THE DECONSTRUCTION OF BABEL'S TOWER:

POLITICAL ACCOUNTABILITY DISCOURSE IN THE

EUROPEAN UNION

By

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Abstract

This research examines the different meanings that scholars and Member States (MS) use to refer to accountability in the context of the European Union (EU). The accountability discourse of the scholars is analyzed in terms of its relation to other notions, as well as according to the actor and the forum in which the accountability procedure takes place. In the case of the MS, the analysis is made according to the most distinguished features of the MS' accountability traditions, as well as on the predominance of ex ante or ex post accountability procedures. It was found that the significance that scholars use to denote accountability in the EU is related to conceptions such as efficiency, legitimacy, and democratic representation. In the case of the MS they were related to notion such as open government, enforcement and responsibility. It is suggested that the denotations that scholars use to refer to accountability, even diverse, are not incompatible between each other. Nevertheless, in the case of the MS is evident that the incompatibility is institutional and not conceptual. In this sense, the attempt to reach a European understanding of accountability remains rather elusive.

Introduction

> "Go to, let us go down and there confound their language, that they may
> not understand one another's speech"
>
> Genesis 11:7

In many respects the creation of the European Union (EU) resembles the construction of the biblical Tower of Babel. However, in no other issue like accountability it has been found that scholars and Member States (MS) are talking in different languages when they refer to it. On the one hand, according to Costa (2003), the debate between EU's scholars regarding accountability goes from its total absence in the Union (Schmitter 2000, Weiler 1997, Wallace and Smith 1997), a challenge for the EU's political system legitimacy (Scharpf 1999), and its dismissal as a EU problem (Moravcsik 2001 and Majone 2001) to the statement that the EU is, in fact, creating an original pattern of disperse channels of political control (Greven and Pauly 1999, Anderson 1999 and Héritier 2000 in Costa et al). Furthermore, scholars use the term accountability as an interchangeable notion to refer to other concepts such as transparency, equity, democracy, efficiency, responsiveness, responsibility, effectiveness and integrity (Mulgan, Behn and Dubnik in Bovens 2006).

On the other hand, in the diverse MS' languages accountability means different things. For instance, the actual notion of accountability is an Anglo-American conception, which does not have an adequate translation in Latin languages or even in Germanic ones (Bovens 2006). As an example, in the Latin languages, it has to be used along with two other concepts such as account for (*rendre compte)* or take in account (*tenir compte de)* to mean the responsibility sense of the Anglo-American term (Avril in Harlow 2002b).

Although several scholars have acknowledged this situation, previous research has neglected to assess who means what in regard to accountability in the EU. The purpose of this thesis is to identify the different meanings that scholars and MS use when they refer to it. In the

light of this argument, *my hypothesis is that the different meanings that scholars and MS use to refer to accountability, as well as the interchangeable use of the notion to refer to other concepts, increases the misunderstanding among them concerning the accountability situation of the Union.* Therefore, this research seeks to answer the following questions:

- *What do scholars and MS mean when they refer to accountability in the EU?*

- *How compatible or incompatible are those meanings? Could a European understanding of accountability be created?*

A. *The EU's democratic deficit: an accountability deficit?*

The discussion about the existence of a democratic deficit in the EU started in the eighties. One of the explanations for this deficit has been the low involvement that the European Parliament (EP), the institution that represents the interest of the European citizens, has had on the Community's decision-making process (Zweifel 2002). Nevertheless, many scholars have argued that at the core of the EU democratic deficit lays its lack of accountability.

For example, some scholars claim that the selection and re-election of the members of the EP (MEP's) depends on the support of their parties at domestic level (Hix 1999) and not on their constituencies' preferences. This fact reduces the accountability of MEP's towards European citizens. Similarly, other scholars argue that the existence of a non-elective bureaucracy having the power to legislate (Commission), execute (European Central Bank) or adjudicate (European Court of Justice), but whose actions are not answerable to the European citizens, exhibits the need to control the power of the EU institutions (Eichener, Shapiro, Wood and Waterman in Zweifel 2002). Furthermore, the 1999 scandal of mismanagement that forced the Santer Commission to resign (Van Gerven 2005) posed serious doubts on the transparency of the Union.

As we can see, these arguments are not only related to the EU's accountability arrangement, but also to political representation, checks and balances and corruption. Put simply,

they have to do with the EU's democratic regime. Therefore, democratic deficit and lack of accountability are concepts closely intertwined. In other words, the accountability deficit is a part of the democratic deficit.

Therefore, the importance of the present analysis is that by understanding what scholars and MS mean when they refer to accountability (or lack of accountability), effective strategies could be designed to improve EU's accountability arrangement and thus reduce its democratic deficit. This is necessary because, as Harlow accurately argues the accountability strategy proposed in the White Paper on European Governance (2001) was focused on the policy-making process and did not contemplate the traditional obligation of the government to render account of its activities, nor the classical definitions recognized by the democratic systems of government of the MS (Harlow 2002a).

B. *Definitions*

As Schedler (1999) points out "accountability represents an under explored concept whose meaning remains evasive, whose boundaries are fuzzy, and whose internal structure is confusing". As a consequence, there are many definitions of accountability; some of them include elements of answerability and enforcement (Schedler 1999), others the existence of a hierarchical relation among actors (Moreno et al 2003) and certain stress its ex-ante or ex-post nature (Van Gerven 2005). However, a component that remains constant since the Madison´s Federalist papers is the need to find mechanisms to "oblige the government to control itself" (Madison in Przeworski 1999).

Accountability, as it is used here, involves *a relationship between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgment, and the actor may face consequences (Bovens 2006).* This definition elaborated by Bovens (2006) implies that the actor can be an individual, an institution or a government. In the case of the forum, it can be a specific person, such as a superior, a

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minister or a journalist, or it can be an agency such as parliament, a court, or the audit office, but it can also be more a more virtual entity: the general public (Bovens 2006: 9). This definition has been selected due to the multiple actors and forums that can interact in the accountability relationship; in fact, this situation is similar to every day's reality in the EU where MS, EU institutions and civil servants work together in the decision making process and whose actions affect the lives of the European citizens.

In the present analysis, the term "accountability" is used interchangeably with the term "political accountability", due to the fact that most scholars do not differentiate the two. In any case, a clear differentiation between both concepts would constitute the subject of another research.

C. Methodology

The methodology we selected for the assessment of the different significations of accountability is discourse analysis (DA). This methodology is relevant for the present research because, as it was indicated, there is a lack of a shared definition regarding accountability between the scholars; also, MS use different meanings of it, even the word itself is not easily translated to other languages. Therefore to corroborate my hypothesis is necessary to e of exhibit the use of different concepts and the diverse understandings regarding accountability; a study of the differences detected is also necessary, as well as an analysis of the implications of such differences.

It is important to note that DA concentrates not just on the words utilized, but also on the meanings that a single word can have in diverse situations, and how different environments can affect the understanding and communication of concepts. Accordingly, we must take into account that any given communicative social interaction involves at least five components: semiotic, activity, material, political and sociocultural (Gee 1999). For this paper, the semiotic, political and sociocultural aspects are especially relevant.

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The first, semiotic aspect of the discourse on accountability is obviously important, as it refers precisely to the different words and concepts that scholars and MS use to refer to accountability in diverse languages, and to the diverse meanings that such notion can take. As we will see in the following pages, there are lots of different ways to understand accountability, and the words used for that are not always close in the meaning.

The second, political aspect is central for this analysis because accountability in our research is focused on European political bodies and constituencies, that is, a structure of power relations and representation. However, as it will be show the particular understanding of this representation system can vary a lot among different scholars and MS. Furthermore, some researches also show a correlation between local politics (i.e. regional and parties and constituencies) and the accountability of European bodies as a whole (Van de Eijk and Franklin 1996). Therefore, is necessary to comprehend the influence that different political situations have on the notion of accountability. Finally, the third, sociocultural aspect is important for very similar reasons, as the differences on social, cultural economic and value systems in Europe create different understandings of accountability between scholars and MS, not to mention the European citizens.

Semiotic, political and sociocultural differences have a key impact on the existence of different conceptions of accountability in EU, and the possibility (or not) of create a common notion of such concept. To study all the differences among all the scholars and MS involved is impossible. Therefore, for this research, we have made a selection of three of the most representative scholars from the accountability debate in the EU: Andrew Moravscik, Fritz Scharpf, and Phillipe Schmitter. We will analyze what they mean when they refer to accountability. In the same vein, we have chosen four MS (France, Sweden and United Kingdom) whose traditions of political accountability are the most representative inside the Union, and we will compare the meaning they use when they allude to accountability.

D. Road map

The following analysis is divided into three subsequent chapters. In the next chapter we will introduce a general overview of accountability in the EU. The third chapter will present the denotation that three of the most representative scholars of European integration use when they refer to accountability. A discussion of the different significances is superseded. The chapter ends with a comparative table of the diverse connotations of accountability for the scholars. The fourth chapter displays the same analysis, but for the selected MS, followed by a discussion of differences and similarities in intent and concludes with a comparative table of the MS' accountability traditions. The final chapter will answer the question about if a common understanding of accountability could be created in the EU.

Political Accountability in the European Union

As we mentioned before, many scholars have argued that at the core of the existing democratic deficit of the European Union (EU) lies its lack of accountability. This view started in the eighties during the deliberations of the European Parliament's draft treaty for the EU and the Single European Act, as a result of the low involvement the European Parliament (EP) had on the Community's decision-making process (Zweifel 2002). One of the consequences of this reduced participation was that the EP did not fulfill one of its principal functions, namely to stand for its constituency interests.

At the same time, the emergence in the United Kingdom and in the United States, but also in continental Europe of an innovative public sector paradigm known as New Public Management (NPM) based on "private sector management styles and instruments"[1] (Pollitt and Bouckaert in Bovens 2006), increased the perception that greater accountability was required, due to the fact that the intricate mechanisms of this new paradigm resulted in the partition and delegation of the executive power (Costa et al 2003) and that they were to be implemented in the EU.

However, even when the power granted to the EP has continuously increased, for example, through the co-decision procedure (Christin et al 2005), the EP's greater involvement in budgetary decisions and its improved survey capacity, this has not changed the shared idea that European parliamentarian elections are "second-order elections" (Smith in Decker 2002) because this system of political representation is not political accountable to European citizens. At the same time, EU's actors have created control institutions such as the intergovernmental control committees 'Comitology' to monitor the activities of each other and other institutions to "guard the guardians" (Magnette et al 2003) such as The Court of Auditors, the European Anti-Fraud

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[1] Among this instruments are: contracting out, performance indicators, benchmarks and effectiveness and efficiency criteria applied to public agencies (Bovens 2006).

Office (OLAF) and the European Ombudsman. Nevertheless, the perception remains unchanged: there is not enough political accountability in the Union.

How can we explain that despite the efforts that the EU has taken to increase its political accountability, the perception about it remains so contrasting? Furthermore, can the EU improve its "accountability regime" (Bovens 2006: 14) to reduce its citizen's perception of a democratic deficit? We believe that the possible answers for this questions lies in the hypothesis of this research, that *the different meanings that scholars and MS use to refer to accountability, as well as the interchangeable use of the notion to refer to other concepts, increases the misunderstanding among them concerning the accountability situation of the Union.* The purpose of this chapter is to present a general overview of the accountability situation of the EU.

As we mentioned in the introduction, we will use Bovens' definition of accountability which implies that *accountability is a relationship between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgment, and the actor may face consequences.* We selected this definition because it links four elements that we consider fundamental for the existence of an accountability relation: vertical or horizontal relations, answerability, responsibility and sanctions. This means that the actor can be either and individual, an official or civil servant, or an organization. The significant other, the accountability forum, can be a specific person, such as a superior, a minister or a journalist, or it can be an agency such as parliament, a court, or the audit office, but it can also be more a more virtual entity, such as, in the case of public accountability, the general public (Bovens 2006: 9)

It is important to mention that, the liaison between actor and forum is based on the principal-agent model of political accountability where the forum is the principal and the actor is the agent (Bovens 2006). Moreover, this relationship can be formal or informal and has at minimum of three characteristics: the obligation of the actor to inform the forum (present

information), the possibility of the forum to interrogate the actor (examine the information) and the capacity of the forum to pass judgment (approve the information) (Bovens 2006). In addition, this arrangement can also be applied to private organizations that offer public services or obtain public money (Scott in Bovens 2006). This is very important in the light of the consequences that the introduction of NPM instruments had on the diffusion of power (Costa et al 2003).

Bovens (2006) also points out that the majority of accountability relations have been institutionalized in the form of rules, standing practices, values and instruments generating, thus, an "accountability arrangement". Furthermore, he states that an "accountability regime" is a system formed of a set of consistent intricate provisions and relations, which might have a variety of formal stipulations and informal "practices and relations".

A.   The EU accountability regime

Since its creation, the EU has been a regime that rested upon cooperation between states with parallel and reciprocal control mechanisms. To sustain this regime the EU created the Commission and the European Court of Justice (ECJ). However, the Commission was under permanent vigilance of the MS in order to prevent it from going further than its mandate (Costa et al 2003). What is more, this arrangement has been institutionalized through its treaties, international agreements, secondary regulations (regulation, directives and decision), preparatory materials, and other documents from the institutions (legislative proposals, judgments, opinion and orders).

The main interest of the parties in this arrangement was to avoid that one gain power above the other, and the accountability regime that was generated was horizontal (Czada in Zweifel 2002). In other words, it was a type of accountability that was based on the nature of the obligation; hence it provided a system of checks and balances in which each institution, in theory, has the same power.

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Nonetheless, as we argue before, the perception of the lesser role that the EP played on the system, in comparison with those of the Council and the Commission and the introduction of the NPM mechanisms along with some other views, put on the table the necessity to add new arrangements, either formal or informal, to the EU accountability regime. Among these other views, and as a result of the implementation of the Euro, the idea of the European Central Bank (ECB) unaccountability was spread, as well as a concern of its faculty to create European regulations and member states' laws that did not take in to account the national parliaments, the EP or other EU institutions (Zweifel 2002: 819).

As we mentioned before, another concern was the existence of a non-elective bureaucracy that had the power to legislate (Commission), execute (ECB) and adjudicate (European Court of Justice) without being accountable to the European citizens (Eichener, Shapiro, Wood and Waterman in Zweifel 2002). That is, due to the EU's institutional building, its allocation of responsibilities has been opaque from the point of view of the electorate, generating a perception of a serious deficit of political accountability (Christin T., et al. 2005).

During the nineties some arrangements were introduced to fight these opinions. First, the co-decision procedure that set up an equal balance between the EP and the Commission regarding their legislative roles was established (Christin et al 2005). Second, new controlling agencies such as the Court of Auditors, the OLAF, the Court of First Instance and the European Ombudsman, whose purpose was to ensure that the EU actors behave under the principles of legality, regularity, openness and good administration on which EU was originally created (Magnette, et al 2003). Third, the 'Comitology' system to supervise the Commissions' actions (Dehausse 2003) emerged. Some of these arrangements were successful, like the Court of Auditors, which not only became a promoter of transparent financial administration in the EU, but also supplied data, an important element for transparency and access to information, through its reports and Statements of Assurance (Laffan 2003). According to Laffan (2003), due to the

fact that its performance has been so accurate, it has trespassed its horizontal nature and embraced a vertical dimension; in other words, it has taken a national dimension. Another arrangement that is doing well is the informal agreement between the EP and the ECB in which the ECB has accepted to become accountable for its actions before the EP (Jabko 2003).

At the same time, other arrangements faced some difficulties. For example, the latest perception regarding Comitology is that these agents have become independent actors with a consensual decision-making style (Dehause 2003) that now need to be regulated. According to Dehause and Schmitter (2003), the emergence of new control agents could take us to a paradox in which the control devices need to be controlled as well.

In sum, the EU accountability arrangement has evolved from a regime based on the nature of the obligation to a regime in which the forum also matters. That is, the arrangements that were introduced during the nineties increased the composition of the EU accountability arrangement not only by incorporating the importance of the forum, but also by increasing its obligations. In other words, nowadays the EU accountability regime regarding the nature of its forum has some successful legal and administrative arrangements, although its political, social and professional accountability remain low. As we will see in the following section, this does not mean that it is a regime without room for improvement.

a. Accountability challenges in the EU

Due to the fact that in the second and third chapter we are going to elaborate on the different meanings that accountability has for the scholars of the EU and for the MS in the following section we will left them out. Some of the other major challenges in the EU' accountability regime are the following.

1. Multiple control mechanisms

According to Przeworski, elections stopped being the most effective and reliable mechanisms of political accountability (in Costa et al 2003: 666). As a result, the pressure for more political accountability has been directed to political leaders and decision-makers, applying the concept not only to the relationship between government and parliament, but also between government and society and within government institutions, as well.

As we mentioned before, the introduction of NPM reinforced the tendency towards more public accountability, because they contributed to the creation of a more diffuse character of power (Costa et al 2003). However, these multiple control mechanisms pose two main challenges for the European citizens. First, knowing and using the mechanisms of accountability offered by the Union is difficult for its citizens (Mair in Christin et al 2005). Second, the creation of more and more "guardian institutions", increase the complexity of the accountability regime, which led to more citizens confusion.

2. Asymmetric power mechanisms

According to Schmitter, the EU regime is characterized by its exercise of asymmetric information power (2003). This perception lies in the fact that numerous activities in the EU political system are still officially safeguarded from any parliamentary or judicial control (Costa 2003). As a consequence, some EU institutions (principally the Council) are conducted still by "too much secrecy" (Sbagria cited in Zweifel 2002). In addition, actions are hidden away from public inquiry, which challenges the confidence in the EU (Hayes-Renshaw and Wallace in Zweifel 2002) and permits "collusion by particular interests" (Franklin in Zweifel 2002) as well as favors the concentration of information in few actors who possesses "financial, cognitive and conceptual resources" (Kohler-Koch in Magnette et al 2003).

3. Specialized and diverse representation

On the one hand, due to the multiplication of control mechanisms, nowadays European citizens have to depend on more "specialized representatives" that they are not able to make accountable. (Schmitter 2003: 6). On the other hand, political parties do not longer have a unique representation of their citizens, meaning that they have to "compete with new actors who claim that they also represent the civil society (interest groups, NGOs, associations)" (Costa 2003).

In the following chapters we will developed more on what we consider the biggest challenge for political accountability in the EU: the different meanings that scholars and MS give to the concept of accountability.

The conception of accountability for EU's Scholars

As mentioned before, EU's scholars used the term accountability interchangeably with other concepts such as transparency, equity, democracy, efficiency, responsiveness, responsibility, effectiveness and integrity (Mulgan et al in Bovens 2006). Some of these notions are closely related to the democratic deficit; however, they not necessarily refer to accountability. Moreover, they are different conceptions that must be examined in a separate way. The aim of this chapter is to do this. That is, to separate the accountability discourse from the above mentioned notions. In order to do so, first, the accountability discourse of three EU's scholars will be analyzed. Second, the relation among these conceptions and the definition of accountability given in the first chapter will be evaluated. Third, the denotations of accountability of the three scholars will be compared.

The selection of the three scholars was done in relation with their active participation in the accountability debate in the EU. What is more, they were chosen due to the contrasting positions they held in regards of the EU's accountability arrangement. Even though, they could be identified as representatives of a major theory of the European integration, their association to those theories will not be assess in this work. The reasons are that in some cases the "labels" have been adjudicated by others scholars and not by themselves, some scholars have abandoned the integration theory that they used to represent and finally because the purpose of this research is to isolate as much as possible the accountability discourse from other preconceptions. The chosen scholars are: Andrew Moravcsik, Fritz Scharpf and Philippe Schmitter.

A. Andrew Moravcsik

The position that Moravcsik (2001) sustains regarding accountability is that the EU is "not a nation-state in the making and therefore ought not to be held to the same democratic standards as its MS". For the author, the EU is an international organization that does not have the authority of a state to make decisions and, therefore it cannot be held accountable (Moravcsik 2001). Furthermore, the author maintains that the EU's is a practical organization created to decide on matters such as free-trade rules and common regulatory standards but which authority remains on the MS that created it (Moravcsik 1993). In consequence, it should have the same status as the World Trade Organization, the North American Free Trade Agreement or any other international organization (Moravcsik 2001).

He also argues that European states are not only responsible for designing EU's policies, but for their instrumentation (Moravcsik 1993). Furthermore, Moravcsik (2001) claims that European bureaucracy is small, does not possess any guidance, is controlled by its national states and does not have the right to tax, disburse or enforce. The author explains that only 15% of the civil servants that work in the European Commission have any decision-making capacity (Moravcsik 2001). For example, he insists that the Commission hires fewer civil servants than any other average size European state. In this sense, by analyzing Moravcsik discourse, one can conclude that his assertion is that due to EU's organizational and essential constrains, neither the European institutions nor its civil servants could be subjects of accountability, the accountability process should be held at the national states.

Moreover, the author maintains that the "executive power in the EU is so weak and diffuse that analysts cannot even agree where it resides, if anywhere" (Moravcsik 2001). Moravcsik (2001) sustains that although the Commission has the faculty to initiate legislation, new laws have to be approved by more that 71 percent of weighted national-government. Thus, influential interest groups can obstruct undesired legislation (Moravcsik 2001). Furthermore, he

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claims that a major change in the structure or on the power of EU institutions will require unanimity (Moravcsik 2001). For instance, the author states that regarding environmental regulation, consumer protection, and executive appointments, issues considered of grater public involvement, the EP is taking the lead or in the worst case has to approve such legislations (Moravcsik 2001). Finally, Moravcsik (2001) affirms that constitutional adjudication, central banking, multilateral trade negotiations and antitrust enforcement are the only areas in which the EU conducts an independent work, nonetheless these areas are the ones excluded from direct democratic control in most national states. What Moravcsik is asserting is that the areas in which the EU is not accountable are also the same areas in which MS are not accountable either.

Although Moravcsik believes that accountability ought to occur in the national states, he recognizes that there is a type of accountability in the EU, but that this is exerted by the now 27 MS which constantly surveil the activities of the EU's institutions, thus making the EU "more transparent and less corrupt than almost any national government in Europe" (Moravcsik 2001). Other mechanisms of vigilance, he claims, are EU's access to information, the institutional deliberations constantly reported in the newspapers, and the lack of discretionary spending or bureaucratic adjudication that decreases the stimulus for corruption (Moravcsik 2001).

One of Moravcsik (2001) strongest arguments regarding accountability in the EU is that it is a project with a limited scope that has been almost fulfilled: the economic integration. In that sense, the project has been efficient, MS have achieved economic growth, welfare has spread to the citizens of the Union, and the EU has become a strong international actor (Moravcsik 1993), so there is nothing to account for.

Even though, Moravcsik (2001) acknowledges the importance of democratic legitimacy in the EU, he disagrees with the critics that disapprove the limited participation of European citizens in the EU's issues. For him, these critics are out of place, due to the fact that the low involvement of citizens in politics is a common tendency that almost every western society is

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going through (Moravcsik 2001). What is more, most of these critics are intended to increase the participation of society in topics such as social welfare, cultural identity and education, issues in which the mandate lies in the national states not at the EU.

In conclusion, for Moravcsik the actor of accountability is not the EU, but the national states and the national civil servants that designed and implemented EU's policies. In light with this argument, the forum is also at the national state and as Bovens (2006) claims can include a diversity of actors from ministers, parliaments, courts, audit offices, to the general public. But it is also important to underline that Moravcsik relates accountability to Union's efficiency.

B. Fritz Scharpf

The position of Scharpf (1999) regarding accountability in the EU is that there is a "lack of a European-wide institutional infrastructure that could assure the political accountability of office holders to a European constituency". For the author, the European integration has weakened the political legitimacy of national states (Scharpf 1999) as European governments no longer serve the interest of their constituencies, but the efficiency criteria of the EU.

In other words, Scharpf's main concern is with the legitimacy of the Union as a manifestation of the collective will. The author proposes two perspectives for the study of self-determination in the EU: input and output oriented legitimizations, which are related with the political choices of a group. Input-oriented refers to "government by the people" while output-oriented have to do with "government for the people" (Sharpf 1999). In the case of input-oriented Scharpf (1999) states that "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. Regarding output-oriented he asserts that "political choices are legitimate if and because the effectively promote the common welfare of the constituency in question" (Scharpf 1999).

For Scharpf (1999) the problem of input legitimacy is that in the EU there is not a unified identity owing to the cultural, political and linguistic diversity of the MS. This means that

> Original European legitimization might eventually evolve as processes of European-wide political communication and opinion formation would be facilitated by European political parties, European associations, and European media. But since, for the time being, democracy existed only at the national level, European competencies had to be narrowly constructed, and would continue to depend on the agreement of democratically accountable national governments in the Council of Ministers (Scharpf 1999: 10)

However, according to the author the output perspective permits more legitimizing tools since it is base on interest and not on identity (Scharpf 1999). According to Scharpf (1999), output legitimacy favors the presence of diverse identities that are distributed either to geographical or practical standards. In sum, he sustains that this perspective is more accurate to the EU's reality. Nonetheless, in order for the output legitimacy to work it has to have four elements: electoral accountability, independent expertise, corporatist and intergovernmental agreement and pluralist policy networks (Scharpf 1999).

In as much as our main concern is with accountability in this work we will only address the electoral accountability element. When the author applies the elements of electoral accountability to the output legitimacy of the EU he finds out that there is not such accountability in the Union, since European elections are not conducted on European issues (Van de Eijk and Franklin 1996). This means that "in the absence of political accountability, the legitimacy of politically salient European decisions depends on their effectiveness in achieving consensual goals" (Scharpf 1999). What Scharpf is pointing out is that in the EU efficiency is prefer to legitimacy, and thus to accountability.

It is important to mention that Scharpf acknowledges that there are some accountability procedures in the Union. For instance, the dependency of the Commission on the support of the Council and on the approval of the European Court of Justice reduces the temptation of the Commission to abuse its power (Scharpf 1999). Nevertheless, by examining Scharpf's argument

we can infer that he is not really referring to accountability, but to another mechanism to control power: institutional check and balances.

Finally, Scharpf gives some suggestions to improve the accountability regime of the Union. For instance, he recommends institutional reforms that could allow the election of the President of the Commission (Scharpf 1999). Nonetheless, the majority of the recommendations that Scharpf gives to increase the control of the EU's institutions are at the national level because he insists that only at the national level democracy exists.

In conclusion, Scharpf relate accountability to the legitimacy of the Union. He realizes that the EU cannot have an input-oriented legitimacy due to its diversity and lack of unified identity, so his main concern is to instrument strategies at the national level that can be able to show the will of the people at EU arena. The author is aware that in order to increase the legitimacy of the Union MS will have to approve the required reforms. As a consequence, the only viable actor for accountability is the national state. In the case of the forum, this will be the diverse general public.

C. Phillipe Schmitter

For Schmitter (2003) accountability is at the center of democracy, moreover, he claims that there is a positive relation between the two notions. That is, "the more politically accountable that rulers are to citizens, the higher the quality of the democracy" (Schmitter 2003). One important observation that Schmitter (2003) does is that rulers can be accountable not only for their actions but also for their omissions. His definition of accountability implies that

> Accountability is first a relationship between two sets of actors (actually, most of it is played out between organizations) in which the former accepts to inform the other, explain or justify his o her actions and submit to any predetermined sanctions that the latter may impose. Meanwhile, the latter who have become subject to the command of the former, must also provide required information, explain how they are obeying or not obeying and accept the consequences for what they have done or not done. In short, when it works, accountability involves a mutual exchange of responsibilities and potential sanctions between citizens and rulers (Schmitter 2003:5)

According to him, the problem in the EU is that as the power becomes more diffuse the control mechanisms of the Union become also wordy. The author insists that this is translated in the impossibility of making accountable the "guardians" that are not elected. In short, Schmitter (2003) argues that in order to work effectively accountability needs to be institutionalized; therefore "it has to be embedded in a stable, mutually understood and pre-established set of rules". As a consequence the author, along with a group of experts, contributed to the Green paper on the Future of Democracy in Europe for the Council of Europe (2004)[2] in order to propose reforms that could be institutionalized in the EU's legal framework.

Some of these proposals are directly related to the accountability regime of the Union. For example, they proposed that "guardian institutions", such as the ECB, the Comitology regime, and OLAF among some others, must be assigned with a guardian who will become part of their permanent staff but who will be responsible to the parliament (Schmitter et al 2004). These "guardians of the guardians" will serve as "permanent whistleblowers" because they will monitor the activities of the above-mentioned institution and by permanently informing the EP, they will reinforce the role of the later.

Another suggestion that Schmitter (2003) has proposed is to improve the mechanisms that link citizens to rulers via representatives. According to the author, the better that representatives are at their role in intermediating between their constituencies and rulers, the higher the will be the quality of the democracy.

In conclusion, for Schmitter accountability and democracy are concepts that cannot be separated. Furthermore, they are also related to representation. As a consequence, Schmitter's principal concern is not with the accountability regime of the Union but with its democratic

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[2] Later this document was published as a part of the publications of the Council of Europe under the project "Making democratic institutions work" with the title "The Future of Democracy in Europe. Trends, analyses and reforms" and is under this title that we make reference to it in the bibliography section.

system of representation. In the light of this argument, the actor is the representative and the forum is his or her constituency.

In the following table we compare the relation that the three scholars established between accountability and other notions, as well as a classification of the actor and the forum in which the accountability procedure takes place**.**

Table 1. The conceptions of accountability for EU's Scholars

Scholars	Relation to other notions	Actor	Forum
Moravcsik	Efficiency	MS	National public
Scharpf	Legitimacy	MS	National public
Schmitter	Democratic	Representative	Constituents

D. Conclusions

As we can see, the accountability discourse of the above analyzed EU's scholars corroborates the first assertion of our hypothesis. This means, that EU scholars give different connotations to the notion of accountability. However, in regards of the second assertion we found out that more than an interchangeably use of the concept of accountability with other notions, scholars relate the concept of accountability to other conceptions, such as efficiency, legitimacy and democratic representation. These findings provide an answer to the question that we posed in the introduction about the meaning that EU scholars give to accountability.

Concerning the question about the compatibility or incompatibility of those meanings, we can argue that there is not incompatibility among them. With respect to Moravcsik, he possesses a clear discourse regarding accountability. For him is clear that the accountability procedure can only take place at the national arena, as a consequence both the actor and the forum reside in the

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MS. Although Moravcsik shares this point of view with Scharpf the arguments of both scholars are different, but compatible. For example, Moravcsik links accountability with the efficient economic results that the EU has achieved concerning economic integration, while Scharpf associates this situation to the output-oriented legitimacy of the Union. This same argument applies to Schmitter. In sum, efficiency, legitimacy and democratic representation are not compatible concepts that could be included in a comprehensive European understanding of accountability.

But is also important to underline that, through this research, we found that the feature that complicates the most the analysis of the scholars' discourse is the relations that they established with other conceptions, such as efficiency, legitimacy and democratic representation. This applies, especially to the cases of Scharpf and Schmitter. In both situations the conceptual strength of legitimacy and democratic representation overshadows the importance of accountability, transforming the relation among the terms in one of subjugation.

The conception of accountability for the MS

Apart of the different meanings that the scholars have regarding accountability, which were studied in the last chapter, there is another important aspect that contributes to a lack of common understanding of accountability in the UE. This is the existence of diverse regimes regarding accountability in the institutions, political structures and administrative procedures of the MS. Such regimes are influenced by the particular historical, social and political developments of every country, so they can differ greatly.

In this chapter, we will analyze different accountability regimes of three MS: Sweden, France and United Kingdom. They were chosen to emphasize their institutional and political differences, in order to analyze the impact of such differences on the notions of accountability.

A.   *Sweden*

The Swedish model of accountability shows some interesting features. First of all, accountability in Sweden puts a much greater weight on *ex-ante* mechanisms and institutions than other European countries. These mechanisms are present on a wide range of governmental and administrative issues. For instance, the members of the Parliament (*Riksdag*) have the power to raise questions to cabinet ministers and to review reports of the cabinet on areas such as governmental policy, state-owned enterprises and EU policy. Also, they can ask the Law Council to study and make an opinion regarding legislative proposals that could be inconsistent of conflict with the Constitution or the already existing laws. Other case of such preemptive mechanisms is the annual reports of the Committee on Constitutional Affairs regarding ministerial performance (Bergman 2003).

In Sweden, this kind of *ex-ante* accountability system is also present on ground political issues. For instance, the electoral law permits to Swedish citizens to cast their ballots not only for

parties, but also for individual candidates. Every party independently creates a list of candidates, also decides which candidates are included and who are put on the top on it. Nonetheless, at poll station citizens can vote for specific persons within the party list. Then, if one candidate of the bottom of the list is able to catch enough ballots, it will be automatically placed in the top the list, displacing the original candidate and so becoming elected. In 1998 twelve persons won a seat in this way (Bergman 2003: 599). Hence, citizens have a greater role in select individual candidates and exercise some control on the party nominations.

Apart of such mechanisms, *ex-post* accountability institutions also exist, working as the "police-patrols" of the Swedish system. One of such institutions is the National Audit Office (*Riksrevisionsverket*), which has the power to scrutinize governmental institutions both regarding management of founds and performance of duties. It is under the administrative and financial control of the cabinet, but other institution is the Parliamentary Audit Office (*Riksdagens revisorer*) allegedly has more independence, but less human and financial resources. A third case is the Ombudsman (*Justitiekanslern*) who is appointed by the Cabinet with power to supervise state administration, and particularly for being a prosecutor on accusations about abuse of public duties by civil servants. (Bergman 2003: 611).

A last type of control and accountability has been the specific, Swedish long tradition of open government and public information access, which goes back to 1776 when the first constitutional statute on freedom of the press and access to public information was passed (van Gerven 2005: 70). This has enabled a continuous public scrutiny and control by both citizens and media regarding the work and behavior of the members of government.

In sum: the Swedish regime of accountability puts the emphasis on the availability of information and in the ex-ante accountability and control mechanisms. This is a result of the particular historical development of the country, and it does not necessarily fits the model of accountability that exists in other MS.

B.   *France*

The case of France offers a different approach to accountability. In this case, there are some very salient political and administrative features that configure a complex political and administrative system. This has important repercussions on the accountability mechanisms and institutions of the French state.

The first and most evident of such particular features is the semi-presidential system, where the power and the governmental functions are shared between a President and a Prime Minister, according to a very complex set of attributions. Both are elected by the citizens so this power duality affects the electoral system and the political accountability as well. Moreover, the President is elected by direct vote on a national level, then being accountable to the citizens and not to the Assembly. The practice of the President calling referendums as a way to ask popular support on key issues is also other manner to ratify its independence of the Assembly (Thiébault 2005).

On the other side, the vote for the members of the Assembly is strongly influenced by local and regional politics, and this causes that most MP are more focusing on the interests of their local constituencies than to national questions. In spite of this, the party members at local levels have very limited ability to influence the candidate selection, so the *ex-ante* accountability is limited (Thiébault 2005). The fragmentary, even weak nature of the French political parties also plays a role on such lack of political *ex ante* political accountability.

However, the case is different regarding the cabinet. In this case the *ex ante* control mechanisms are very important, and the previous analysis of the candidates to a post is careful according to their qualities. As a result, typically on part of the cabinet members is composed by former MP, while the other part comes from the high ranks of the civil service (Thiébault 2005). This is reinforced by the fact that, unlike most other democracies, in France the Constitution bans cabinet members to have a parliamentary post at the same time.

In contrast, the *ex post* accountability mechanisms more or less secondary, and they are collective in nature: the National Assembly cannot censure an individual minister, but the cabinet can be made accountable as a whole in some, strictly regulated cases. There are other mechanisms that work as *ex post* instruments of control and accountability on behalf of the Assembly, such as investigation committees and a weekly session of parliamentary questions. But the leading role on the accountability of the cabinet members is taken by the executive. As a matter of fact, the cabinet can be better described as an administrative body, and so the relation between individual ministers on the one hand and the PM or the President on the other hand, can be better described as one of civil servants. (Thiébault 2005: 338-339). On the other hand, serious faults can bring the responsible agents (ministers and public servants) to face not only political and administrative, but also penal responsibilities. This rule constitutes an additional, and certainly radical *ex post* mechanism of accountability. However, in such cases the so-called Bérégovoy-Balladur rule is generally applied, demanding individual ministers to quit in case they are at risk of becoming involved on criminal proceedings (Van Gerben 2005: 72).

Regarding accountability of public servants, France has a very strong and hierarchical public service organization, which emphasizes the control *ex ante* of top civil servants, and makes their designation depend on the executive. They, in fact, are part of a direct chain of command, in which the head is the department minister. The latter has the power or make discretional appointments, and have an independent staff. Conversely, the high officers have autonomy on technical affairs, and even a wide *de facto* decision-making power in some areas (Thiébault 2005). Hence, the normal case is a division between political and administrative responsibilities, or between management and politics.

In the case of France, we can find a division between mechanisms of accountability according to the case: political/electoral, cabinet members, or public servants. This is a consequence of the complex institutional and political arrangement that exists in the Fifth French

Republic. Generally speaking, it strongly emphasizes the *ex ante* procedures instead of *ex post*, but in case of grave faults, accountability can include even penal consequences.

C. *United Kingdom*

A third regime of accountability in the MS is that of United Kingdom. As in the other cases, many of the features that make it a special case, have their origin in the particularities of the political and institutional system: a bicameral, constitutional monarchy without a codified constitution, but where the preeminence of the unitary (central) government, the sovereignty of the Parliament, and the close union of executive and legislative powers are cornerstones of the system (Saalfeld 2005).

A very important role on accountability is played by party politics. A direct consequence of the electoral system in the UK ('first-past-the-post') is that it promotes a highly competitive situation, where two main parties balance and scrutinize each other; also, the single-member districts tend to make the individual MPs more attentive to their local constituencies in order to be reelected, so increasing electoral accountability at least moderately. (Saalfeld 2005).

In the UK there is also a robust difference between political and managerial activities in each department, also thanks to a very specialized, trained and mostly politically neutral civil service. Regarding the cabinet, the generally applied principle is that of 'individual ministerial responsibility', according to which the ministers in charge of a department are responsible to the Parliament for the performance of such department, and are obliged to give the corresponding information. The two Houses investigate and make criticism, through 'select committees' but also through direct questioning of ministers, mainly during the so-called 'Opposition days' but also in other cases. (Saalfeld 2005).

In cases of grave or highly visible ministerial misconduct, a Tribunal of Inquiry can be set, which will publish a report on the issue. This was the case, as example, of the tribunal set to investigate the exports of arms to Iraq and Iran in the 1980s, which finally lead to a report and

even to a series of recommendations on ministerial conduct. These tribunals have the advantage of being fairly autonomous, as it is the chairman who decides how to conduct the inquiry, for how long and which witnesses to call; even the Prime Minister has appeared on such tribunals as witness (Van Gerven 2005). Nevertheless, it is rare that any minister involved actually resigns because the outcome of such investigations; their force lies more on the public debate that it causes.

In the following table we compare the relation that MS according to their most distinguished features of accountability, as well as on the predominance of ex ante or ex post accountability procedures.

Table 2- The conceptions of accountability for the MS

MS	Relation to other notions	Ex ante accountability mechanisms	Ex post accountability mechanisms
Sweden	Open government	✓✓	✓
France	Enforcement	✓	✓✓
United Kingdom	Responsibility	✓	✓

D.   *Conclusions*

As we can see, the institutional and political arrangements of each of the mentioned MS lead to different regimes of accountability. In the case of Sweden, a long tradition of open government and free press is accompanied by a parliament comprising a single chamber, and by an electoral system giving the citizens more chances of voting for particular candidates and not only for parties. In such system, the accountability (both of politicians and of public servants) is mainly understand and executed *ex ante*; that is, the institutional arrangements favours a vision of accountability focused on the pre-emption and monitoring, more than on the punishment or

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control *ex post* of the behaviour and performance. In this sense, the flow of information and the ability to influence legislative proposals and political decisions before they become facts, are the main features of the Swedish regime of accountability.

In contrast, the political and institutional arrangements of France are far more complex. The existing regulations put an emphasis on the accountability *ex ante* for public servants and ministers, based on the careful selection of candidates, but also a very persuasive *ex post* accountability in case of severe faults –including the possibility of criminal prosecution. Moreover, the division of responsibilities and duties between the President and the PM, as well as between the cabinet ministers in charge of the political guidance, and the high civil servants in charge of the management direction, creates a system of continuous negotiation and balance that, in turn, makes sure that everybody can be held accountable to somebody. Thus, in the case of France we can identify an accountability regime whose features are a merit-oriented selection, and mutual inspection between bodies.

Finally, the UK case shows a political and institutional arrangement that remains very stable and coherent, despite the lack of a codified Constitution. In the core of this system lie the Parliament, which is the sovereign body and thus the place where the issues of politics and government are continuously debated, including those regarding the accountability of public servants and ministers. Precisely because of this, the central actors in this system are first, the political parties that nominate single-district candidates for the House of Commons, so serving as means for *ex ante,* citizen-oriented accountability; and second, the MPs themselves, alone or through committees or tribunals of inquiry that work as means for *ex post,* governmental accountability. So, the main feature of the system is the centrality of the Parliament regarding accountability issues.

Just from the mentioned three cases, the differences on accountability regimes within the MS are clear, so we can get some conclusions. First of all, it must be evident the difficulties

involved in creating an accountability regime for the EU, if it attempts to incorporate all the different institutions and mechanisms of the MS to assure accountability. In the third chapter, we already noticed that the scholars have very different conceptions about what the notion of accountability imply. But as we just saw in the present chapter, the MS also have very different institutional arrangements. In this sense, the attempt to reach compromise between the many existing institutions and mechanisms of accountability seems to be a task as difficult as to create a synthesis of the notions of accountability between all the scholars. As in the Babel tower, there are too many participants, not only speaking very different languages, but also having different work methods.

Conclusions

As we mentioned before, the scholars' accountability discourse corroborates the first assertion of our hypothesis. That is, EU scholars give different connotations to the notion of accountability. However, in regards of the second assertion of our hypothesis we found out that more than an interchangeably use of the concept of accountability with other notions, scholars relate the concept of accountability to other conceptions, such as efficiency, legitimacy and democratic representation.

Throughout the research, we found out that the feature that complicates the analysis of the scholars' discourse the most is the relations that they established with other conceptions, such as efficiency, legitimacy and democratic representation. In this situation, the conceptual strength of other notions could overshadow accountability, transforming the relation among the terms in one of subjugation.

Concerning the question about the compatibility or incompatibility of the diverse meanings presented by EU's scholars, we conclude that there is not incompatibility among them. Nevertheless, is important to state that further research in regards of accountability is required, as Schedler (1999) mentioned the concept remains under explored, its meaning remain evasive and its boundaries fuzzy. In consequence, additional analysis related to the accountability discourse of others scholars and MS in the EU is needed. Furthermore, is necessary to incorporate the theories of European integration to the analysis of accountability in the EU, because the lenses we use to explain affect our view about of the degree and quality of EU's accountability arrangement. Certainly, the current debate will benefit enormously by a comparative analysis that could identify the position that the major theories of the European integration sustain regarding accountability.

Regarding the MS, the differences on accountability regimes within them are clear, that more than a conceptual incompatibility there is an institutional incompatibility. First of all, it must be evident the difficulties involved in creating an accountability regime for the EU, if it attempts to incorporate all the different institutions and mechanisms of the MS to assure accountability. In the third chapter, we already noticed that the scholars have very different conceptions about what the notion of accountability imply. But as we just saw in the present chapter, the MS also have very different institutional arrangements. In this sense, the attempt to reach compromise between the many existing institutions and mechanisms of accountability seems to be a task as difficult as to create a synthesis of the notions of accountability between all the scholars. As in the Babel tower, there are too many participants, not only speaking very different languages, but also having different work methods. In this sense, maybe the most plausible solution is not to incorporate all the understandings of accountability, but to create a distinctive one for the EU.

As we can see, there is a lot of room for research regarding accountability in the EU, as there are many aspects that remain unexplored. Therefore, we will conclude this analysis by enumerating a series of issues regarding accountability in the EU that require future research. First, a classification of EU's accountability process in ex-post or ex-ante procedures is needed. This is fundamental to understand the accountability regime of the Union due to the fact that EU's institutions have different purposes. Thus, the accountability arrangements of some of them are more related to ex-post processes such as transparency, equity, responsibility and integrity, while others are more related to ex-ante procedures linked to political representation and responsiveness. In the current literature I could not find a classification that clearly makes this difference. In this sense, the research should provide a classification of the different accountability types and arrangements that exist within the main institutions of the EU (i.e.

Council of Ministers, Commission, European Parliament, European Court of Justice and European Central Bank).

Furthermore, according to Bovens (2006) other classifications concerning the accountability regime of the Union can be made. For instance, a classification according to the nature of the forum (political, legal, administrative, professional and social), the actor (corporate, hierarchical, collective and individual), the conduct (financial, procedural and product) and of the obligation (vertical, diagonal and horizontal) of the EU's institutions.

Finally, is necessary to create a clear path to the accountability procedures of the main EU institutions. By doing this, future research will be able to give some insights into how to develop a comprehensive European citizen's guide for the public accountability regime of the Union, which will help reduce the actual perception of lack of accountability of European institutions, thus leading to an increase of their legitimacy.

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