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# **The discursive regime of European participative governance and the neoliberal ideology**

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## **Abstract**

In 2001, after six years of preparatory work by academics and European Commission civil servants, a *White Paper* on European governance was published. In this document, participation plays a crucial role. A precise semantic analysis of corresponding European Commission publications enables to present a detailed characterisation of the discursive regime of European participative governance. This characterisation highlights the numerous convergences between the discourse of participative governance and the neoliberal ideology. This participative governance discourse may be understood as an attempt to both imagine and legitimate a political system aimed at governing European people in a historical phase of domination of the neoliberal ideology in Europe.

## Introduction

The present work is a detailed study of several texts originating from the European Commission (EC). These texts deal with the notion of governance and focus on the participation of civil society to the European public policy decision-making. From 1995 to 2000, a number of academics and of EC civil servants participated in a seminar organized by the EC and dedicated to the question of the European Union (EU) governance. The most visible outcome of this seminar consisted in the publication by the EC of a *White Paper* on European governance in 2001.<sup>1</sup> In this highly publicized document, the five principles of ‘good governance’ are listed: openness, participation, accountability, effectiveness and coherence. Here, participation benefits from a special status since it is considered as a prerequisite for fulfilling the four other principles.<sup>2</sup>

This article constitutes a critical analysis of the discourses on governance and participation constructed by the *White Paper* and by an EC report published the same year<sup>3</sup> (hereafter denoted as *Governance Report*). Thanks to a precise study of the semantic fields used in these texts, I will explain the meanings that the EC confers upon the phrases ‘good governance’ and ‘participation of organised civil society.’<sup>4</sup> Based on several semantic

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<sup>1</sup> Commission of the European Communities, “European Governance. A White Paper”, COM (2001) 428 Final, 25 July, available at [http://ec.europa.eu/governance/white\\_paper/index\\_fr.htm](http://ec.europa.eu/governance/white_paper/index_fr.htm), accessed 22 June 2011.

<sup>2</sup> Within literature on participation or participative democracy, one can refer to two general books written by French scholars: Loïc Blondiaux, *Le nouvel esprit de la démocratie. Actualité de la démocratie participative* (Paris: Seuil, 2008); Yves Sintomer, *Le pouvoir au peuple. Jurys citoyens, tirage au sort et démocratie participative* (Paris: La découverte, 2007).

<sup>3</sup> European Commission, 'Cahiers' of the Forward Studies Unit, *Governance in the European Union*, Edited by Olivier de Schutter, Notis Lebessis and John Paterson (Luxembourg: Office for Official Publications of the European Communities, 2001), available at <http://bookshop.europa.eu/fr/la-gouvernance-dans-l-union-europeenne-coedition--pbKA2700895/>, accessed 20 May 2011.

<sup>4</sup> A large number of political science authors have studied this *White Paper*. The originality of the present work lies in the simultaneous analysis of the *White Paper* and of the *Governance Report*, in the detailed analysis of the semantic fields used in these texts, in the critical distance toward these EC discourses, and in the highlighting of the neoliberal dimension of the participative governance discourse. Among the previous works, one can refer to: David J. Bailey, “Governance or the crisis of governmentality? Applying critical state theory at the European level”, *Journal of European Public Policy* 13, 2006, 16-33; Didier Georgakakis and Marine de Lassalle (eds.), *La ‘nouvelle gouvernance européenne’. Genèses et usages d’un Livre Blanc* (Strasbourg: Presses universitaires

oppositions creating strong contrasts, the EC discourse makes two different worlds emerge. The world of good governance and participation is positively presented as modern and without conflict. By contrast, the world of representative government is negatively connoted as outdated. The two first sections of the article will be devoted to these two worlds. In a third section, I will characterize more precisely this systemic EC discourse that I called '*discursive regime of participative governance*'. I will interpret this discursive regime as the implementation of a style of government adapted to the EC search for democratic legitimacy.

In the fourth section, I will discuss a number of characteristics shared by the European participative governance discourse and the neoliberal one, dominant in the western European countries since the end of the 1970s. However, there is also an important characteristic that the European participative governance and the neoliberal discourse do not share in common. It would thus be oversimplifying to reduce the EC participative governance discourse to its neoliberal dimension. The European participative governance discursive regime is rather an attempt to both imagine and legitimate a political system aimed at governing European people in a historical phase of domination of the neoliberal discourse in Europe.<sup>1</sup>

Before entering into the proposed analysis, it is necessary to elaborate on the European context within which the publication of the *White Paper* took place. First, it was published a few years after the famous '*mad cow disease crisis*', which culminated in 1996. In his preface to the *Governance Report*, Jérôme Vignon, Chief Adviser responsible for the *White Paper* writes: "*The system unduly privileges sectorial perspectives at the expense of both the pluralism of expertise and the problems to be resolved. The BSE* [Bovine spongiform

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de Strasbourg, 2007); Paul Magette, "European Governance and Civic Participation: Beyond Elitist Citizenship?", *Political Studies* 51, 2003, 1-17. On a more general level, Alain Deneault has recently written a lampoon intending to exhibit the links between governance and neoliberal policies: *Gouvernance. Le management totalitaire* (Montréal: Lux Éditeur, 2013).

<sup>1</sup> Bruno Jobert (dir.), *Le tournant néolibéral en Europe* (Paris : L'Harmattan, 1994).

encephalopathy] *crisis is a case in point*”<sup>1</sup>.

A second important event lies in the collective resignation, on March 15<sup>th</sup> 1999, of all members of the EC that had been chaired by Jacques Santer since 1995. This resignation was a consequence of the threat by the European Parliament (EP) to vote an impeachment toward the EC, due to the suspicion of fictitious jobs borne upon some of the EC members.<sup>2</sup> In the *Governance Report*, this resignation is depicted as a “*systemic shock... [that] poses a direct threat to the credibility of Community regulators*”.<sup>3</sup>

A last event happened a few weeks before the publication of the *White Paper* and was perceived by its authors as symptomatic of the urgent need to promote a new European governance: the ‘No’ to the referendum organized in June 2001 in Ireland about the ratification of the Nice treaty. This event is mentioned twice in the *White Paper*, where one can read, for instance: “*The Irish ‘No’ vote also serve[s] to show the widening gulf between the European Union and the people it serves*”.<sup>4</sup>

More generally, as early as in the beginning of the 1990s, a general consensus emerged among several policy actors and political science authors stating that the western style of government was ‘*in crisis*.’ The unanimous conclusion drawn from this consensus was formulated in terms of the need for a deep transformation in the ‘*art of governing*.’ This transformation was elaborated both in terms of ‘*governance*’ and of the necessity to make the civil society participate in the public policy decision-making.<sup>5</sup> It is precisely this concept of

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<sup>1</sup> Jérôme Vignon, “Governance and collective adventure”, in *Governance Report*, 2001, 3-4, p. 4.

<sup>2</sup> On the general context of this collective resignation: Christian Lequesne et Philippe Rivaud, « Les comités d'experts indépendants: l'expertise au service d'une démocratie supranationale ? », *Revue française de science politique* 51, 2001, 867-880.

<sup>3</sup> Giandomenico Majone and Michelle Everson, “Institutional reform: independent agencies, oversight, coordination and procedural control”, in *Governance Report*, 2001, 129-168, p. 165.

<sup>4</sup> Commission of the European Communities, “European Governance. A White Paper”, *op. cit.*, 7.

<sup>5</sup> Jean-Pierre Gaudin, *Pourquoi la gouvernance ?* (Paris: Presses de Sciences Po, 2002), chapter 1.

*'participative governance'* that the present study aims at clarifying in most of its aspects.

## **1. The archaic world of representative government**

In the *Governance Report* and the *White Paper*, the authors use a large number of semantic oppositions in order to create apparent contrasts between two completely different worlds. This section is devoted to the first of these worlds, which appears as archaic. Its description essentially serves to emphasize, by contrast, the second world, which is characterized by participative governance and is promoted by all the considered authors.

Every couple of semantic fields used consists in a double series of expressions or concepts, one presenting clear positive connotations and the other clear negative ones. The leading terms of these semantic series are gathered in Table 1.

The two worlds present two very different visions of democracy in general and of the EU in particular. I chose to name *'archaic world of representative government'* the discredited world and *'modern world of participative governance'* the promoted one.

When the discredited world is depicted as belonging to a long-gone past, the used lexical field is that of mistake or failure: *'problems'*, *'failures'*, *'ill-adapted'*, *'weak'*, *'impossible'*, *'flawed'*, *'wrong'*, *'inability'*, *'inherent limitations'*, *'simplistic'*, *'decline'*, *'illusory'*, *'incorrect'*... When this same world is used to point out the defaults of the current situation, the lexical range is that of lack, crisis or distrust: *'absence'*, *'lack'*, *'barrier'*, *'crisis'*, *'deficit'*, *'dissatisfaction'*, *'centrifugal forces'*, *'ramping scepticism'*, *'accusation'*, *'pitfall'*, *'evil'*, *'trap'*, *'distrust'*, *'danger'*, *'collusion'*, *'looser ties'*, *'gap between rulers and ruled'*...

As far as this discredited world is concerned, it is characterized by ‘*abstraction*’ and ‘*theory*.’ It is based on ‘*ideals*’ and on an ‘*axiomatic*’ approach to society. This world belongs to the past and naively adheres to an archaic XVIII<sup>th</sup> century model of representative democracy. The democratic model of this discredited world is that of a ‘*parliamentary democracy*’, in which elected legislators see themselves as perfectly representative of the ‘*collective will*’ and claim their serving the ‘*common good*’, also called ‘*general interest*.’ The power is entirely ‘*vertical*.’ The chain of command works as a ‘*transmission belt*’: the electors control the Parliament, which controls the executive power, which finally controls the administration.

Most of the *Governance Report*'s authors claim that European integration suffers from a ‘*democratic crisis*.’ However, they all add that this crisis refers in no way to a ‘*democratic deficit*’, which would be linked to a supposedly too narrow role for the EP. According to them, we rather face a crisis of European political legitimacy linked to the decision-making procedures within the EU.<sup>1</sup>

In this discredited world, the legislative power is the central one and policy decisions are mainly legislative acts. Laws pretend to reflect the ‘*general will*’, and are thus intrinsically ‘*general*’ and ‘*abstract*’. However, according to Dehousse, in reality, decisions “*cannot always, or indeed most of the time, be made in abstracto, once and for all, in legislation, but rather require individual, ad hoc decisions, taken by administrative bodies.*”<sup>2</sup> Moreover, Majone and Everson contrast the representative politicians, mostly motivated by electoral aims, with ‘*technical experts*’, who are able to adapt rapidly to technical and scientific

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<sup>1</sup> Jérôme Vignon, “Governance and collective adventure”, *op. cit.*, 4.

<sup>2</sup> Renaud Dehousse, “European governance in search of legitimacy: the need for a process-based approach”, in *Governance Report*, 2001, 169-187, p. 176.

progress.<sup>1</sup>

More generally, the different contributions try to discredit the world of representative democracy. Two different visions of the EU are disqualified. The former is a '*federalist*' one, in which the federal state would play, on the European scale, the role of the nation-state at the national one. On this scale, the prerogatives of the EP would therefore be similar to that of National Parliaments. The latter discredited vision of the EU is the '*sovereign*' one (also called '*Eurosceptic*'), for which the only democratically legitimate institution is the National Parliament. This vision only accepts EU-wide decisions as far as they rely on unanimity among the member states. Finally, be it through the EP or through the national ones, it is parliamentary government and elective representation that are associated with the archaic discredited world.

As far as rationality is concerned, the archaic world is described as entirely based on '*substantive rationality*'. Within this framework, legislative action is characterized by the search for truth and universality, both considered as reachable, within an approach here denounced as '*scientistic*'.<sup>2</sup> Corresponding public policies thus rely on '*positive*' knowledge, whereas the present authors claim that real policy problems should always be contextualized and seen as socially constructed.

The interventionist state is also considered as a key feature of this discredited world. The XX<sup>th</sup> century '*Social State*' is depicted by Munck and Lenoble as a mere evolution of the XIX<sup>th</sup> century '*Liberal State*'<sup>3</sup>: the transition from the former to the latter has not

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<sup>1</sup> Giandomenico Majone and Michelle Everson, "Institutional reform: independent agencies, oversight, coordination and procedural control", *op. cit.*, 139.

<sup>2</sup> Jean de Munck and Jacques Lenoble, "Transformations in the art of governance", in *Governance Report*, 2001, 29-51, p. 35.

<sup>3</sup> Jean de Munck and Jacques Lenoble, "Transformations in the art of governance", *op. cit.*



fundamentally changed the ‘*scientific*’ conception of law. These two models for state intervention in public policies are disqualified by these authors as ill adapted to the contemporary world and are described as extremely close to each other. This enables the authors to strongly contrast both of them with the promoted model of ‘*good governance*.’

Moreover, the archaic world is based on collective issues: the political action is driven by the concepts of general will, common good and collective interest. The authors consider these concepts as illusory, or even naive. In this world, a collective entity called ‘*the people*’ is assumed to exist and to present a relative homogeneity. For most of these authors, the notions of general will or people are pure abstractions that are axiomatically postulated. According to Dehousse, the concept of people has even less meaning on the European scale, since there is no European ‘*demos*’, due to the lack of a common language or culture.<sup>1</sup>

Above all, in this discredited world, ‘*democratic legitimacy*’ is based on the procedural quality of representative elections and on legislative mandates. This world is thus necessarily deficient, since, according to Dehousse: “*The reductive nature of representative democracy, distorted even further by the structure of many electoral systems, makes it impossible for parliaments to mirror perfectly the broad range of interests and feelings that coexist within a single polity.*”<sup>2</sup> Moreover, for him, the great size of the European polity is even more unfavourable to the representativeness of elected representatives: “*An assembly of some 600 members cannot claim to mirror all the interests that coexist within a polity of over 400 million people.*”<sup>3</sup> Here, based on his characterization of representative government by a supposed perfect similarity between the electors and the elected<sup>4</sup>, Dehousse easily concludes

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<sup>1</sup> Renaud Dehousse, “European governance in search of legitimacy: the need for a process-based approach”, *op. cit.*, 172.

<sup>2</sup> *Ibid.*, 182.

<sup>3</sup> *Ibid.*, 186.

<sup>4</sup> For a more complete (and not caricatured) vision of representative government, the reader can refer to: Bernard

that representative government shows a deep normative deficiency.

Finally, the legitimacy of this discredited European world arises from the obtained results (or ‘*outputs*’) of the conducted policies, and in particular from the fact that Europe has become a region of peace and prosperity. However, for Dehousse, “*now that it has become clear that decisions taken at European level influence people's lives in so many ways, legitimation by outputs is not sufficient.*”<sup>1</sup> This offers, for all considered authors, a supplementary ground for the emergency to change our paradigm of democratic legitimacy and for facilitating the emergence of the modern world of participative governance.

## **2. The modern world of participative governance**

The second world created by the texts is presented as a positive alternative to the former one. In their presentations of the ‘*modern world of participative governance*’, most authors adopt both a normative – it is the world that they promote – and an analytic approach – their descriptions of this world pretend to derive from a ‘*careful analysis of reality*’.<sup>2</sup>

First of all, the promoted world is considered as ‘*modern*’ and in touch with the ‘*complexity*’ of our ‘*post-industrial*’ contemporary societies. The modern world of participative governance is also characterized by an intensive promotion of change. By definition, every transformation or reform is considered positive and able to improve life in society. Quantitatively, within the 35 pages of the *White Paper*, the terms ‘*enhance*’, ‘*improve*’ and ‘*better*’ totalize 84 occurrences. This can be compared, for instance, with the 47 occurrences of the word ‘*governance*’, which however refers to the central concept of the

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Manin, *Principes du gouvernement représentatif* (Paris: Flammarion, Champs essais, 1996).

<sup>1</sup> Renaud Dehousse, “European governance in search of legitimacy: the need for a process-based approach”, *op. cit.*, 185.

<sup>2</sup> *Ibid.*, 173.

*White Paper*, or with the 14 occurrences of the word ‘*participation*’ (or ‘*participate*’, or ‘*participative*’). It is also remarkable that the word ‘*more*’ appears 94 times. One can thus denote the following phrases: ‘*more effective*’, ‘*more efficient*’, ‘*more proactive*’, ‘*more relevant*’, ‘*more visible*’, ‘*more coherent*’, ‘*more sustainable*’, ‘*more open*’, ‘*more inclusive*’, ‘*more democratic*’, ‘*more transparent*’, ‘*more accountable*’, ‘*more complex*’, ‘*more flexible*’, ‘*more acute*’, ‘*more often*’, ‘*more actively*’, ‘*more rapidly*’... It can easily be deduced that the modern world of participative governance does, in all domains of European policy, more and better than the archaic world of representative government.

As far as the term ‘*governance*’ itself is concerned, any reader of the *Governance Report* or of the *White Paper* may immediately realize that it has integrally replaced that of ‘*government*’ to refer to the relations between the rulers and the ruled, or between political power and civil society. Noticeably, the word ‘*governance*’ occurs 47 times in the *White Paper*, whereas there is only one occurrence of the word ‘*government*’. Yet, in each of these occurrences, one could easily replace ‘*governance*’ with ‘*government*’ without substantially changing the meaning of the corresponding sentence. The *White Paper* gives only a particularly large and vague definition of this term: “‘*Governance*’ means rules, processes and behaviours that affect the way in which powers are exercised at European level”.<sup>1</sup> The lack of precision of this definition is what makes, according to Gaudin, that we can call it a portmanteau word: “*In the whole world, governance has become a portmanteau word used for all purposes by the economic and social powers, and also by the media. Everybody uses it... most of the time to play around its obvious ambiguities.*”<sup>2</sup> More precisely, the second of the four sections of the *White Paper* is untitled ‘*Principles of good governance*’ and states the five principles on which ‘*good governance*’ is based.<sup>3</sup> These principles are: openness,

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<sup>1</sup> Commission of the European Communities, “European Governance. A White Paper”, *op. cit.*, 8.

<sup>2</sup> Jean-Pierre Gaudin, *op. cit.*, pp. 9-10, my translation.

<sup>3</sup> Commission of the European Communities, “European Governance. A White Paper”, *op. cit.*, 10-11.

participation, accountability, effectiveness and coherence. They are just briefly elaborated. ‘*Openness*’ is here almost synonymous of ‘*transparency*’, and mainly refers to the EU institutions, that are asked to be more transparent towards both the member-States and the ‘*general public*.’ ‘*Participation*’ is in fact formulated as “*wide participation throughout the policy chain*” of EU policies. ‘*Accountability*’ invites “*all those involved in developing and implementing EU policy at whatever level*” to clearly make explicit their roles in the policy decision-making process and to bear the corresponding responsibilities. As far as ‘*effectiveness*’ is concerned, the *White Paper* defines as ‘*effective*’ the policies that deliver “*what is needed on the basis of clear objectives, an evaluation of future impact and, where available, of past experience.*” Lastly, ‘*coherence*’ is absolutely necessary with regards to a triple heterogeneity, characteristic of the EU: the diversity of the member-States, the large number of different sectorial policies, and the different scales of the European polity, from the most local to the transnational one.

Two of these five principles clearly play a primordial role in the whole *White Paper*. Indeed, participation and effectiveness are respectively presented as the necessary condition and the fundamental objective of ‘*good governance*.’ Their primacy is well summed-up in the following quotation: “*Policies can no longer be effective unless they are prepared, implemented and enforced in a more inclusive way*”.<sup>1</sup> In the *White Paper*, the quality of a public policy is always measured by its effectiveness. As far as participation is concerned, it is considered as an essential condition of the transparency of EU institutions, and of the making and implementation of both effective and coherent public policies. Moreover, participation necessarily entails accountability from all the actors engaged in EU decision-making. Participation thus lies upstream of any ‘*good governance*.’ Noticeably, the *White Paper* also emphasizes the concept of ‘*consultation*’, which is almost impossible to distinguish with that

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<sup>1</sup> Commission of the European Communities, “European Governance. A White Paper”, *op. cit.*, 10.

of *'participation'*. Two other terms appear to be very similar to both former ones: *'engagement'* and *'inclusion'* of individuals in decision-making procedures. Whichever of these four words is used, the corresponding notion has to take place at all stages of public policy, from elaboration to decision-making, application, up to evaluation.

Here remains the question of who is supposed to participate in European public policies. The answer is obvious: We deal here with the participation of *'organised civil society.'* In the *White Paper*, civil society is defined as “*trade unions and employers' organisations ('social partners'); non-governmental organisations; professional associations; charities; grass-roots organisations; organisations that involve citizens in local and municipal life with a particular contribution from churches and religious communities*”.<sup>1</sup> For the authors, the expressions *'civil society'* and *'civil society organisations'* are almost synonymous. In fact, in both studied documents, one seldom finds the terms *'civil society'* without the adjective *'organised'* or the noun *'organisations.'*

In the world of participative governance, civil society is thus “*a complex constellation of conflicting interests and preferences, which cannot easily be reconciled*”.<sup>2</sup> This refers to freely associated individuals in groups, organizations, or associations. In this world, there is no broad social collective, and society is merely a constellation of freely organized individuals. A *'group of individuals'* is a group of one or several people freely associated around one or several converging interests. Here, this notion is perfectly named by the term *'stakeholders'*<sup>3</sup>, which is abundantly used. A stakeholder may be a single citizen, but is most of the time a group of organized citizens.

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<sup>1</sup> Commission of the European Communities, “European Governance. A White Paper”, *op. cit.*, 14.

<sup>2</sup> Renaud Dehousse, “European governance in search of legitimacy: the need for a process-based approach”, *op. cit.*, 186.

<sup>3</sup> Sabine Saurugger, “Interest Groups and Democracy in the EU”, *West European Politics* 31(6), 2008, 1274-1291.

According to many contributions to the *Governance Report*, in order to establish EU's democratic legitimacy, the main issue is to create links between freely organized individuals and the European institutions, thanks to convenient decision-making participative procedures. In this framework, it is procedures and not institutions that occupy the central place. Indeed, all the authors call for the use of '*procedural rationality*' in public policy, as opposed to '*substantive rationality*.'

In order to fulfil the need for legitimacy of public policies, decision-making procedures also have to be '*fair*.' Though the words '*fair*' and '*fairness*' are more often used here than '*just*' and '*justice*' to qualify a procedure, they are used as synonyms. However, the only sketched definition of the '*fairness*' of a decision-making procedure is rather laconic. A procedure may be said '*fair*' if it takes into consideration the interests of the people affected by a policy decision. For Dehousse, the fairness of a procedure is essentially based on two fundamental principles, which are two of the already mentioned principles of good governance: openness and participation.<sup>1</sup> What matters, in terms of democratic legitimacy, is that all the interests be effectively taken into consideration. This notion of '*being taken into consideration*' seems to correspond to the possibility, for any citizen or organised group of citizens, to make their opinion heard by the participative body in charge of the considered decision, and to receive answers from it. For Dehousse, this implies a '*participatory ethos*' and new rights for individuals, namely '*participatory rights*.'<sup>2</sup> Moreover, potential participation of all individuals has another virtue: it should stimulate the emergence of a transnational public sphere, i.e. of a real '*European civil society*'<sup>3</sup> or, to put it differently, to

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<sup>1</sup> Renaud Dehousse, "European governance in search of legitimacy: the need for a process-based approach", *op. cit.*, 184.

<sup>2</sup> *Ibid.*, 185.

<sup>3</sup> Philippe Herzog, "Giving shape to a European civil society and opening up the institutional system", in *Governance Report*, 2001, 213-226.

enable “*the creation of an integrated geographic area.*”<sup>1</sup>

In this promoted world, powers remain under control and public institutions' rulers are held responsible for their decisions. ‘*Parliamentary control*’ is thus considered as complementary to participation of organized civil society. The EP must be able to submit a case to the ECJ when it considers that the interests of some groups have been neglected. The acquisition of a control function by the EP took place in 1993, with the enactment of the Maastricht Treaty.<sup>2</sup> This function enables the Parliament to control the EC and the system known as ‘*comitology*’ in the European jargon. The comitology consists in a very large number of committees organized by the EC, each of them gathering national civil servants appointed by EU member-States. For the authors of the *Governance Report*, the comitology is mostly composed of opaque bureaucratic bodies. An important remark must be made here. The point of these authors is in no way to critic the central role of bureaucracy within the EU. On the contrary, they point out both the necessity of this bureaucracy and its obvious opacity, in order to propose solutions enabling to enhance its transparency and legitimacy. The same goes for the comitology: none of the considered authors wants it to disappear, but they all wish to make it more transparent. According to them, the EU made real progress in that direction thanks to the Amsterdam Treaty (1997) and to the Council decision of July 17<sup>th</sup> 1999 on comitology, which made all EC documents accessible to public.

From the institutional point of view, the world of participative governance is based on an extensive bureaucratic machine. The authors do not aim at reducing the extension or the prerogatives of the bureaucracy. For them, the importance of bureaucracy is based on two different critiques of the supposedly too large place devoted to the legislative power in

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<sup>1</sup> Jean-Claude Thoenig, “From State action to collective action: France in a process of change. And the Commission?”, in *Governance Report*, 2001, 117-135, p. 124.

<sup>2</sup> Jean-Louis Quermonne, *Le système politique de l’Union européenne* (Paris: Montchrestien, 8<sup>th</sup> edition, 2010).

representative democracy. The first one is fundamental and accuses the legislative power of being unable to anticipate all problems arising from the implementation of decisions. The second one is more time-bound: the legislative framework was necessary to establishing a well-ordered internal market, but the quasi-completion of this task entails a *de facto* slowing-down of the EU legislative activity.<sup>1</sup> In the promoted world of participative governance, it is norms and not laws that play the central role. Directives and administrative regulations lie at the heart of public policies.

Moreover, in this governance world, “*the borderline between policy choices and implementation 'details', between legislation and administration, is often blurred when scientific or technical choices must be made*”.<sup>2</sup> This points to another not yet mentioned characteristic of the participative governance world: the fundamental role of scientific and technical ‘*experts*.’ According to most authors, the technological developments and the complexity of scientific issues require an increasing demand for experts' advice in public policies. Only experts are capable of assessing the merits of competing options. Even if an expert is not neutral by nature and can be biased, a large number of decisions require a scientific understanding, which makes expertise indispensable. The imperative is thus that this expertise be ‘*independent*’, ‘*accountable*’, ‘*pluralist*’, and ‘*honest*’.<sup>3</sup> In this framework, it is crucial to limit the role of politicians to a restricted number of basic political choices. The point is to exclude politicians from certain decisions, particularly when they are considered as technical. The place of the political is thus strongly restrained in the participative governance world. An important part of the ruling is entrusted to networks of national experts, most often through the comitology system.

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<sup>1</sup> Renaud Dehousse, “European governance in search of legitimacy: the need for a process-based approach”, *op. cit.*, 174-176.

<sup>2</sup> *Ibid.*, 197.

<sup>3</sup> Commission of the European Communities, “European Governance. A White Paper”, *op. cit.*, 19.



To sum up, the world of participative governance is a harmonious one, where everyone participates in the elaboration and implementation of public policy decisions through the organizations of civil society. It is an open world, where each actor feels accountable about the effectiveness and coherence of all decisions, always taken after extensive consultations. Politicians play the roles of arbitrators between conflicting interests. In parallel, the EP and its elected members control the fairness of decision-making procedures. Organized civil society representatives may have access to any relevant information to enlighten their choices and they play roles at least as central as those of democratically elected representatives. Dialogue between administration and civil society is permanent and visible. Changes and reforms are promoted since they systematically enhance the quality of life in society. Social regulation is mostly driven through administrative rules, and only exceptionally through law. Bureaucracy is extensive, transparent and open. Finally, organized civil society and political actors agree about the best possible options thanks to a constellation of scientific and technical experts, whose integrity is guaranteed by the pluralism of their competence domains.

### **3. Democratic legitimacy and the discursive regime of participative governance**

Obviously, the EC discourse about governance is mainly motivated by the search for democratic legitimacy. This refers both to a general need for legitimacy for all EU institutions and to a more specific search for legitimacy on behalf of the EC as compared to other EU institutions.<sup>1</sup> As far as EU in general is concerned, the *White Paper* is categorical: “*Its legitimacy today depends on involvement and participation*”.<sup>2</sup> Quantitatively, within the 324 pages of the *Governance Report*, the terms ‘*legitimacy*’, ‘*legitimate*’ and ‘*legitimation*’ appear

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<sup>1</sup> Cris Shore, “‘European Governance’ or Governmentality? The European Commission and the Future of Democratic Government”, *European Law Journal* 17, 2011, 287-303.

<sup>2</sup> Commission of the European Communities, “European Governance. A White Paper”, *op. cit.*, 11.

155 times, which compares very well with the 158 cumulated occurrences of the terms ‘*effectiveness*’, ‘*effective*’, ‘*efficiency*’ and ‘*efficient*’, which are keywords of the discourse of participative governance. A major motivation for such a quasi-obsessional stress of this EC report on legitimacy lies in the particular status of the EC members, who do not have any electoral mandate to base their democratic legitimacy on. This distinguishes the European commissioners from both elected rulers of member-States (and thus members of the European Council) and elected members of the EP.

The EC’s urgent need for legitimacy also explains why several authors of the *Governance Report* are strong advocates of the creation of ‘*independent regulation agencies*.’ In fact, legitimacy by independence is exactly the type of ‘*functional legitimacy*’ that EC is searching for, i.e. the legitimacy of “*boards, commission and agencies, operating at arms length from traditional governmental structures, [which] have long existed and have always possessed a form of functional legitimation of their own*”.<sup>1</sup>

It would certainly be vain to try and establish an exhaustive list of univocal characteristics for this discourse. However, I propose to focus on eight characteristics:

1. There is no collective: society is a quasi-infinite distribution of organized interests.
2. The legitimacy of public policies requires the participation of all organizations of civil society.
3. Public policies are based on procedural rationality. Participative procedures of decision-making must be fair, and this fairness must be visible.
4. The main objective estimation of the quality of a public policy is its efficiency, mainly assessed on a quantitative (or economic) mode.

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<sup>1</sup> Giandomenico Majone and Michelle Everson, “Institutional reform: independent agencies, oversight, coordination and procedural control”, *op. cit.*, 141.

5. All changes and reforms are promoted, since they systematically enhance the quality of life in society.
6. The Social State is intrinsically flawed, and the private sector is more effective than the public one.
7. Administration plays a central role in public policies. The necessarily extensive bureaucracy must thus be absolutely transparent.
8. Scientific and technical experts are indispensable to public decision-making. Expertise absolutely has to be independent and pluralist.

We have already seen that the world of participative governance is precisely based on the replacement of the collective by the individuals. The participation of organized civil society forges a link between authorities and individuals, who, as groups or associations, are able to bargain in order to defend their interests. The individuals of this discursive regime are ‘*rational actors*’<sup>1</sup>, and the participation space is analogous to a large market of interests. The discursive regime of European governance exclusively considers ‘*organised civil society*’ since it only sees individuals as rationally contracting and freely associated actors and not as intimate persons, who would not necessarily be rational.

Regarding the second characteristic, the building of the internal market was the initial source of legitimacy for the EU. A central idea of the participative governance is that, now that the internal market is achieved, its completion cannot be a source of legitimacy anymore. EU's public authorities thus have to rely on another type of legitimacy, based on participation.

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<sup>1</sup> A ‘*rational actor*’ acts as if balancing costs against benefits to arrive at actions that maximize his personal advantage. This concept mainly appears in the Rational choice theory, which offers a framework for modeling the social and economic behavior of individuals in a huge amount of microeconomic analysis. See, among many others: Milton Friedman, *Essays in Positive Economics* (Chicago: University of Chicago Press, 1953), or Gary S. Becker, *The Economic Approach to Human Behavior* (Chicago: University of Chicago Press, 1976).

The *White Paper* thus claims that EU's “*legitimacy today depends on involvement and participation*”.<sup>1</sup>

The second section of this work has already shown the importance of the fairness of decision-making participative procedures (characteristic 3). It is crucial to point out that the visibility of fairness is even more essential than fairness itself. Following Dehousse, “*there is empirical evidence to suggest that decisions taken by public bodies (even non-representative ones, such as courts) are more readily accepted when they appear to be taken according to fair procedures.*”<sup>2</sup> He insists: “*What matters for legitimacy purposes is not only that justice be done, but also that it be seen to be done*”.<sup>3</sup> Remarkably, this stress on the fairness of participative procedures also occupies a special place in the academic field known as Science and technology studies (STS) and not directly concerned with the question of governance in the EU. For instance, fairness is a central notion in a famous STS book, which was published, in France, in the very publication year (2001) of the *White Paper*, and was later translated in English as *Acting in an Uncertain World: An Essay on Technical Democracy*.<sup>4</sup> Written by Michel Callon, Pierre Lascoumes and Yannick Barthe, this book claims the necessity of constructing a so-called ‘*dialogic democracy*’ in order to enrich the ability of representative democracy to elaborate public policies that incorporate a strong techno-scientific dimension. These authors stress on many concepts identical, or at least very close, to those promoted by the EC participative governance discourse. For instance, ‘*procedural innovation*’, at work inside public debate places that Callon *et al.* call ‘*hybrid forums*’, lies at the centre of their dialogic democracy. In the same way as many authors of the *Governance Report*, they

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<sup>1</sup> Commission of the European Communities, “European Governance. A White Paper”, *op. cit.*, 11.

<sup>2</sup> Renaud Dehousse, “European governance in search of legitimacy: the need for a process-based approach”, *op. cit.*, 182.

<sup>3</sup> *Ibid.*, 184.

<sup>4</sup> Michel Callon, Pierre Lascoumes, and Yannick Barthe, *Acting in an Uncertain World: An Essay on Technical Democracy* (Boston: MIT Press, 2009); original French Edition: *Agir dans un monde incertain: essai sur la démocratie technique* (Paris: Éditions du Seuil, 2001).

actually focus on consultation and decision ‘*procedures*’ as opposed to general political ‘*principles*’. Moreover, still like the EC authors, they stress on the so-called ‘*fair effect process*’: a ‘*fair*’ procedure is defined as a decision-making procedure at the end of which the concerned actors are intimately convinced that the taken decision is fair, and the ‘*fair effect process*’ is the psychological process by which actors acquire such a conviction.<sup>1</sup> Callon *et al.* add that such an intimate conviction is reached when the interests of all groups of citizens have been ‘*taken into consideration*’, exactly like in the EC participative governance discourse. Callon *et al.* even go one step further by pretending to demonstrate that all fair procedures lead to intrinsically fair and effective decisions.<sup>2</sup> According to them, substantive justice can thus be reduced to ‘*procedural justice*’.<sup>3</sup> Finally, there are numerous common features between this famous 2001 French STS book on ‘*technical democracy*’ and the European participative governance discourse.

Let us now focus on the fourth characteristic: the central place granted to efficiency and its evaluation according to quantitative criteria. First, one can count 50 occurrences of the terms ‘*effective*’, ‘*effectiveness*’, ‘*effectively*’ or ‘*efficiency*’ in the 35 pages of the *White Paper*. It is interesting to mention that, in the English language, ‘*effective*’ has the qualitative meaning of “*having an effect, producing the intended result*”, whereas ‘*efficient*’ has the quantitative meaning of “*producing a satisfactory result without wasting time or energy*”<sup>4</sup>, which obviously refers to productivity and performance, and clearly denotes a quantitative (or economic) mode of assessment. Throughout the 324 pages of the *Governance Report*, the terms ‘*effective*’ or ‘*effectiveness*’ occur 95 times, and the terms ‘*efficiency*’ or ‘*efficient*’

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<sup>1</sup> Simon Joss and Arthur Brownlea, “Considering the concept of procedural justice for public policy – and decision-making in science and technology”, *Science and Public Policy* 26, 1999, 321-330, as cited in Michel Callon *et al.*, *Agir dans un monde incertain: essai sur la démocratie technique*, *op. cit.*, p. 331.

<sup>2</sup> Michel Callon *et al.*, *Agir dans un monde incertain: essai sur la démocratie technique*, *op. cit.*, 333-340.

<sup>3</sup> *Ibid.*, 344.

<sup>4</sup> Anthony P. Cowie (ed.), *Oxford advanced learner's dictionary of current English* (4<sup>th</sup> edition) (Oxford: Oxford University Press, 1989).

appear 63 times. This is an illustration that the quantitative evaluation of effectiveness occupies an important position in this discursive regime.

The intensive promotion of any change or any reform (characteristic 5) has already been commented. As far as the 6<sup>th</sup> characteristic of the discursive regime of participative governance is concerned, we mentioned that most of the authors systematically criticize the role of the state. Relying on the conviction that private management is more effective than public management, this criticism appears in several contributions. For example, Majone and Everson explain it in terms of commitment:<sup>1</sup>

*“The time limit inherent in the requirement of elections at regular intervals is one of the main arguments for democracy, but it also implies that the policies of the current majority can be subverted, legitimately and without compensation, by a new majority with different and perhaps opposing interests. Hence, political executives tend to have shorter time-horizons than their counterparts in the private sector and lack the ability credibly to commit themselves to a course of action.”*

In parallel to the already analysed defence of an extensive bureaucracy (characteristic 7), most of the considered authors appeal to professional specialists and to all kinds of technical and scientific experts (characteristic 8), to the detriment of politicians. It is important to highlight here that the stress of the EC on the independence of the European scientific expertise is a direct output of the legitimacy loss triggered by the mad cow disease crisis. Indeed, as early as in 1997, the EC modified the rules for recruiting European scientific experts in domains related to consumer health, and insisted on *“the principles of excellence,*

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<sup>1</sup> Giandomenico Majone and Michelle Everson, “Institutional reform: independent agencies, oversight, coordination and procedural control”, *op. cit.*, 132.

*independence and transparency*”.<sup>1</sup>

To conclude about the discursive regime of participative governance, it is essential to insist on the fact that it originates in an institution which members are not legitimated by universal suffrage. One of the main objectives of this discourse thus appears to be the elaboration of a new political framework within which democratic legitimacy is conferred by: i) the direct participation of individuals (through civil society organizations); ii) the (partial) independence of bureaucrats in general, and of European commissioners in particular, towards elected politicians.

#### **4. Participative governance and neoliberal discourse**

Before showing the strong convergences – but also an important divergence – between the participative governance discourse and the neoliberal one, it is necessary to define, briefly but as precisely as possible, the latter. The political science literature of the past ten years has extensively studied the concept of neoliberalism. I chose to look at it through the theoretical framework developed by Marcel Gauchet to determine the socio-historical meaning of neoliberalism, in his lectures about ‘*the meaning of neoliberalism*’ and ‘*the radicalization of modernity*’.<sup>2</sup> I privileged this analysis because it is a long-term historical approach, which extends from the emergence of states, three millennia before our era, to the electoral triumph

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<sup>1</sup> European Commission, Decision 97/579 of 23 July 1997 setting up Scientific Committees in the field of consumer health and food safety, *Official Journal of the European Communities*, L 237, 28 August 1997, 18-23. See also Les Levidow and Susan Carr, *GM Food on Trial. Testing European Democracy* (New-York/London: Taylor & Francis, 2010), pp. 135-136.

<sup>2</sup> Marcel Gauchet, Lectures on “*the meaning of neoliberalism 2*” (from 17 November 2010 to 25 May 2011) and on “*the radicalization of modernity: history and law*” (from 16 November 2011 to 30 May 2012), Paris: Ehess, available at <http://marcelgauchet.fr/blog/>, accessed 2 June 2012. The reference to one of these lectures will be specified by the date of the considered lecture. On neoliberalism, the reader can also refer to: Michel Foucault, *Naissance de la biopolitique. Cours au Collège de France. 1978-1979* (Paris: Seuil/Gallimard, 2004); David Harvey, *A brief history of neoliberalism* (Oxford: Oxford University Press, 2007); Pierre Dardot et Christian Laval, *La nouvelle raison du monde. Essai sur la société néolibérale* (2010 edition), (Paris: La Découverte, 2009); Philip Mirowski and Dieter Plehwe, *The Road from Mont Pèlerin* (London/Cambridge: Harvard University Press, 2009); Serge Audier, *Néo-libéralisme(s). Une archéologie intellectuelle* (Paris: Grasset, 2012); Stéphane Haber, “Analyser le néolibéralisme aujourd’hui”, *La Revue des Livres* 4, 2012, 60-67.

of neoliberalism, at the end of the 1970s.<sup>1</sup> In particular, as both a historian and a philosopher, Gauchet studies the historical development of modernity in Europe: for him, modernity emerges in Europe in the beginning of the XVI<sup>th</sup> century, deepens in the first half of the XIX<sup>th</sup> century with what he calls the ‘*liberal fact*’,<sup>2</sup> and finds its apogee in the 1970s with the further deployment of this ‘*liberal fact*’.<sup>3</sup> There lies a major characteristic of Gauchet’s theoretical construct: the clear distinction between the neoliberal doctrine – or ‘*neoliberal ideology*’ to adopt his vocabulary - and the ‘*liberal fact*.’ As far as the very notion of ‘*ideology*’ is concerned, it represents, for Gauchet, an intellectual construction devoted to both justifying a present policy and influencing future action with an analysis of the past and present ones.<sup>4</sup> An ideology is thus a discourse mixing three elements: a rational interpretation of the past, a political program for the present, and a belief in a particular future (or a ‘*vision*’ of that future).<sup>5</sup>

According to Gauchet, neoliberalism is the presently dominant ideology for interpreting the social, economic and political behaviours within our western societies. It is dominant because, since the middle of the 1970s, it is the most spontaneously plausible: the neoliberal discourse appears consistent with numerous concrete dimensions of the contemporary operation of western societies, which means that it is highly compatible with the ‘*liberal fact*’. The general plausibility of this ideological construction emerged with the outcome of the petrol crisis of autumn 1973. Neoliberalism was first concretely applied in

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<sup>1</sup> Marcel Gauchet, *The Disenchantment of the world* (Princeton: Princeton University Press, 1997).

<sup>2</sup> Marcel Gauchet, *La démocratie d’une crise à l’autre* (Nantes: Éditions Cécile Defaut, 2007), 22-23. The ‘*liberal fact*’ (or ‘*fait libéral*’ in French) refers to the process of independence of civil society with regard to political power, in western societies of the beginning of the XIX<sup>th</sup> century. Gauchet considers liberalism as only one possible interpretation of this ‘*liberal fact*’ and of its political implications.

<sup>3</sup> For a synthetic view in English of Gauchet’s thoughts on modernity, democracy and liberalism, the reader can refer to Natalie J. Doyle, ‘Autonomy and modern liberal democracy: from Castoriadis to Gauchet’, *European Journal of Social Theory* 15, 2012, 331-347.

<sup>4</sup> Marcel Gauchet, “Croyances religieuses, croyances politique”, *Le Débat* 115, 2001, 3-12. It is important to state here that Gauchet’s concept of ‘*ideology*’ is different from that of Marx, which has been criticised by Foucault; see Michele Barrett, *The politics of truth: from Marx to Foucault* (Cambridge: Polity Press, 1991).

<sup>5</sup> A conceptual approach to ideologies very close to that of Gauchet is extensively detailed in Michael Freeden, *Ideologies and political theory: A conceptual approach* (Oxford: Clarendon Press, 1996).



Chile, after Pinochet's coup on September 11<sup>th</sup>, 1973.<sup>1</sup> It was then implemented by western democratically elected governments, as consequences of Thatcher's election in Great Britain in 1979 and Reagan's in the United States in 1980. In order to condense this ideology without denaturing it, one could sum it up as the promotion of the reduction of the state's sphere of prerogatives and of the replacement of the collective by the individuals.<sup>2</sup> This ideology denies the existence of any collective social entity and sees society as an addition of interacting individuals. At its origin, neoliberalism is a systematic critical response to socialism and to the Welfare State<sup>3</sup> that is pursued over three fronts: a critique of planning, a critique of the Keynesian budgetary and fiscal regulation, and a critique of bureaucracy.<sup>4</sup> For this way of conceiving the world, the only existing relations between individuals are mutual advantage contracts, and the market is the only good means of regulating these relations. But relations between individuals are not only of economic nature, and, consequently, neoliberalism does not only apply to economic questions: the neoliberal world is inhabited by anthropological rivals and not only by economic competitors.<sup>5</sup>

As far as the state is concerned, it is important to remark that neither the implementation of neoliberalism nor the deployment of the '*liberal fact*' have led to its vanishing, contrarily to what some of the most radical promoters of neoliberalism could have wished. However, the nature of the state has changed, and the state has often been reduced to an arbitrator that sets the hierarchy of norms and which major function consists in guaranteeing the coexistence of individual interests without external interference. In the

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<sup>1</sup> David Harvey, *A brief history of neoliberalism*, *op. cit.*, 7-9.

<sup>2</sup> Divergences of interpretation exist between Gauchet (2011, 27 April) and some other French scholars about the nature and the role of the state in the neoliberal ideology. See for example Michel Foucault, *Naissance de la biopolitique. Cours au Collège de France. 1978-1979*, *op. cit.*; Pierre Dardot et Christian Laval, *La nouvelle raison du monde. Essai sur la société néolibérale*, *op. cit.*

<sup>3</sup> Marcel Gauchet, Lectures, *op. cit.*, 4 May 2011.

<sup>4</sup> Marcel Gauchet, Lectures, *op. cit.*, 27 April 2011.

<sup>5</sup> Marcel Gauchet, Lectures, *op. cit.*, 12 January 2011.

neoliberal world, there are no collective objectives but only individual aims.<sup>1</sup> However, the neoliberal world is still future-oriented on a practical level. This orientation promotes all possible changes of the present in order to enhance the performance and the effectiveness of what exists.<sup>2</sup>

Based both on this rapid characterization and on the preceding section, one may legitimately argue that the discursive regime of participative governance grew in the shadow of neoliberalism. In fact, the convergences between them are multiple: the central place of individuals and the corresponding negation of the collective, the importance conferred to the market, the centrality of the notion of effectiveness and its quantitative (or economic) mode of assessment, the conviction that private management is more efficient than public management, the critique of the Social State and so on...

However, there is also an important divergence between the discourse of participative governance and the neoliberal ideology. It involves the neoliberal critique of bureaucracy and regulation. This essential characteristic of neoliberalism is not compatible with the EC discourse. It is true that some contributions to the *Governance Report* formulate critiques of bureaucracy.<sup>3</sup> In the *White Paper*, one can also read: “*People first and foremost want less red tape at a national level – they do not care whether its origin is in European or national decisions*”.<sup>4</sup> However, and this strongly contrasts with the usual neoliberal discourse, all other authors show no fundamental opposition to bureaucracy and do not intend to limit its role. On the contrary, one of their objectives is to enhance the democratic legitimacy of European bureaucracy. Pragmatically, according to these authors, the elaboration and the

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<sup>1</sup> Marcel Gauchet, Lectures, *op. cit.*, 18 May 2011.

<sup>2</sup> Marcel Gauchet, Lectures, *op. cit.*, 8 February 2012.

<sup>3</sup> Karl-Heinz Ladeur, “Proceduralisation and its use in a post-modern legal policy”, in *Governance Report*, 2001, 53-69, p. 66.

<sup>4</sup> Commission of the European Communities, “European Governance. A White Paper”, *op. cit.*, 23.

implementation of European public policies necessarily requires an extensive bureaucracy. The so-called '*reality principle*' thus makes the discursive regime of participative governance diverge from the neoliberal orthodoxy. Besides, the defenders of the European participative governance do not promote the limitation to a strict minimum of the public intervention into the economic sphere. One can read, in the *Governance Report*: "*As time went on, however, it became progressively apparent that the completion of a single market required active intervention in more and more policy areas...*"<sup>1</sup> That means that the European internal market cannot work properly without strong public interventions.

A second possible divergence concerns the preference for experts and professionals, as compared with politicians. This characteristic could originally be linked rather to the '*socialist*' ideology than to the neoliberal one. Indeed, according to Gauchet, this theme emerged in European democracies, at the end of the XIX<sup>th</sup> century, when it appeared that, contrarily to the anticipations of the liberals, the progressive emancipation of civil society had led to an unprecedented increase in the functions of the state and of the administration. The problem was thus the following: "*How can administration be protected from arbitrary interventions of politicians, and be simultaneously kept under control?*"<sup>2</sup> As an answer, in France, under the impulse of socialist theoreticians in the 1880s, the notion of public service stabilized. With the 1970s' further deployment of the '*liberal fact*' and the corresponding removal of the domination of political power on civil society, politicians suffered from a new spectacular loss of prestige.<sup>3</sup> Therefore, it is not surprising that the authors considered here should give much more credit to experts than to politicians. In this direction, the *White Paper* strongly insists on the necessary enhancement of the '*confidence in expert advice*', to which

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<sup>1</sup> Notis Lebessis and John Paterson, "Developing new modes of governance", in *Governance Report*, 2001, 259-294, p. 268.

<sup>2</sup> Marcel Gauchet, *L'avènement de la démocratie II. La crise du libéralisme* (Paris: Gallimard, 2007), pp. 182-183, my translation.

<sup>3</sup> Marcel Gauchet, *Lectures*, *op. cit.*, 2 February 2011.

an entire page is devoted, where one can read: “*Scientific and other experts play an increasingly significant role in preparing and monitoring decisions*”.<sup>1</sup> Finally, this characteristic of the participative governance discursive regime is perfectly consistent with the neoliberal discourse: since the individuals considered by both discourses are rational actors, it is logical that participation be addressed to the supposedly most rational individuals within the organized civil society, that is to say to the experts.

## **Conclusion**

Before finally raising the question of the kind of democracy that is promoted by the European participative governance discourse, one can point out an intrinsic weakness of this discourse. Indeed, if one can concede that elected representatives cannot reasonably pretend to represent all the interests of the European people, there is no reason to believe that participant citizens, or organized groups of citizens, would be more able to do so. First, all the organizations wishing to participate in European decision-making procedures do not necessarily have the means – either in financial or in availability terms – to effectively do so. Secondly, some individuals (or groups of individuals) may legitimately wish not to participate in decision procedures.

Moreover, in many parts of the EC texts on governance, it appears that participation does not necessarily imply a real involvement of citizens in the decision-making process, but that it is often limited to the possibility, for the organizations of civil society, to make their opinions heard. Therefore, the participation promoted by the discursive regime of participative governance is a peculiar form of participation that could be named ‘*procedural*

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<sup>1</sup> Commission of the European Communities, “European Governance. A White Paper”, *op. cit.*, 19.

*participation*’, as opposed to the theoretical possibility of a ‘*substantive participation*.’ In fact, public actors remain the main holders of the right to take public policy decisions: to use an expression of the *Governance Report*, public actors still are the ‘*guardians of [the] policy process*’.<sup>1</sup> Here, concepts of ‘*good governance*’ and ‘*participation of organised civil society*’ thus constitute instruments of government explicitly dedicated to ‘*fill gaps*’ in the conduct of European public policies and to remedy the lack of democratic legitimacy from which the EC suffers. It is however crucial to notice that participative governance has no vocation to offer a real substitute to government by institutions, but is only intended to compensate its deficiencies. In this respect, the *White Paper* is very clear: “*Better consultation complements, and does not replace, decision-making by the Institutions.*”<sup>2</sup> It is useful here to stress on the fact that this European discourse of participative governance has been going on since the publication of the *White Paper*. Remarkably, the 2007 Treaty of Lisbon still developed this participative governance discursive regime, as shown by both following quotes from its Article 8B: “*The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action*”; “*The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent*”.<sup>3</sup> Even more recently, in 2013, Didier Schmitt, scientific adviser and prospective coordinator for the European Commission president, wrote, in the French reference daily newspaper, *Le Monde*, an opinion column entitled “*The citizen as a prospective actor*”, in which he promoted the notion of ‘*participative prospective*’, i.e. a ‘*participative vision of the future*’. In this opinion column, he stated: “*Making tomorrow’s (European) society must be done by consulting its*

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<sup>1</sup> Notis Lebessis and John Paterson, “Developing new modes of governance”, *op. cit.*, 279.

<sup>2</sup> Commission of the European Communities, “European Governance. A White Paper”, *op. cit.*, 16.

<sup>3</sup> European Union, “Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community”, *Official journal of the European Union* 50, Notice 2007/C 306/01, 17 December 2007, 1-229, p. 15; English edition, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:306:FULL:EN:PDF>, accessed 7 October 2013.

*citizens*”.<sup>1</sup>

As far as is concerned the question of who precisely, among organized civil society, is invited by this European discourse to participate, the concluding contribution of the *Governance Report* claims that “*lay opinion that is brought to the policy process without the underpinning of scientific rationality must be treated with due caution*”.<sup>2</sup> More than anything else, these authors finally focus on the promotion of “*the development of pluralistic scientific expertise*”.<sup>3</sup> To put it differently, the participation that the EC promotes is, above all, the participation of pluralist experts, issued from the European bureaucracy or from the organized civil society, and not the participation of non-expert citizens.<sup>4</sup>

To analyse the discursive regime of participative governance with even more hindsight, it is important to keep in mind the critique, formulated by several authors in recent years, of the use of participation as a means of neutralizing and governing social contest.<sup>5</sup> In that perspective, it is highly significant that the *White Paper* explicitly tries to protect itself against this potential criticism through the statement that “*participation is not about institutionalising protest*”.<sup>6</sup>

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<sup>1</sup> Didier Schmitt, “Le citoyen comme acteur de la prospective”, *Le Monde*, 16 juillet 2013, my translation; available at [http://www.lemonde.fr/idees/article/2013/07/16/le-citoyen-comme-acteur-de-la-prospective\\_3448363\\_3232.html](http://www.lemonde.fr/idees/article/2013/07/16/le-citoyen-comme-acteur-de-la-prospective_3448363_3232.html); accessed 16 July 2013.

<sup>2</sup> Notis Lebessis and John Paterson, “Developing new modes of governance”, *op. cit.*, 277.

<sup>3</sup> *Ibid.*, 286.

<sup>4</sup> The questions of scientific expertise, of its place in public policy decision-making, and of the relations between experts and lay people have been objects of extensive research in the academic field of Science and technology studies (STS) since the 1980s. See, for example, Harry M. Collins and Robert Evans, “The Third Wave of Science Studies: Studies of Expertise and Experience”, *Social Studies of Science* 32(2), 2002, 235-296.

<sup>5</sup> Sezin Topçu explains that, in the case of nuclear energy, participation was often organized at the expense of other militant actions: Sezin Topçu, *La France nucléaire: l'art de gouverner une technologie contestée* (Paris: Seuil, 2013), pp. 249-288. The reader can also refer to Dominique Pestre’s affirmation that participation potentially invalidates the right to protest: Dominique Pestre, “Challenges for the Democratic Management of Technoscience: Governance, Participation and the Political Today”, *Science as Culture* 17, 2008, 101-119. See also the extensive study by Les Levidow and Susan Carr, *GM Food on Trial. Testing European Democracy*, *op. cit.*, 129-132, of the promotion of agro-biotechnologies and genetically modified food within the EU since the beginning of the 1990s: these authors show that the EC often used participation as a means to sidestep democratic demands.

<sup>6</sup> Commission of the European Communities, “European Governance. A White Paper”, *op. cit.*, 15.

I would like to conclude by mentioning the hypothesis of a link between the recent emergence of the discourse of participative governance on the EU scale and a supposed recent and widespread process of neutralization of the political. After the present careful study of the EC participative governance discourse, it appears that, whatever this discourse may claim, European participative governance is in no way a direct delegation of policy decision-making to organised civil society. Participative governance is rather a type of political organisation within which public actors, and especially bureaucrats and experts, constitute the almost exclusive public decision-makers. Therefore, within the participative governance discourse, public actors are still the governing ones, exactly like in the framework of representative government – and perhaps even more so - in spite of all the efforts deployed by the studied authors to contrast both types of political organisations. Finally, on the EU scale, if one may legitimately say that the political is - at least partially - neutralised, it is certainly not because of a supposed general decrease in institutional public policy decision-making, but rather because policy decisions are not mainly taken by elected politicians anymore but mostly by bureaucrats and experts from the European Commission. In other words, most European public policy decisions now evade both democratic deliberation and accountability imputation, which is in line with Gauchet's view about the current transformation process of liberal democracy into a '*minimal democracy*'.<sup>1</sup>

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<sup>1</sup> Marcel Gauchet, *La démocratie d'une crise à l'autre*, *op. cit.*, 43-45.

<b>Archaic world of representative government</b>	<b>Modern world of participative governance</b>
abstract	concrete
theoretical	pragmatic
classic, traditional	modern, postmodern
simplistic	complex
representative democracy	participative democracy
State	civil society
national	supranational integration
uniformity	heterogeneity
legislation	regulation
collective	individual
vertical power	partnership
opacity	transparency

**Table 1:** Leading terms of semantic series describing both considered worlds.



## **Résumé en français**

En 2001, après six ans de travaux préparatoires menés par des universitaires et des fonctionnaires de la Commission européenne, paraît le *Livre Blanc* sur la gouvernance européenne. La participation y joue un rôle fondamental. Une analyse sémantique approfondie de publications correspondantes de la Commission européenne permet de caractériser en détail le régime discursif de la gouvernance participative européenne. Cette caractérisation met en lumière les nombreuses convergences entre le discours de la gouvernance participative et l'idéologie néolibérale. Ce discours peut s'entendre comme une tentative d'imaginer et de légitimer un système politique destiné à gouverner les populations de l'Union européenne, dans une phase historique de domination de l'idéologie néolibérale en Europe.

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