channels. Carcinogenic additives, nitrites as a sweetener added to food products, herbicides leading to birth defects in animals are all examples of improper science use and market failure to remove those mistakes from the food products. Environmental Protection, Food and Drug Agencies were created in most industrialized countries to deal with problems like that but even those agencies must employ more open procedures to deal with public fears.

The problem of scientific advice is especially urgent in threshold scientific discoveries. Whenever science makes a giant step forward the available data often lags behind in risk assessment. New products with plausible positive influence on human health and natural environment can as well have negative effect over longer period of time. The example of biotechnology may be the most illustrative. The seminal discovery of a DNA

structure enabled biologists and chemists for thousands of inventions. “The birth of Louise Brown through in vitro fertilization (IVF) in 1978 was a major milestone in infertility treatment. It dramatically changed the treatment options for infertile couples, and techniques for assisted reproduction have evolved rapidly since then. In a short span of 20 years, IVF has become the cornerstone of reproductive medicine, and IVF clinics today routinely perform techniques which were thought to belong to the realm of science fiction a generation ago” (Malpani and Malpani 2004). Subsequently the development of Gamete Intra-fallopian Transfer and recently Preimplantation genetic diagnosis and Preimplantation Genetic Haplotyping were the unthinkable discoveries that pose much more serious policy questions than widely debated stem cell research and genetically modified food. Without a policy framework the reserachers would be stopped just meters from curing incurable diseases. Without proper risk assessment we may overlook crossing the frontier between human and post-human reality. Because of this technology the serious question are posed. Should we allow for selective fertilization just on the basis of potential risk? Does not that open the door for selective preventive abortion? With the progress the science left the realm of pure technique and enter the grey ethical area where the debate must be broaden.

Are there any solutions?

Since the late 1980s, the total number of toxic substances in food is decreasing since the environmental consciousness is on the rise but because of the new developments, in fields like chemical engineering, nano-particles are spreading into the human system polluting not only our environment but also our bodies. This and other examples of modern science problematic consequences are belittled in the industry PR. The industry claims that they are harmless in small doses and they are necessary condition for economic and

scientific progress (European Commission-KBBE, 2005). The problem with that is that most of these discussions are taking place behind the closed doors. Issues of this and similar scale should be debated openly (van Dyck, 2002) and decisions should be made with public approval. Hiding the controversial issues also mean the constraints on single scientists with opposing views to freely enter the debate

First, individual scientists and research groups should participate more in the public dialogue on policy issues (Miller and Conko, 2004). Second, the process should be more open to ensure that progress is not impeded by fears and misunderstandings. Third, the public voice must be taken stronger into consideration. There is no way back and passive reaction is not a choice. Breakthrough scientific discoveries in such ethically grey area must be accompanied by proactive policies. Social and economic impacts of those developments are yet to be understood but the responsibilities of regulatory bodies may be fulfilled only with proper institutional setting. Such sensitive and multi-sectoral issue must come with careful deliberation of fully informed public and competent experts.

Policy making in highly complex technological field still relies on Enlightenment model of knowledge, which is a separate area from an everyday life (Wynne, 1996; Irwin, 1995). This poses the danger of lack of legitimacy of legislation in that field. The highest stakes are in the field of medicine, where human life and scientific progress meet with human dignity and strong religious taboo. The policies in this field should be constructed between governments, industry, NGOs, public interest groups, experts and scientific discoveries to provide with the most broad spectrum of stakeholders. To make the process more transparent, open and with more diversified input, more deliberation is needed (Fixdal, 1997). But not only deliberation since talking with laymen would hardly improve the output

quality. Therefore, engagement of public must come with educational effort. The public must be taught the basic issues on debated topic to become more competent interlocutor for the experts. Such programs were enacted in Swedish energetic policy as early as 1970s. (Giddens, 1998). Since they were successful, they were repeated in many instances. Similar programs were introduced in Great Britain and Norway during the agricultural biotechnology controversies and in many European countries in a variety of policies. However, the clear assessment of all implications of engaging public is yet to be done. Later I will discuss certain institutional novelties which try to incorporate the principle of public inclusion and try to assess some of the implications for the legitimacy of public policies but first I discuss some of the other proposed remedies for this state of crisis for democracy.

Chapter 3: Remedies for Democracy Crisis

Many authors propose moving the citizenry from apathy towards active engagement. Joel Hirschhom (2006), a scientist who has an experience of working for the government, perceives contemporary society as distrustful towards the governmental bodies deeply engaged with private corporation realm. He proposes next democratic revolution that would bring the democracy to its roots. It is characteristic for many contemporary journalists and scientists to seek remedies for apparent decrease in democratic values in reforming institutions of the system so I will briefly refer some of their ideas which are symptomatic for perceived weaknesses of democracy.

Make the election process less dependent on money. This proposal identifies problems of democracy in uneven access to political offices. When the money have voice there is little impact that can be made by the poor. Make the political process more transparent so the public will know the directions and reasons for governmental actions. Most people do not understand the complexities of decision-making processes. It is obvious in the context of the European Union with its multi-levelity and interdependency but in most national contexts the problems are of the same nature. States engaged in numerous treaties and international regulations decline in simplicity of decision-making processes. The main problem with that postulate is still the complexity of the reality. Even with full institutional transparency the comprehension of the decision-making process in the central level would not be available for most people. Make the public media more open towards the citizens and more focus on political reality; to recreate the idea as a primarily mediator between “power” and the people. However, most public opinion polls show that people are

tired of politics and would like to hear less about political issues. The political apathy is the main obstacle for that course of action. Make the voting compulsory. That idea is against many of the values of democracy itself. Citizens can choose not to vote and they are expressing their will that way. In many countries the compulsory voting change only one thing: the turnout. The turnout however is not the virtue itself. When it is low it signals the inherent problems in the system and therefore certain actions can be undertaken. When this indicator is artificially tempered with it loses its value. All of these recipes can be combined in one unifying framework of democratic governance based on deliberation.

Deliberation

Some scholars (Majone, 1994 and 1996) are proponents of the uber-national forms of ruling which might be called the enlighten absolutism of deliberative democracy. The source of this line of thought is simple. People does not make rational decisions since they are not able to detect all interdependent factors that render the reality too complex for cognitive ability of human kind. Democratic deliberation is the way out given that it can detect best solutions better than political process (Nino, 1996). “Democracy, with a focus on inter-subjective discussion, is the most reliable way of getting people to make impartial, rather than selfish decisions” (Nino, 1996:144). If we would leave all decision making process in hands of citizens their decisions would not only be imperfect but many times would be against long-term interest of citizens themselves. Therefore, in the best interest of citizens is that there would be an supreme being that would decide what is the best for them. However, to secure democratic procedures that being would be constrained by the rule of law. Such being is the constitutional court, which is embodiment of the perfect deliberative rationality based on the rule of law.

“Many governance theorists emphasize the potential for the EU as a “deliberative democracy” in which collective problem-solving offers a normatively superior alternative form of policy-making in a multinational Union” (Pollack, 2005:36). Deliberation is communicative interaction “based on a search for consensus among all those who have a distinct opinion on the issue at hand, rather than by using force, voting, or bargaining.” (Verweij and Josling, 2003: 10). Deliberation is decision-making process based on rationality. As, classics in the field of governance, James March and Johan Olsen had put it “[t]he most commonly shared ideological system in modern democratic societies is a commitment to rationality, the belief that action is appropriately justified by anticipation and evaluation of its consequences” (March and Olsen, 1995:147). Deliberation secures that since during that process there is no room for normative systems of tradition or particularistic views and opinions. Process is secured for delivering the best possible outcome based on rational exchange of strong, science-based arguments.

This is the tradition of liberal democracy in way Habermas (1989) understands it. The perfect communicative rationality where nothing impedes the argument flow and understanding is based purely on arguments. The role of the state is than to secure an arena for the communication process to take place. However there is a danger that such approach would lead to enlighten absolutism and not truly democratic process with high legitimacy.

Legitimacy role

“[T]he weakening of political legitimacy in Western Europe is a consequence of the loss of problem-solving capacities of political systems which has been brought about by the

dual and interrelated processes of economic globalization and European integration” (Scharpf, 1999:2). To that picture we can easily add scientific progress for which governments were not prepared to handle properly. Growing discontent with governments are not meaningless for the quality of crafted policies.

Legitimation problem is not empty threat towards democracy. It is not just a scientific concept without “real life” applicability. High legitimation of particular institution leads to higher efficiency of its work since actors involved are more willing to adopt ideas discussed on the forum of such institution and are more willing to be persuaded. Valentin Zahrnt (2004) showed that on the example of the WTO actions but such conclusion is valid for all levels of governance. Whenever the perceived legitimacy rises, the flexibility of actors rises alongside, since there are more chances for pursuing bonding agreements respected and implemented by all sides. Such motivation is the best warranty for meaningful and decisive talks.

The legitimacy is necessary for the democracy to function. Recent years had lowered democratic legitimacy through gradual process of increasing interdependency (Benz and Papadopoulos, 2006: 1). As a result the indicators of acceptance for democratic regimes hit the record lows. The legitimacy is a complex notion with multitude philosophical connotations. For the sake of simplicity the legitimacy can be analytically decomposed as the input and output (Scharpf, 1999) and sometimes throughput legitimacy (Papadopoulos, 2003).

Types of legitimacy

Input legitimacy is participatory in the principle. To be viable it takes all stakeholders and their input into consideration. “Political choices are legitimate if and because they reflect the ‘will of the people’ – that is, if they can be derived from the authentic preferences of the members of a community” (Scharpf 1999:6). It is the emphasis of “government by the people”. In the age where no major policy in the area of science is changed without experts’ input, the voice of the people is not heard enough. It has tendency to be overlooked and fears of the society are dismissed as ignorant. Therefore, to strengthen this legitimacy voice of the people must be taken into consideration to greater extent.

“Throughput legitimacy regards the transparency, fairness and responsivity of the structure, topics and procedures of a process. Throughput legitimacy asks how a decision is taken, who is responsible for them and which issues are at stake” (Nordbeck and Kvarda, 2006:3). This side of the decision making process is often regarded as the major reason for hampering the democratic culture. The transparency of democratic institutions is a long way from the Agora style debate at the cradle of democracy. The rationale of massive bureaucracy is not obvious for an average citizens which makes them distant from the centers of power and distrustful. To gain the public trust an effort must be made to explain the decision making process better.

Output legitimacy is high when the legal environment produces the effective policies which increase the total welfare of the society. It is the emphasis of “government for the people”. It rises with the effectiveness of public sector to tackle most important social issues. The idea behind the concept is that people can resign from the influencing the process when the outcome generated by the government is useful and effective. If the policy respond to the public need it gains their acceptance.

Assessing the impact that institutional novelties of participatory decision making have on the quality of democracy I use above framework of legitimacy. If participation in democratic governance is going to be a good remedy against weakening democracy, the legitimacy of such proceedings should be higher than current state.

Political system is constantly evolving trying to adapt to ever-changing reality of human affairs. Institutions change along with the people experience and with the ability of institutions itself to exercise change without large external pressure. From the last decade of the XX century states were encouraged by multinational actors to develop a new breed of institutions which are able to learn and adapt from experience (OECD, 1991; OECD, 1995; World Bank, 1991) and are more flexible in response to the problems repertoire. The one of the responses includes more active involvement of the public.

Active inclusion of the public voice and therefore making the governance networks more democratic has two dimensions. First one is inclusion of the civil society through non-governmental organizations (NGOs). Second type of democratic anchor is the engaging ordinary people without institutional affiliations. Before addressing the main issue of active engagement of ordinary persons, I briefly discuss the NGOs involvement.

NGOs involvement

NGOs can actively improve the implementation of the international agreement through monitoring the factual situation in states where the administration is weak. NGOs can participate in formal meetings, conferences and committees, they can actively shape the

agenda, they can provide expertise and an alternate point of view in fields of environment or new technologies, they are the voice of the public concern and therefore have to be listen to. When that forms failing, NGOs often employ unconventional political behavior and try to disrupt multinational meetings and make the front page that way (Zahrnt, 2004:59).

After the Earth Summit in Rio in 1992 the inclusion of the non-governmental organizations was recognized by the major state and institutional actors as vital for success of such talks in the future. In 1999 the well known case of the WTO Seattle meeting on the Multilateral Agreement on Investment took place. During that summit the issues of the discussions were overshadowed by the mass protest on the streets which marked the beginning of the protest movement known as anti-globalization movement (Klein, 2000).

The WTO for example created special format for NGOs consulting. In 1996 “Guidelines for Arrangements on Relations with Non-Governmental Organizations” was initiated and since than many international organizations cooperated with NGO sector and many have created the formal participation rules for those organizations to include them in the decision-making process. Nevertheless, the factual implementation of the proceedings, involving NGOs in the policy process, begun just after the 1999 (Zahrnt, 2004:60-62).

Valentin Zahrnt (2004) presented detailed assessment of the NGOs involvement in governance process. NGOs improves the quality of policies through broadening the scope of actors involved providing pluralism and diversity of opinions, through expertise, through providing the universalistic approach (in contrast to nationalistic one presented by state actors). NGOs can also secure the proper dissemination of information about policies and about the institutional reality they exist in. The consultations can be active during the

organization's proceedings or through contact groups. The participation in that form is purely voluntary. Overall the influence of NGOs is highly valuable "Global governance structures can promote social capital formation, in particular by enticing deliberations. Deliberations have been shown to foster legitimacy of international institutions in three ways. As a supplement to representation, deliberating enhances process legitimacy. Also, actors nest specific rules in legitimate, broader norms when deliberating. Thirdly, deliberating reduces the heterogeneity of norms, so that conflicts with domestic norms become less frequent." (Zahrnt, 2004:182)

Governance

Governance is the notion widely used in contemporary political science. It can be found in the White Papers (European Commission, 2001) proposing change in the ways of communicating with citizens, it is a focal point in the development discourse⁶, it is a new, more dynamic, form of viewing the public administration. In the simplest terms it is the dynamic way the government governs, but in the political science this notion gained altered connotation. It is being used with very different meanings (Rhodes, 2001). It is a sustained way of coordination between range of actors with different objectives, structure and composition as NGOs, public service, international organizations and private companies (Pierre, 2001:3). According to one of the most prominent proponents of that term the "[g]overnance [...] is a more encompassing phenomenon than government. It embraces governmental institutions, but it also subsumes informal, non-governmental mechanisms whereby persons and organizations within its purview move ahead, satisfy their needs, and

⁶ The case of World Bank proposing the framework of good governance for the developing nations.

fulfill their wants.”(Rosenau (1992:4). In that view it has almost a normative dimension which brings it closer to the public, and therefore it is a “better” way of governing.

In political lingo the phrase: “good governance” is connected mainly with the problems of the developing world and newly established democratic regimes. As the late World Bank chief Paul Wolfowitz tried to establish, the monetary help would be based on the merits of good governance, meaning no corruption, transparent decision making process, no wrong doing towards opposition. Such understanding of governance is to be met in the media and therefore it is the perspective closest to the laymen.

In recent years the social science community witnessed the emergence of the new approach (Scharpf, 1999; Hooghe and Marks, 2001) towards the analysis of political phenomena, which holds in its center the notion of governance. The governance approach has its roots in comparative political research and international relations field. The governance approach is in a way just a response to the changed reality of political process. It is especially useful in regards to the European Union (Pollack, 2005) but with the ever changing nature of governing it becomes more useful for analysis of the purely national policies as well. In case of the European policies the approach considers policy making process as non-hierarchical with public and private actors engaged in deliberation process over issues of concern (Hix, 1999; Pollack, 2005). It “captures the distinctive features of EU governance” (Pollack, 2005:36) and brings forward the importance of the deliberation, persuasion and the argument strength with the democratic anchor.

Rod Rhodes (1996) defines the governance by its distinctive features as the interdependence between constantly cooperating non-state and state organizations, between

public and private sphere, between high and low levels of responsibilities. Governance is also non-state phenomenon. It does not mean that it can exist without it but certainly can exist outside the realm of state-like interactions. It is especially feasible for smaller governments with decreased size and responsibilities as in case of “night watchman” state or minimalist state of the liberal political thought.

The approach putting the governance in the center also focuses more on the dynamic aspect of policy process in opposition to static purely organizational approach. So the main features of governance may be summarized as dynamic, multilevel governing without government, based on cooperation between public and private actors in non-hierarchical manner.

Most of the governing in complex policy-fields is done nowadays through governance networks. Governance networks increase the efficiency of policy making by rendering them more flexible and proactive and supposedly decreasing the chances of rejecting the policy by public (Sørensen, 2006). The role of deliberation in context of governance network is a controversial subject. On the one hand the liberal democracy theorist claim that governance networks decrease the legitimacy of a policy making process limiting the input of representative bodies. On the other hand, the process can be reassured by the new social movements and more interest-focused groups, which increase the democratic value of governance (Sørensen, 2006). The public is transformed from subjects of public policies to co-producers of public policies (Torfing and Sørensen, 2005). The cases of public consultancy in the UK and in Sweden in different fields are recognizable way of increasing the public input, but the outcome of such consultancy is still obscure. I try

to take a closer look at democratic governance and institutions that currently are embodiment of that paradigm.

Democratic governance

The balance in policy making has obviously shifted from governments to the networks of private citizens/industry/experts. Some authors claim that in that stage, the perceived uncertainty inherent to the scientific progress leads to the increase importance of citizens (patients, religious groups) input (Gottweis, 2005). How to ensure the presence of those groups in network policymaking? By governance with the democratic anchor (Sørensen, 2006). Democratic governance.

What is democratic governance? To answer this question first I need to refer to democratic polity as James March and Johan Olsen (1995:146) presented: “The democratic polity is both a community of good practice and a community of justification [...]”. Good practices are connected to the output legitimacy. Society seeks perfect solutions for its problems, it looks for the best possible outcomes and people ready to implement those actions. Justification is connected to the input legitimacy. Community reflects on its actions and seeks new means and new ends. It clashes with the input legitimacy due to people’s ignorance and inability to make rational, long-term decisions to the advance of themselves, society, environment and future generations (Hardin, 1968; Ostrom, 1990). Whenever more and more input from the “irrational” persons the lower chances for high quality legislation which aims to reach Pareto-optimum level. How to secure the good outcome in the apparent trade-off between input and output legitimacy? “The democratic polity is both a community

of good practice and a community of justification, and a governance is organized by a tension between the two” (March and Olsen, 1995:146).

One of the answers is the openness of the system (better known in German as Öffentlichkeit). It is one of the postulates that resonate on the whole political spectrum bringing otherwise opposite viewpoints together. More access to public information should lower the ignorance of the public caused by the misinformation or lack of substantial information. Openness is a way of implementing deliberation into political life. Issues can be discussed and opinions may undergo an alteration towards the intersubjective viewpoint shared by the majority (Habermas, 1992). Another factor is the openness antidote towards corruption and administrative pathologies. When the institutions can be scrutinized and X-rayed the institutional anonymity is lowered and therefore the feeling of personal responsibility is saved. It is not only the function of scrutiny but also simplicity. The transparent institutional design can prohibit certain illegal or immoral activities otherwise rational and self-enforcing.

Democratic governance is also a way of resetting the accountability problems⁷. Public holds the elected officials in responsibility towards electorate. The sanction can be enforced during next elections. The public administration is accountable to the entity supervising which is usually the legal system and elected representatives. However, as I have mentioned many times, the contemporary decision-making process is substantially different from that which existed just years ago. More and more decisions are made under the obscure system of network governance where besides those vivid and somehow accountable actors there is multitude of actors who shape the agenda and influence the

⁷ For more detailed analysis of the accountability problems in modern democratic decision-making compare (March and Olsen, 1995)

results but their responsibility is not towards public but towards members, stakeholders or scientific community. Not only actors are changed but also the new structure of that decision-making is nowhere to be found in the constitutional design of the state. The problem grows when we consider the causal complexity (March and Olsen, 1995:158). Causal complexity influences the transparency of the decision-making process. The convoluted influences of different actors make every outcome a shared one. These problems have no easy and obvious solutions. The network governance of multitude actors is not only the problem of lack of responsibility but also the problem of interconnectedness of decision-making. A single piece of regulation has no one author and no one person or institution can be hold fully responsible for the composition of final document.

The democratic governance can help to alleviate all of these problems by altering the accountability direction. Through open discussion and open process where all the stakeholders are named and everyone is sharing unique perspective on certain regulations, the accountability can be attached by the actors themselves. It is the process of consensus finding and learning, which makes it such powerful tool for governance networks. Through establishing the regulations together, the evasion should be decreasing and compliance increasing and therefore legitimation in every aspect should increase along. In the next chapter I will present more detailed institutional design as it currently functions. I will focus my attention on the policies implemented recently in the broad subject of biotechnology and environmental issues and where the public is involved in democratic governance fashion.

Chapter 4: Institutions of public involvement

“It remains crucial for governments, and the individuals who constitute them, to continue their search for innovative mechanisms for making government work better and to serve society better” (Peters, 1996:2). In this chapter I present some of the institutions which are crafted in that spirit.

The view of the ordinary people may seem inapt for issues which complexity and long-term consequences exceed comprehension of most scientists. Genetic testing, gene banks, nuclear energy, GMO have all being constantly debated in Universities by experts in all fields of human sciences, so what possible the ordinary, average Mr. Johnson and Ms. Smith can add to the debate? “Confidence in the capabilities of ordinary citizens has been undermined by experience with the limitations of public discourse and opinion formation. Confidence in the political system, as an agent of the public, has been undermined by consciousness of the corruption and irresponsibility of state power” (March and Olsen, 1995:4). Confidence in the enlightenment was also undermined. Since there is no single agent that can responsibly be the creator of public policy, the only solution is to combine all these actors for regaining the legitimacy. The challenge lies in the design of such institutional organizations which would help to overcome these limitations.

In the democratic society the life quality of the people is the final concern and since they are the final users of all new technologies, their voice should be heard and included in the decision-making process. The limits and dangers of technology, as perceived by the public, should be articulated and taken into consideration to the broadest viable extent. Below I describe some of the most characteristic institutional solutions in use for making

the voice of the people fit into the debate and actually fuel the solutions created by decision makers by unique perspective and true involvement.

The Consensus Conferences

The consensus conference is a one of the most unique and innovative methods of involving the citizens into the policymaking process. The citizens included in the process are laymen with as little knowledge on the subject of the policy as possible. They are making the assessment of the technology which can play a significant role in their everyday lives. They are making suggestions and are sharing ideas of possible dangers, limits and future prospects of use of new technology (or just new uses of old technology).

The strength of this approach is the “outside the box” approach presented by ordinary people. In the end, the every day user determines the usefulness of the technological novelty and their views may be unique and often overlooked by professionals. “The conference creates the framework for a debate in which citizens’ thoughts and recommendations come face to face with the arguments and attitudes of politicians and interested parties. In this way, the technological debate is enriched and developed.” (Teknologirådet, 2007)

The method has short history which begins in 1980s in Denmark but from mid 1990s the method had been multiply in Norway, UK, Sweden, Holland, France, Germany and many non-European countries. The recent examples of use in European politics include⁸ (Mørkrid, 2001; Teknologirådet, 2007): Testing the genes in Denmark (2002), Genetically

⁸ The Loka Institute at <http://www.loka.org/pages/worldpanels.htm>

modified food in Spain (2000), The Consumption and Environment of the Future in Denmark (1996), Gene therapy in Belgium (2003), GMO in Norway (1996 and 2000) and many more.

The parliament members who supposed to be representing the people often restrain themselves to the role of legislators. In that state the fate of ordinary citizens becomes a second priority which comes back to the agenda while the elections are closing. Constant presence of the people during the events like consensus conference assures that their attitudes are not overlooked and ignored. Otherwise the politicians can be deluded that their constituency is composed from lobbying groups and big industry.

The actual method is a form of a group work. As all similar endeavors, the consensus conference needs a moderator, whose two main tasks are to facilitate the discussion and lead the development of most promising threads and to ease the communication between central figure of the citizens conference which is the citizens, and other actors: experts, politicians and industry.

To properly manage such event the expert group, which possesses the substantial knowledge over the matter of discussion, is necessary. It should be composed from different points of view and different special knowledge over the subject (ethical, technical). It protects the event from being captured by just one point of view or one specialized field.

The central figure is the citizens' panel. The Citizens' panel is a body composed from 10 to 30 persons who are representative to the population of interest by all important attributes (sex, age, education). It assures that participants are representing maximal

possible spread of the attitudes towards the technology in question and reflects the actual spread in society. The process of choosing is coordinated through central persons registry or some effective statistical method.

Members of the panel are presented with all fundamental information about the subject. Key disputes, conflicts, prospects, impacts have to be presented in digestible format for nonprofessionals. This step ensures that although the panel is composed of laymen, its proceedings will meet standards of informative and useful exercise leading to the final document.

Specific proceedings are very divergent since the non-essential features may be flexibly adapted to the specificities of particular policy, tradition, time constraints, financial constraints, experts availability etc. Standard procedure is long and multi-staged and includes: preparatory stage, consensus conference, post-conference stage. Each stage is necessary and unique in its aims.

The preparatory stage is when choosing the right experts and members of lay panel takes place. Coordinator is preparing the initial information brochures to set the goals and the rules clear. The citizen panel is discussing among themselves the technological features and impacts with constant expert help so the experts must possess broad and substantial knowledge about the peculiar technology. This all is taking place before the actual conference and is conducted in forms of group work, seminars, open discussions between coordinators and experts. This is the time when basic problems are identified and the framework for deliberation is established.

Examples of the problem framing can be drawn from the Danish conference on gene testing:

The backdrop for the conference is the population's continued skepticism about gene testing.

“1) How are we going to wield the knowledge/information that genetic diagnostics will be supplying to the individual person, to his/her family and to the society as a whole - Who is to be informed? Should registers be compiled? Who will be allowed access to the information?

2) How are we to go about assigning priorities to the use of genetic diagnoses within the health sector? Should everyone have access to the testing, or only those people whom we have reason to suspect might be genetically predisposed? Should we only offer testing on genes when there is a known treatment for whatever condition might be revealed from such tests? Should healthy people have to pay for genetic testing?”⁹

The actual conference is held usually on weekends to ensure the highest possible participation. Experts are clarifying all the controversial issues that might have arisen during the preparatory stage. Another group of experts is holding presentations on the fields of their expertise and then the floor is open for questions from the lay panel. The questions and discussions is the central moment for the consensus conference. The panel is then responsible for creating the final document which express the consensus reached by the members on the controversial issue. In the end of the conference the conclusions are presented to the all other actors in the decision-making process: politicians, industry, NGOs, media. All mistakes and inconsistencies are fixed by professionals and the discussion is then reversed so the citizens are being asked to argument their position. The final stage of the conference is the broad deliberation among all actors involved.

⁹ Copenhagen, May 24th- 27th 2002. Testing our genes. Available on-line: <http://www.tekno.dk/subpage.php3?article=496&language=uk&category=11&toppic=kategori11>

The post-conference stage is the final report distribution to all actors involved and all those who play a significant role in the decision-making process and all those related to the industry in question. Detailed transcripts and full report may be issued as well. The media coverage and number of prospects created for the post-conference stage depends highly on the budget allocated for the project.

The specificities of the consensus conference are the central role of the laymen and consensus oriented debate. As every other method discussed here the consensus conference broadens the scope of the discussion which otherwise could be confined to just the peak group of policy-makers, lobbying groups and experts.

The consensus conference is most suitable in cases where (Fixdal, 1997; Mørkrid, 2001; Teknologirådet, 2007):

- The topic is highly contested and public express high interest
- The regulation enacted must be supported by public support
- The topic is current and needs higher public awareness
- The views expressed by experts and politicians are divergent and conflicting
- The information is sufficient to guide the laymen
- There is a need for learning about public attitudes
- The timing should be coordinated with the political calendar to ensure that the decision makers take final report into consideration while legislating.

Citizen Summit

Another institution is, so called, Citizen Summit. It was first introduced by the USA organization The America Speaks. The basic premise for this method is the politicians quarry into the citizens' attitudes and solutions towards specific problem. The method is more viable for regions or small countries since it can gather substantial number of people and the nature of debate is more feasible for urgent and specific problems for which there are competing solutions. The summit can involve up to 1000 citizens. When held in large geographical area the logistical costs can be significant so it is more useful where all involved actors can be easily and cheaply gathered in one place.

The procedure is simple. The summit is opened by the statements made by politicians, coordinators or experts to outline the specific reasons and premises for the gathering. Particular topics have separate introductions after which experts present short description of the problem and proposed solutions. Then there is time for the debate which allows people from the poll of citizens to voice their opinions, ask questions and proposed solutions. There is a necessity for high-tech solutions since after the debate, the voting takes place and, through electronic balloting, the results are projected in real time on the giant screen which can be seen from every corner of the venue. Solutions proposed by the citizens are gathered and display as well, which enables experts to comment and discuss some of the proposals. Each summit consists from number of the issues to be discussed. After the, usually, whole day of proceedings the summary is presented on which all major issues are enumerated with the commentary regarding the people's preferences. The decisions made during the summit are not binding but they have a number of positive results. They enable citizens to share ideas, indicate their preferences and help to create a useful media attention to disseminate the knowledge to the maximum possible number of people.

Citizens' Jury

Another institution is called Citizens' Jury. It is chiefly in use in USA and UK. It is usually small number of people (up to 20) who are representative to the population in question. The procedure begins with the group of experts who compose the number of question which later will be answered by the citizen's jury. The actual procedure lasts for couple of days. Citizens are meeting representatives of industry and experts and ask them questions they might have about the technology, probable impact and other technical details. After couple of days of intensive consultations the Jury presents the final report which is the citizens' answers for all the questions that were debated, the vote is conducted to make certain recommendations. Later the final report is presented to all party interested and (in some cases) representatives of political parties. They can comment on the report and can present their own position on the issue. The report which subsequently is received by all parties involved can be used as a base indicator of the public attitudes towards very specific questions and arguments presented to the Jury.

Citizens Hearing

Citizens Hearing is the method which combines best practices from the group work. People are gathered in a venue where a short presentation on the subject is held. Later they are divided to workshops where brainstorming, group discussions and deliberations are encouraged. The point is to get a feeling of the priorities connected with the particular technological challenge. People are not constrained by preset questions or issues, they decide on their own which problems are the most important ones and which should be address by politicians. They also decide on possible solutions for some of the problems they

have indicated. In the next stage they are coming together again and with the whole group decide to limit the number of problems and subsequently they are divide again and in small groups they discuss further the specific challenges. In the final stage all groups are gathered and after group deliberation recommendations are formulated for the decision makers. In report there is a catalogue of ideas which can be viewed by all involved parties to see the whole repertoire of possible solutions which were discussed by the citizens and consumers. Besides those types, there are also number of variations which can gather thousands of people over many weeks or just couple of hours of coffee seminars.

Overview

When the technical side is considered, in different countries different bodies are responsible for holding events like those described above. Sometimes institutions varies from policy subject to policy subject but the main feature is that they usually are advisory boards used by governments to tackle the issues of biotechnology and environment (Hansen, 2006). The examples are: The Agricultural and Environmental Biotechnology Commission in UK, the Federal Ministry for Consumer Protection, Nutrition and Agriculture in Germany, and probably the most experienced and most versatile Teknologirådet (The Danish Board of Technology) in Denmark

In the most advanced center for public participation in decision making, Teknologirådet, there are also less spectacular methods used. Interview Meeting method which is a series of direct interviews, focus groups and questionnaires involving around 30 people. The method involves distribution of basic facts about technology prior to the actual meeting so the opinions and views of the laymen are fact based. Combination of

questionnaires and interviews provide with the holistic, qualitative and quantitative, overview on the subject. This method is aimed to quarry the public opinion in detail and to provide decision-makers with objective assessment of public view on any given subject. It is not as direct as ones mentioned above but it gives public reasonable input to the decisions made. An example of use is Citizens' attitudes towards Nanotechnology made in 2004¹⁰. There are also a number of varieties on the basic methods. For example voting conference is a consensus conference where no consensus is reached but citizens vote and prioritize certain solutions.

All forms described above have double impact. Firstly, it gives an opportunity to hear the average person assessment of any given technological novelty and enables the decision makers to include the opinions and views of the nonprofessionals into the policy design. It helps to set standards and framework for future developments. Secondly, it raises the profile of the issue, allows the broad public to learn about the subject through the media coverage, increases the democratic profile and strengthens the democratic identity, increases the public interest in politics and technology, delegates the responsibility downwards to the public, helps to achieve consensus in delicate manners. It also gives a unique opportunity for different actors to meet and learn about attitudes, goals and methods helping to achieve them.

Shared features of all these proceedings are also connected to the external relations of such projects. All of them need coordination between final decision-makers, general public and people involved directly into the procedure. This can be achieved through proper management by the body responsible and can be achieved by the wide media coverage.

¹⁰ <http://www.tekno.dk/subpage.php3?article=1093&toppic=kategori11&language=uk>

Information in the local media help to choose the proper people for the citizens' panels and help to disseminate the concluding remarks.

Are the presented methods a viable solution for the problems of contemporary democracy? In the next chapter I will evaluate the impact it makes using criteria of input and output legitimacy.

For the purpose of the analysis, besides theoretical assessment, I have chosen case studies of actual use of active public involvement into decision making process. They are (Mørkrid, 2001; Hansen, 2006, GM Nation, 2003; Nordbeck and Kvarda, 2006): Consensus Conference on Genetically Modified Food in Norway in 1996; broad public consultations in UK regarding Genetically Modified Organisms in 2002 and Austrian Biodiversity Strategy from 2003. Before the assessment part, I describe them shortly.

Case studies

In 1996 in Norway, the Biotechnology Advisory Board held a consensus conference to probe the opinions of citizens into the use of Genetically Modified Food. The conference took place in late October. Sixteen people were involved on the citizens' side and fifteen on the experts' side. The preparation took eight months and involved search for laymen, preparing the topic, media advertisement. Out of 400 people expressing interest in taking part in the consensus conference, the final number was selected using the representativeness criteria of Norwegian society. Two months after the conference the final report was published and media conference was held for dissemination of the results.

The Agricultural and Environmental Biotechnology Commission of UK was responsible for organizing the public debate preceding the introduction of GMO into the British market. The public consultation was due to deliver one part of the assessment, another parts were economical and scientific assessment made by experts. The scale, comparing to the rather low numbers Scandinavian experience, was enormous. Over 600 meetings with 20 thousands participants took place. There was no selection of the people involved so the result was the over representation of the strong opinions about the GMO.

The Austrian Biodiversity Commission is composed from 40 members who should participate in the regular meetings which are held over years. This forum is different from all others described before since the access is limited to the stakeholders excluding general public and giving easier access to the NGOs. In the meetings there are representatives from federal administration, public and private interest groups, NGOs, scientific experts. This is just forum for mutual problems solving and does not involve formal input towards the legislation.

Chapter 5: Institutional assessment

Democracy is not only an act of casting a vote every couple of years. “Democracy is more than voting. Civil society participation is needed on the actor level to enrich the deliberative side of democracy that complements representative mechanisms, to give voice to minorities, to hold governments accountable beyond elections, et cetera” (Zahrnt, 2004:61). To deliver the final end which is good, based on science and public perception, policy which advance our effort to create a good society.

Democratic regimes are based on the notion of popular sovereignty. Popular sovereignty means that those who are subject to laws should be also the creators of laws (Brunkhorst, 2003:17). As I indicated in the first chapters it is increasingly more a wish than a reality. The incorporation of public into the policy making process in a way described in previous chapter is a step towards recommencing the role of the people as the creators of laws. However, to make a next step the first one needs an evaluation and fair assessment.

Assessment

To fully assess legitimacy of particular policies is a demanding task that must be accompanied by the development of reliable independent measurement based on long-term studies and therefore exceeds the scope of this paper. To assess a success of a particular innovation in institutional realm it is impossible to refer to such objective features as efficiency or economic growth. The institutions are not operating in market-like system and therefore should not be evaluate by its standards. To establish a link between new institutional design and eventually increased legitimacy in areas of concern I will use certain

proxies. The scale of public involvement is an indicator of input legitimacy (both in terms of people and ideas which are getting through), feasibility and practicability is the measure of probability of use in any policy making process, and finally institutional responsiveness, which is the indicator of output legitimacy (and is the most difficult to objectively assess).

Case studies

Taking a look into the brief case studies I have described in chapter 4 it is difficult to set a criteria of success or failure of particular event. Each case is unique and each case is an institutional answer to different social problems. Each time the organizing body established different goals for different time frames. Some of them were detailed as listening to public voice and taking it into consideration for policy crafting, some were aimed to creating the communication platform and some were created just to raise an issue.

The consensus conference report recommended the moratorium on introduction of the GMO onto the Norwegian market. The follow-up voting held in the parliament also resulted in moratorium. The direct link between those events is however hard to establish. The negative reaction towards the GMO was high in the society and among the representatives so most probably even without the conference the result of parliament voting would be the same. To truly establish some connection and the scale of the impact the stand of different actors should have been different.

The public involvement was of course much higher than those sixteen people who actually took part in the laymen panel. 100 press clips, 20 radio programs, 4 television programs (Mørkrid, 2001:233) referred the conference and interviewed the persons involved.

It is justifiable to say that due to the media coverage the awareness of the issue was raised substantially. The lack of data on that subject leaves us only with speculations. It must be said that this event attract such media attention because it was the first major consensus conference on Norwegian soil. The Danish experience instructs us that media coverage is substantially lower after the initial period of media attraction to something new.

The benefits are unclear. The costs are however clear and substantial. The cost was around 140 thousands Euro and the total amount of time needed for the organization of the conference was the whole year (Mørkrid, 2001:232). In the end a tendency could have been seen “within the government administration to rely more on experts advice than on input received through more innovative public consultations mechanisms” (Mørkrid, 2001:233).

In the British case the costs were much higher but the impact this event made was also higher. The media covered this extensively, thousands of people were involved with no selection. Because of the over representation of the strong opinions in the procedure it was seen as biased however. The cooperation between the expert body and public was much more limited than in case of the consensus conference (Hansen, 2006). It was seen by many as just a PR exercise created by the government to silence the protests over modified organisms. The issue was raised and public was better informed but no binding decisions could have been made since the number of people render it unmanageable.

In the Austrian case there was a number of decisions made. New regulations, new problems were brought onto the agenda. Legislation was also altered. This project however is a long lasting and even without the input from the NGOs side it would have to be realized at some point anyway. The rules were not clear on the procedures and therefore it had

functioned more as a panel of advisors than decision makers. The overall attendance was less than 50% in total and most of those who showed up in proceedings were governmental officials and scientific experts. The attendance on the NGOs' side was minimal. Most of the big organizations did not send anyone and just few exceptions are taking part regularly (Nordbeck and Kvarda, 2006). That is the reality of such events. Not everything goes according to plan and not every goal is reached.

Equalizing resources for higher legitimacy

Positive aspect of institutionalization of public input is equalizing the relative powers the actors may have. Policy making process is seen as a power struggle in which the final effect is the tradeoff between interests of involved actors. In the standard process the access is easier for those with financial assets which are exchange for political leverage. This does not necessarily means illegal activities. Lobbying groups, expertise, competence, media influence are all in direct relation to relative influence one might have. Active public role in democratic governance can change that. "[M]ore loosely structured, flexible, and informal networks of communication and interaction may indeed have a necessary role to play in the development of effective solutions to the characteristic policy problems of the present age" (Scharpf, 1999:20). Developed structure of public involvement equalizes those powers putting everyone at one table with equal voice. The rich and well-educated have immense advantage over the poor and uneducated in effective political impact but also in terms of crafting the agenda and political lingo. Through equal distribution of expertise the public can enjoy the same relative impact as big business.

However, the democratic governance is not only advantageous for ordinary citizens. “Contemporary governments lack the knowledge and information required to solve complex economic and social problems, and that governance should therefore be conceived more broadly as the negotiated interactions of public and private actors in a given policy arena” (Pollack, 2005:37). Seeking the opinions of ordinary citizens, the government broadens the scope of the interests that are represented in the final policy outcome. There are of course different means of achieving that knowledge. Opinion polls and referenda are however just a one-way channel of communication. Public consultancy is an interactive process which gives both sides a chance to change opinions and exchange views. Government left without that tool is more prone to sole voice of industry interest which rarely is in accordance to the public will (of which government should be the advocate).

Group process theory teaches us that small numbers of participants are more likely to reach mutually satisfying outcomes than large groups. Higher possibility of achieving that gives more legitimacy to such process. If we consider that we see in a new perspective the value of governance when representatives of all involved actors are meeting to reach a shared solution. The democratic governance loses some of its strength broadening the pool of actors but it also reduces the power differences between them which may improve the process. In summary we may clearly state that reducing the difference between actors engaged in the democratic governance produces better reflecting public will policies. Decisions made on the basis of public consultancy are stronger bonded with the actual citizens preference and therefore they are more accepted and more permanent. They also involve more actors and therefore increase both input and output legitimacy.

There is always a conflict between efficiency of institutions and meeting all democratic standards. If participatory decision making is an optimal solution for balancing those two sides there should be a political will to advance such mode of policy-making. It might be also said that the success of particular institutional novelty may be measured by the repetition of such processes in further policies. “Democratic norms are part of the environmental requirements that must be met by democratic political institutions. Survival depends, in part, on matching democratic ideology and fulfilling democratic normative expectations” (March and Olsen, 1995:190). Those institutions which fulfill those expectations thrive and those which do not are just an episode. According to external data¹¹ the number of such institutional novelties is steadily increasing over the last years. It is too early to determine if that is only temporal mode or permanent innovation and for that, there is a need for further research in the future.

Finally, there is considerable dispute in the literature (Mørkrid, 2001; Hansen, 2006) if public input is making a difference in legislation or is just a vanity exercise employed by state structure to silence the protests of ignored citizens. This is the question for which there is no single true answer. There is a constant feedback between public opinion and government’s course of action. Media shape the opinions of politicians and public and are under the influence from the industry and science. In that matrix of interrelations indicating one causal relation would be pure analytical operation without real value. Finding direct links between public recommendations and final policy text is therefore futile task which would prove nothing. The very fact that politicians are listening to the citizens must be an indicator that their preferences are shaped through that process.

¹¹ The Loka Institute at <http://www.loka.org/pages/worldpanels.htm>

Downsides

Such public consultations are also prone to certain downsides. Public inclusion into the process can become a democratic alibi in case when there is no other benefits besides public involvement. The public may still oppose the particular policy but the administrative body can simply claim that public was present during the policy making process and therefore the legitimacy need was met. This can happen even in case when public input was ignored and the final outcome does not reflect public will.

There is also another, more personal, side. Some citizens who have been heavily involved in works can be disappointed considering the overall impact of their views. It is a characteristic of a policy process though to include but not be determined by the citizens input. To many laypersons this is not well understood before engagement and therefore their expectations are unrealistic. The role of citizens is not sole law makers but only additional (no matter how important) point of view, especially considering the variety of opinions among people.

Another downside is certain inertia of institutions building. Once established they may be difficult to change. They may be perceived as a progress in democracy even if their overall impact is negligible and implementation costs are high. This novelties are just another institutions and therefore sticky and path dependent. The effort of reversing habit of public consultations may be seen as an assassination of public freedom of expression and suppressing public input, even if other channels would remain at work.

Time and attention are scarce resources in decision-making (March and Olsen, 1995; March, 1988). In standard decision making process when the public is excluded, the time amount which can be sacrifice for influencing the decision is directly the function of resources. “Choices are made by participants who are present. Choices are implemented by actors mobilized at the time and place of implementation, attending to interpretations and issues evoked in that context” (March and Olsen, 1995:117). Therefore the resources matters. Participatory decision making is not different however. Citizens must be able to attend the meetings, sessions, conferences. This is not compulsory and therefore it promotes people with strong incentives to attend, which usually means people with strong opinions on the subject who are not willing to easily give up their convictions. That makes the consensus less likely. It also burdens the citizens with responsibilities which they may not want or may not be able to handle.

Feasibility

Another downside is the practicability of use. Holding one consensus conference is an approximate cost of 100000 Euros (Mørkrid, 2001; Teknologirådet, 2007), making the broader consultations as in case of GM Nation (2003) is significantly more expensive. In case of regular repetition the costs are similar but spread over longer period of time. To held a public consultations the amount of time and money render is impractical for most poor nations and consider the limited impact it can make its use is also restricted in more affluent states.

Chapter 6: Conclusions and future prospects

From the 1950s till late 1980s the public sector was considered omnipotent and flawless, as Richard Nixon has put it : “we are all Keynesians now” (Peters, 1996:3). In recent years, it seems more and more obvious that public sector needs renewal and needs citizens input to remain effective. Institutions are changing, they are modified by the growing impatience of citizens which feel that policy process is happening besides them and often against their will.

“Change in institutions are not unique adaptations to exogenous environmental pressure and internal dynamics but sequences of steps summarizing interactions between external forces and internal processes” (March and Olsen, 1995:189). The institutional novelties described here are just one step forward in the pursuit of good governance. Their impact so far is negligible, not many politicians realize the potential of such form of governing and not many realize the need for public consultations.

Overall it may be stated that “in the light of experience in the use of consensus conferences to date, they do not appear to represent a major contribution to the democratic process as a whole, but rather as a potential supplement to be used in relatively narrow technical fields” (Mørkrid, 2001:235). There is however an enormous potential for such institutions. We must remember that these institutional novelties are not to suppress free elections, parliamentary scrutiny or civic initiative. They are of course just an addition to the democratic decision making process. A supplement which is enabled only in more ethically complex decisions on which public input is invaluable.

The role of democratic governance can be best seen when contrasting the USA and Europe approach to science which is a complex issue extensively involving ethics. The approach to science is very different in the USA from the EU. In the USA the decisions in the high-science field are made by politicians cooperating only with experts, who are accountable to those politicians (Skogstad, 2002). In Europe the overall picture is closer to the democratic governance ideal with network governance with high level of deliberation and participation from the civil society sector and general public. In these (often informal) networks the main decisions are made through learning and consensus-seeking process. As Skogstad (2002) refers, even initial opposite views can be reconciled within the framework of open deliberation process. Through that communication and exchange of views the creation of policies is closer to the average citizen and that is the value in itself.

Future prospects

There are number of unforeseen consequences of introducing democratic governance to wider arena of political realm. March and Olsen asks “what institutional arrangements make it possible for individuals to act as democratic citizens and officials, and how such institutions, citizens, and officials can be fostered?” (March and Olsen, 1995:50). It can become an activating force for renewed democratic identity. In the way of socializing to democratic functions as Habermas (1988:5) once envisioned. Through enacting and “playing” the role of active citizens with the goal surpassing the individual needs the end result would be renewed identity of citizens of democratic regimes (March and Olsen, 1995). “Critical public debate, public insight, and legitimate pluralism, opposition, and conflict not only inform and activate citizens but also give them an occasion to develop capabilities to elaborate democratic institutions and identities” (March and Olsen, 1995:77).

This is the possibility of reversal of political apathy. Its source is in the lack of impact but mostly in the lack of responsibility for decision-making, which is delegated to the higher authorities. When the decision-making includes citizens as the co-authors of the regulation it returns them the sense of responsibility for the community and for the society at large. One may wonder if most of the public is able to handle such burden but for the sake of democracy the government must be able to delegate certain duties on the basis of competences. If the citizen is competent to handle local problem and local regulation from the co-authorship to just voicing his/her objections it should be left on the lowest level possible. The rise in political apathy may be stopped. To fully adapt the society for such involvement there must be developed a new curriculum for citizens, which will actively teach pupils to engage in policy process and foster democratic culture through that channel. To some extent many of the features of democratic governance can be achieved in “normal” governing process with open debate and free elections, but with this supplement of direct impact citizens would renew their commitments towards the democracy.

Another factor which will contribute to this development is the technological progress in computer networks technology. With direct access to the proceedings we can envision direct input from thousands of people interested in the issue. Technologically such modern Agora is possibly even today but to manage such information flow new procedures must be enacted. This come back of ancient Greek style of governing looks good as an idea but not in practice. Than and now people would debate about insignificant issues losing time and money which should be allocated in policies of the highest importance and urgency.

New set of rules is also needed for the redefined role of certain institutions which impact on policy process will be growing. “[...] Democracy depends on the removal of certain institutions from an active role in politics – the courts, universities and civil service. Their value is augmented by their disengagement from politics. They defend political institutions and rules, thus are important part of political process, but they are separated from party politics and partnership” (March and Olsen, 1995:101). To accommodate this there must be a broad discussion on the changing role of science in politics and politics in science.

The scope of further research is vast. Number of questions have to be answered: is there a best design for public involvement in governance cooperation since the public is not formally organized? Is there a threshold of scientific literacy of the public which as an obstacle for meaningful debate and if yes how to cope with that? What is the role of NGOs when the public is directly involved. These an similar questions will be answered during slow evolution of democratic institutions which will become a reality in next decades.

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