A Genealogy of Government. On *Governance*, *Transparency* and *Partnership* in the European Union

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Abstract

This dissertation provides an alternative explanation to innovation in government, understood as the emergence of new methods and forms of governing. Existing accounts of innovation in government focus on factors such as technological developments, cultural change, the spread of the neo-liberal ideology, and the effects of globalization on the state's capacity to govern. This thesis introduces a further element of explanation by arguing that innovation in government depends upon knowledge produced by the social sciences, especially economics, in recent decades. The social sciences inform the act of governing by generating new understandings of social reality, of how it can be acted upon and transformed, of the goals, objects, subjects, and means of government as a specific human activity. This influence is particularly visible in the conceptual field.

In order to show the impact of the social scientific knowledge on government, this thesis examines the European Union as a case study. Government in the EU is often considered an epitome of new modes of governance and a *sui generis* phenomenon. By tracing three of the EU's key concepts—"governance", "transparency", and "partnership"—through a combination of genealogical and conceptual history tools, this study shows that practices of government that are often considered innovative in the EU emerged elsewhere and their rise and spread have been supported by developments in social scientific theories such as neo-institutional economics.

This approach to government articulates three fields of further inquiry. Firstly, at the methodological level, it shows how a synthesis of genealogical and conceptual history tools generates a wide range of unexplored insights into practices of government. Secondly, in EU studies, it demonstrates the weaknesses of analyzing government in the EU as *sui generis* thus preventing the pursuit of a more productive inquiry into the premises and manifestations of

governing in the EU. Thirdly, by showing the considerable role of economic thought in shaping our current rationality of government, it outlines a research field into the effects associated with the predominance of the economic themes in the current reflections upon practices of government.

I. Introduction: The question of innovation in government

> But government is not just a power needing to be tamed or an authority needing to be legitimized (…) it is an art which presupposes thought. The sense and object of governmental acts do not fall from the sky or emerge ready formed from social practice. They are things which have had to be - and which have been – invented (Burchell, Gordon, and Miller 1991, x)

In recent decades there has been a growing awareness that the ways in which societies are governed has changed. This transformation has famously been articulated as a transition from "government" to "governance", where government referred to a state-centered, hierarchical, command type of governing and governance implied a flexible, diverse, multi-actor style of steering. Scholars in the social sciences have strived to identify, conceptualize and explain these innovative patterns of political organization and action that challenged conventional understanding of government. At the core of these debates is the idea that several factors (globalization, the spread of neo-liberalism, the crisis of the welfare state, cultural and technological changes) have affected the capacity of states to act efficiently and effectively. This reduced capacity, in turn, has led to state activity being supplemented or substituted through a proliferation of new, non-state actors and new forms of political interaction, producing innovative forms of government. From this view, innovation in government, whether desirable or not, is triggered by the adaptation to the increasing complexity and interdependence that characterize contemporary societies, both below and above nation-states and the consequent weakening of states as the central actors of governing. From this perspective, changes in government are caused by dramatic mutations in societies and in the world, in "reality".

Therefore, these changes are reactive, adaptive, characterized by a certain degree of inevitability, necessity, and spontaneity.

This dissertation proposes a different account of the conditions that determined transformations in governing. It questions the dominant perspective that change in government was merely determined by changes in "reality" and that it is simply adaptive and reactive. It advances the idea that innovation in government is also triggered by changes in the rationality that presides over government understood as a specific form of activity. As mentioned in the opening to this chapter, "government (…) is an art which presupposes thought. The sense and object of governmental acts do not fall from the sky or emerge ready formed from social practice. They are things which have had to be - and which have been – invented" (Burchell, Gordon, and Miller 1991, x). In other words, the changes that we see currently in government – the emergence of new actors and new types of relations among them – are not simple adaptations to a more complex, globalized and interdependent world, but also reflect our new ways of understanding the goal, objects, subjects and means of government as a specific human activity. If government is innovated it is also because the domains of knowledge that inform the act of governing have produced new understandings of social reality, of how it can be acted upon and changed. As Rose and Miller put it: "[k]nowledge is thus central to these activities of government and to the very formation of its objects, for government is a domain of cognition, calculation, experimentation and evaluation" (Rose and Miller 1992, 175).

This thesis understands government as an activity or as Foucault put it, as "the reasoned way of governing best" (Foucault 2008, 1). It does not use "government" to refer to the institutions or organizations through which public authority is exercised such as in the expression "the US government" or the "local government"; only pays attention to these governmental institutions and organizations to the extent to which they are part of the tools through which the activity of government is carried out. This thesis embraces Foucault´s view that governmental institutions tend to be the reflection of specific models and rationalities of governing.[1]

The interest of this thesis lies in the investigation of the specific rationality that organizes, dictates, and presides over the activity of governing. It argues that the social sciences have produced new sets of interpretations upon which a new understanding of how government is possible and what it means to govern has been grafted. This thesis is an attempt to reconstitute the genesis of the current rationality of government out of conceptual formations in major theories in the social sciences. It explores the ways in which innovation in government has also been triggered by changes in the way objects, subjects, and goals of government have been redefined in the social sciences, particularly through economics. Among the areas in which these modifications took place are theories in organizational studies, systems theory, cybernetics, and neo-institutional economics. These changes allowed for the formulation of new goals, rules and possibilities for the field of government.

It is important to understand changes in government because we can better understand how we are governed and why we are governed the way we are. It is even more important to understand if changes in government are simple reactions to transformations in our social reality or if we can significantly contribute to shaping these changes. If indeed, as this thesis intends to show, changes in government are strongly influenced by knowledge produced by the social sciences, in particular, models employed to describe and understand how our societies and economies function, then, we can understand that our imagination, our power of conception,

[1] This thesis also draws a distinction between government as an activity and the broader field of politics. It embraces Hindess' distinction, borrowed from Weber, between the sphere of the political – concerned with the "partisan promotion of disputed interests and values" – and the sphere of the governmental – concerned with ways of exercising power once obtained (Hindess 1997, 261). The scope of this thesis is the sphere of the governmental; therefore it does not explore such issues as elections or parties.

even more than the transformations in the outside world, is perhaps responsible for changes in our ways of governing. It helps us see that the way we are governed depends on what questions are being asked, what perspectives are taken and what priorities are followed in the knowledge we produce, in this particular case, in the social sciences. And this understanding can have two major benefits. First, it helps us see that nothing is inevitable, or necessary and fixed in government, imposed by changes in the outside world. There is choice and there is room for alternatives. And the second benefit is to help us free our imagination and gain confidence in exercising it again when thinking about governing, now when the world is confronted with various crises.

More generally, a focus on evolving rationalities of government helps us step back and clear our view of all the abundant and confusing details about the multitude of actors, institutions, processes and mechanisms that are currently involved in government. It may help us look at the big picture of what changed less obviously and more powerfully in the way we are governed. What are truly the goals of these new forms of governing? What are its subjects? Are the needs and rights of the individuals still at the center of this new form of rationality?

Additional utility of this research derives from the case study chosen. This thesis takes the government of the European Union as a case study for a number of reasons. The EU is often considered an epitome of recent innovations in forms of governing; it is about new actors, new organizational structures, new policies, and new patterns of public authority – society interaction. Moreover, the EU, perhaps more than any other political structure, has inspired a vast literature about how it represents an epitome of "governance" – the new form of governing. The EU is a relatively successful model of government exercised above the nation state, supranationally, but also an example of restructured patterns of subnational participation (below the nation-state, as suggested by multi-level governance scholars) by involving local and regional public authorities and activating networks of private actors. The aim is to show that the government of the EU is not the mere result of adjustment or negotiation as often presented in the literature, but that it has a major component of reflection focused precisely on what constitutes appropriate ways of governing. The development of governmental practices in the EU has been determined by a search for principles, for sources of inspiration, through an active comparison among various ways of governing. Governing in the EU is not an innovation inasmuch as it is the implementation of already innovated practices of government. The current government of the EU is indebted to the decades-long efforts taken in the social sciences to rethink fundamental principles about society and its governing. This insight contributes to the endless debate whether the EU governing is *sui generis* or just a replica of existing forms of government. It will help show that most of the aspects that are considered innovative and unique in the EU have been, in fact, borrowed from an already existing rationality of government, that there is almost nothing unique in the way we are governed at the EU level. The usefulness of this insight will be that once we put aside the problem of the uniqueness of the EU, we could start to focus on what is significant about governing in the EU: what are its assumptions, what are its foundational understandings about society, economy and human beings upon which it operates its choices? What perspectives and what knowledge inform governing in the EU?

The thesis is organized as follows. Firstly, it starts with a brief insight into theories that explain current innovations in government which are, then, contrasted with the type of inquiry that informs this work. Secondly, the choice of the EU as a case study is explained. Summaries of existing accounts of the government of the EU are presented, highlighting the contrast between the views that hold the functioning of the EU as a *sui generis* form of government with those arguing that it can be meaningfully analyzed through off-the-shelves theories from the field of comparative politics and international relations. The methodological part describes how to investigate changes in rationalities of government through a survey of cases of conceptual change. It elaborates on what is meant here by a concept, what is conceptual change and how it can be studied. It uses insights from genealogy (referring to authors such as Michel Foucault and Mitchell Dean) and conceptual history (referring to authors such as Quentin Skinner, Terence Ball and James Farr) to trace the origin and evolution of three selected concepts: “governance”, “partnership”, and “transparency”. The three subsequent chapters that constitute the body of the thesis are dedicated each to one of the three concepts. By tracing the emergence of three of its organizing concepts, abundantly present in the EU documents, this thesis shows that the EU rationality of government is only a reflection of broader, prior changes in the redefinition of objects, subjects and goals of government through conceptual developments in the social sciences. Thus, while focusing on the EU rationality of government, the thesis engages deeper changes that have redefined the art of governing. The concluding chapter is dedicated to a reformulation of the findings in connection with the initial ambition of the thesis – that of providing an alternative inquiry into the sources and processes of innovation in government. It outlines some of the consequences of changes in our current rationality of government and several questions born out of the insights of this study.

A. Existing explanations of innovation in government

In the recent decades, many scholars have argued that government changed substantively and qualitatively. There is a relative consensus on what are the signs, the manifestations of the new forms of governing, but there is disagreement as to what caused or is still causing the emergence of the new forms of government. Among the symptoms of innovation in government, academics identify the failure and distrust of hierarchies with the accompanying rise and spread of networks and partnerships, the multiplication of actors involved in the act of governing, the replacement of formal, rigid forms of command in favor of more informal, flexible, consensual steering, etc. Academics identify such causes as globalization and increased interdependence, greater social complexity, fragmentation and differentiation, the failures of the welfare state, the technological revolution, the emergence of post-material values, or the rise of neo-liberal ideology.

A major explanation for change in government is the one focused on the effects of globalization and the increased global interdependence. Rosenau points to changes in government at all levels, due to a mix of factors that include “altered borders, redirected legitimacy sentiments, impaired or paralyzed governments, and new identities” (Rosenau 2006, 2:111). Signs of this change are the dissolution of hierarchies, the multiplications of spheres of authority, the replacement of command mechanisms with control or steering mechanisms, the preference for informal, instead of formal, rigid decision-making procedures (Rosenau 2006, 2:122). Complex interdependencies create the demand for the multiplication of systems of governance. These governance forms are issue-specific, performed not only by states but by a multitude of actors such as NGOs, corporations, business associations, advocacy groups, etc (Rosenau 2006, 2:180, 181). For scholars who adopt similar views, the explanation of the transition from “government” to “governance” revolves around the problem of the state, around the decline or transformation of its capacity to govern: “[t]he emergence of governance should therefore … be taken as proof of the state’s ability to adapt to external changes…governance as it emerges during the 1990s could be seen as institutional responses to rapid changes in the state’s environment” (Pierre 2000, 3).

The increased complexity and fragmentation of society – the emergence of the "differentiated polity" – is another factor that is used to explain changing of patterns of government. Studying Britain, but extending his observations beyond it, Rhodes employed such images as the "centreless society" made up of interdependent organisms brought together in "self-organizing networks" (R. A. W. Rhodes 1997). In terms of changes in government, the transition is from the Westminster model centered on parliamentary politics and hierarchical decision-making to the governance of and through policy networks that blur the distinction between the public, private and voluntary sectors. Rhodes employed the concept of "governance" to refer "to *self-organizing, interorganizational networks* characterized by interdependence, resource exchange, rules of the game and significant autonomy from the state" (R. A. W. Rhodes 1997, 15).

Manuel Castells has been particularly influential in the discussion about changes and innovation in government. He identified the emerging pattern of political organization as the "network state" characterized by "shared sovereignty and responsibility, flexibility of procedures of governance, greater diversity of times and spaces in the relationship between governments and citizens" (Castells 2005, 11). The network state matches the advent of the network society "a society whose social structure is made of networks powered by microelectronics-based information and communication technologies" (Castells 2004, 3). He argued that, thanks to the new technology available, the network society replaced the historically dominant but, now, insufficient and inadequate hierarchical social structures. Networks prove superior forms of organization due to their "flexibility, scalability, survivability" (Castells 2004, 5).

According to Castells, government is performed by a multiplicity of actors and authority and power are shared and diffused (Castells 2010, 2:424). Decision-making is no longer the exclusive privilege of nation-states, instead “the actual operating unit of political management in a globalized world is a network state formed by nation-states, international institutions, associations of nation-states, regional and local governments, and non-governmental organizations” (Castells 2010, 2: 364). As a consequence, political representation based on existing party systems and competitive politics fails to respond satisfactorily to the new arrangements of the network society (Castells 2010, 2: 414).

Castells identified the causes of this change in the overlapping of three, independent processes: “the crisis of industrialism, the rise of freedom-oriented social movements, and the revolution in information and communication technologies” (Castells 2004, 22). The culture of freedom encouraged new network-based technological advancements that, in turn, made possible the global expansion and transformation of businesses and both these phenomena gradually eroded the decision-making power of nation-states.

The importance of presenting Castells´s ideas lies in that fact that they represent a typical pattern of explaining changes in government in which most of the weight is assigned to external factors that reconfigured the distribution of power and authority and therefore, altered the way governing is performed.

Another explanation for the emergence of a new type of government is the focus on the internal insufficiencies, “contradictions” of the welfare state that led to its collapse as a model and required the reconsideration of the social and political organization of Western societies. The criticism directed at the welfare state was also directed at its accompanying forms of political organization, more precisely, against parliamentary representation and politics. The literature is vast, but the critique tends to be the same, aimed at the problem-solving failure of the welfare state, at its systematic, rather than temporary, deficiency, and at the popular resistance and conflict it generated (Keane 1984, 14). According to this view, the welfare state was confronted with a crisis of "governability" that created the necessity and conditions for change. Offe's writings on the failures of the welfare state constitute an excellent example of such types of argument (Offe 1984), but similar interpretations are to be found in numerous other texts. A similar critique targeting the "governability" of the welfare state came from both the "left" and "right" of the political spectrum in the period since the 1970s. The welfare state failed in its main mission of ensuring social cohesion by providing social protection and fulfilling its integrative function (Donzelot 1994). Scholars argued that, in order to maintain its relevance, the state must transform itself and transforms its actions. It must become "un État animateur" where "animer, c'est inviter à l'action quand on ne peut y contraindre, susciter des dynamiques au lieu d'une attente passive de solutions toutes faites" (Donzelot 1994, 53). This new state encourages participation, partnerships and abandons general, formal and rigid command in favor of specific and local interventions. The new role of the state is not to discipline society, but to produce it (Donzelot 1994).

Yet another interpretation of current changes in political organization and government is given by those who focus on cultural changes as indicators, if not catalysts, of economic and political changes. Castells (above) assigned a significant role to the "culture of freedom" in enabling network technologies, globalization and decentralization and, consequently, a reconfiguration of power and authority that encouraged change in government. Inglehart argued that cultural values, economics, and politics were closely interlinked and determined each other (Inglehart 1997). He interpreted current changes as cultural changes, as the shift from modern to postmodern values. Postmodern values are held by those generations who experienced the economic security of the decades after the World War II. Economic prosperity and the protection offered by the welfare state stimulated the shift from values centered on economic needs (food, shelter, clothes, etc) to values centered on well-being, quality of life and self-expression. In the political plane, these cultural shifts manifested themselves as a rejection of all forms of authority, of hierarchies and bureaucracies, of uniformity and conformity, a demand for more participation and diversity, “from voting, to more active and issue-specific forms of mass participation”, the emergence of new political cleavages on previously neglected issues such as environment, gender (Inglehart 1997, 43). It also coincided with more emphasis put on individual self-expression, freedom and autonomy. The decline in the authority of bureaucracies and hierarchies is justified by their lack of efficiency in the context of high-technology societies, but also by their increasing lack of acceptability from the part of people with a different set of values than that of the previous generation (Inglehart and Welzel 2005, 29). In times of prosperity, people are less likely to accept the depersonalizing costs of bureaucracies (Inglehart and Welzel 2005, 29). The foundations of current changes in government are to be located in the cultural shifts, from modern to postmodern values, which were possible once the fear of scarcity and the concern for survival have been removed through the experience of prosperity and security: “in Postmodern society, authority, centralization, and bigness are all under growing suspicion. They have reached a point of diminishing effectiveness; and they have reached a point of diminishing acceptability” (Inglehart and Welzel 2005, 78).

Another typical explanation for changes in government is to point to the spread of a particular ideology and its hegemonic discourse, namely neo-liberalism. David Harvey argues that neo-liberalism transformed governmental practices once it was put to work by such leaders as Margaret Thatcher and Ronald Reagan (Harvey 2005). Neo-liberalism led to innovation in government insofar as it advanced new dominant values and a new role for the state. The new role for the state is the preservation and, where possible, the creation of markets, the defense of property rights, and the promotion of entrepreneurship among its citizens (Harvey 2005, 2). The spread of neo-liberalism was possible through “the active construction of consent”, through various channels such as “corporations, the media, and the numerous institutions that constitute civil society—such as the universities, schools, churches, and professional associations”, think-tanks (Harvey 2005, 40). In practical terms, it modified governmental practices by adding to its tools the public-private partnerships through which “[b]usinesses and corporations not only collaborate intimately with state actors but even acquire a strong role in writing legislation, determining public policies, and setting regulatory frameworks” (Harvey 2005, 76). Neo-liberalism helped the transition from “government (state power on its own) to governance (a broader configuration of state and key elements in civil society)” (Harvey 2005, 77).

The explanations summarized above identify different causes of the current changes in government, but largely agree on what these changes are: the distrust of hierarchies, the multiplication of actors, the blurring of the boundaries between public, private and voluntary spheres, the spread of networks, and the replacement of rigid, formal command with more flexible, informal forms of steering. The above explanations while useful and interesting, explain change in government as reactive and adaptive, thus missing the positive nature of change, the choice, the projection, with the exception perhaps of the explanation focused on neo-liberalism such as Harvey´s. However, this explanation is insufficient since it cannot explain the emergence of patterns of government associated with neo-liberalism in societies less touched by this ideology or the persistence of these patterns beyond neo-liberalism, crisscrossing ideologies. The Third Way governments, for example, embraced public-private partnerships and networks not on an ideological basis, but out of a conviction that they represented tools of effective public policy.

Moreover, as shown later in this thesis, governmental practices associated by Harvey with the neo-liberalism of the 1980s emerged well before that, in areas of reflection disconnected from neo-liberal thought.

What is missing in these explanations is the attempt to capture the evolution of our thought on government before and while transformations in the "real world" took place. Most of these explanations, again with the exception of the neo-liberal one, ignore the contribution of thought, the filtering through thought of whatever transformations our societies experience, as if change impacts us directly without any transition through our capacity to think about it and make sense of it or even to produce and anticipate it. Again, one of the reasons of this neglect is that these approaches focus too much on the state, on actors, and lack the historical awareness which would show that, chronologically, government or the art of governing "preceded the state" (Senellart 1995). Government has always been dependant on the regimes of truth that characterized specific historical periods, legitimized it and made it possible (Rose and Miller 1992, 188).

From this perspective, it is also interesting to note that the existing accounts tend to disregard the contributions the social sciences may have played in the current changes in government. These approaches argue, on the contrary, that our times are confusing because social sciences have failed to produce understandings that would help us catch up with the magnitude of social transformations (Castells 2009, 1: xvii). In this view, the vocabulary of the social sciences change, developing new concepts, to capture innovations in governing, post-factum. This is how Jon Pierre, for example, explains the interest in the concept of "governance": "we should assess the growing interest in governance both as an emerging political strategy for states to redefine its role in society and, subsequently, a growing interest among social scientists in the process of state restructuring and transformation in light of external and internal changes suggested earlier" (Pierre 2000, 2). As shown later on when tracing the history of the concept of "governance", this was not the case.

The approach in this thesis turns this interpretation upside down and gives precedence to our capacity to change our interpretations of the world around us, of our societies, to make projections, to design and anticipate change, to choose what questions we ask when we investigate "reality" and to choose how we answer them. This thesis takes on the challenge to show that changes in our representations of society and economy preceded and shaped changes in government, by altering our rationality of government. Thus, it echoes a thought expressed long time ago by John St. Mill who noticed that "[th]e lesson given to mankind by every age, and always disregarded- that speculative philosophy, which to the superficial appears a thing so remote from the business of life and the outward interest of men, is in reality the thing on earth which most influences them, and in the long run overbears any influences save those is must itself obey" (J. St. Mill quoted in Hayek 1978, 112-3). Or, to paraphrase Hayek, so far as direct influence on current affairs is concerned, the influence of the social sciences may be negligible, "[b]ut when their ideas have become common property, through the work of historians and publicists, teachers and writers, and intellectuals generally, they effectively guide developments" (Hayek 1978, 113).

B. On changes in rationalities of government as sources of innovation in government

This thesis proposes to address the insufficiencies of existing explanations of change in government by adopting the term of rationality of government as an appropriate tool to analyze government. This approach is informed by the work of Michel Foucault and other scholars who apply his insights into the problematics of government (Rose and Miller 1992, Dean 1999, Burchell, Gordon, and Miller 1991, etc). I borrow their understanding of the rationality of government as “a way or system of thinking about the nature or the practice of government (who can govern; what governing is; what or who is governed)” (Gordon 1991, 3). Unlike the explanations above, the approach in this thesis does not focus primarily on the analysis of actors, institutions and forms of interaction. Nor does it accept that changes in government are merely triggered by transformations in “reality”, such as the weakening powers of the state to govern. It switches the level of analysis by focusing on government as an activity informed by, and depending on knowledge. It embraces the perspective expressed by Rose and Miller that “[t]he mentalities and machinations of government that we explore are not merely traces, signs, causes or effects of 'real' transformations in social relations. The terrain they constitute has a density and a significance of its own” (Rose and Miller 1992, 175). The activity of governing is based on certain representations of reality, “of that which is to be governed” (Rose and Miller 1992, 185). Or as Dean puts it “the way we think about exercising authority draws upon the theories, ideas, philosophies and forms of knowledge that are part of our social and cultural products” (Dean 1999, 16).

There are two important elements in my approach: the first one is the understanding of government as a “reflexive activity” meaning that those who rule “must ask themselves who should govern, what is the justification for government, what or who should be governed and how” (Rose 1999, 7). And second, is to understand that rationalities of government are embedded in regimes of truths: “the activity of government (…) is thus both made possible by and constrained by what can be thought and what cannot be thought at any particular moment in our history” (Rose 1999, 8).

The goal of my thesis, then, is to capture precisely this relationship between the activity of governing and the regimes of truths and to locate changes in government at their intersection. I embrace the view that “[t]he theories of the social sciences, of economics, of sociology and of psychology, thus provide a kind of intellectual machinery for government, in the form of procedures for rendering the world thinkable” (Rose and Miller 1992, 182). Government is thus possible based on representations of social reality and, therefore, of various problematizations formed on the background of these representations.

Rose and Miller argued that government always has three components: a moral form, an epistemological foundation and a vocabulary through which to appropriate reality and make it amenable to transformations (Rose and Miller 1992, 179). The moral form refers to the goals chosen to guide the art of governing, e.g. freedom, growth, justice. The epistemological foundations of government refer to a certain understanding of the objects and subjects upon whom government is exercised or by whom government is exercised: “political rationalities (…) are articulated in relation to some conception of the nature of the objects governed – society, the nation, the population, the economy. In particular, they embody some account of the persons over whom government is to be exercised (…) members of a flock to be led, legal subjects with rights, children to be educated, a resource to be exploited, elements of a population to be managed” (Rose and Miller 1992, 179). Finally, rationalities of government always depend on the development of a specific vocabulary through which they appropriate reality, its representations and thus, open up the possibility to transform it. As indicated below, this thesis attempts to explain changes in rationalities of government by capturing the changes in its vocabulary, in its conceptual apparatus.

The insights offered by the scholars that focus on rationalities of government are determined by the attention they pay to the historical contingencies of the arts of governing and of the regimes of truth that made and make them possible. Senellart discussed the historicity of the arts of governing, insisting on the use of the plural “arts”: “Rien de moins équivoque, on l’a vu, que ce terme [gouvernement] qui renvoie à des formes de relation, des types d’institution et des axes de finalité très divers” (Senellart 1995, 16). He drew attention to an epoch in which our governing, our institutions and relations were formed within the regime of truth conveyed by religion. Such a historically grounded analysis also shows the variety of objectives of government that have existed until now, ranging from the salvation of the soul to the productivity of the economy as well as the variety of conceptualizations of subjects of government (Veyne 1997, Senellart 1995). A historical analysis shows, for example, that what are usually taken for granted as subjects of government – the autonomous individuals – have been constituted historically as such, they were not given. For example, Clifford shows how the image and the understanding of the private, autonomous individual was formed in the works of political philosophers, from those of Rousseau up to those of Nozick (Clifford 2001).

By adopting a historically aware perspective, it is possible to avoid the mistake of focusing exclusively on units of analysis such as states. A focus on rationalities of government shows that historically states themselves are the materialization of a certain rationality of government, that “le gouvernement a précédé l’Etat” or that “the state is a correlative of a particular way of governing” (Senellart 1995, 23; Foucault 2008, 6). As Rose and Miller observed, we need to “avoid over-valuing ‘the problem of the state’” and see the state as both a discursive and institutional response to a particular problematization of government (Rose and Miller 1992, 174, 176-7).

Moreover, a focus on rationalities of government is overtly critical. By investigating the regimes of truth that underlie government, it challenges the "taken-for-granted collective thought involved in practices of government" and the "silent conditions under which we can think and act politically" (Dean 1999, 16, 47). It asks who the subjects of the current government are? What are the goals of government? What are its acceptable, legitimized means? And how are these elements determined? From what truths are they derived? And what are the consequences of choosing these particular truths over other possible ones?

I chose to address the changes introduced by the current rationality of government by studying the concepts through which it is expressed. To focus on concepts is a straightforward choice because concepts are basic elements or units of thought (Sartori 1984). Methodologically, I investigate the formation and emergence of new concepts with the help of both genealogy and conceptual history. In the following, I clarify what is meant here by "concept" and the relationship between concepts and rationalities of government. The methodology section explains how to trace the history of the selected concepts and how to analyze their evolution. The second part of the methodology section is dedicated to explaining the case study – the government of the European Union – and the choice of three concepts for our analysis, namely "governance", "partnership" and "transparency".

C. Methodology: investigating innovation in government through conceptual change

1. What is a concept?

Concepts hold a privileged place in the development of thought and, therefore, in rationalities of government. In a classical definition, concepts are "cognitive entities that represent classes of objects in the world", "mental representations of the categories of the world" or “cognitive products of a generalizing mental operation (conception) that abstracts the general notion or idea of a class of objects” (Adcock 2005, 1,3,10). They are, as Sartori pointed out, “the basic unit of thinking” (quoted in Adcock 2005, 22). More elaborated, but in the same spirit, a concept is “une idée générale et abstraite que se fait l'esprit humain d'un objet de pensée concret ou abstrait, et qui lui permet de rattacher à ce même objet les diverses perceptions qu'il en a, et d'en organiser les connaissances” (Dictionnaire Larousse 2009). These definitions have two significant elements in common. Firstly, they both emphasize the utility of a concept to categorize and organize human knowledge. And secondly, they point to the fact that the concept is the result of a process by which the human mind conceives of, is drawn to, and elaborates on, an object of thought, concrete or abstract.

As mentioned above, scholars who study rationalities of government pay special attention to vocabularies as these are an important element of government – rationalities of government are “made thinkable through language”. Dean remarked that “[c]oncepts are central elements in a mentality of rule because they reflect and make possible the problematization of existing practices, the visualization of alternatives, and the upholding of reforms by constructing worlds, problems and persons as governable entities” (Dean 1999, 63). Concepts are the bridge between the representation of reality and, by naming it, the possibility to act upon it. Thus, a focus on political vocabularies “helps us elucidate not only the ***systems of thought*** through which authorities have posed and specified the problems for government, but also the ***systems of action*** though which they have sought to give effect to government” (Rose and Miller 1992, 177, bold and italic in the original). The concept of the state, for example, is “a historically variable linguistic device for conceptualizing and articulating ways of ruling” (Rose and Miller 1992, 177). Concepts contain a particular understanding of how the political world should be organized and how it should function, an effort to render actions, projects and practices intelligible (Connolly 1983, 63). As Connolly put it "the language of politics (…) is an institutionalized structure of meanings that channels political thought and action in certain directions" (Connolly 1983, 1).

This thesis´s focus on concepts is thus completely inscribed in the effort to make sense of the current rationality of government because it is interested not only in the representation of reality that certain concepts embody, but also in the possibilities of acting upon the social, economic and political reality that they thus open up. Therefore, I select three key concepts frequently used at present to speak about and guide governmental actions. Tracing the origins and evolutions of these concepts shows that they emerge in the field of social sciences and coincide with the transformations of our perceptions of social reality and the objectives and the possibility of government within it. The methodology is based on insights from both genealogy and conceptual history.

As mentioned above, concepts are "mental representations of the categories of the world". Often, but not always, a concept coincides with a word. There are controversies in the literature to what extent a history of a concept can be limited to a history of a word. The German school of conceptual history, for example, includes in the study of a concept several words in which the concept might have been embodied, its synonyms and antonyms. For instance, as remarked by Hampsher-Monk, Tilmans, and Vree, the concept of "Herschaft" is studied together with "Macht" (power), "Gewalt" (force, violence), "Autorität" (authority), and "Staat" (state) (Hampsher-Monk, Tilmans, and Vree 1998, 2). Ball, Skinner, Farr – representatives of the Anglo-Saxon school of conceptual history – draw attention that sometimes humans are in possession of a concept without being in the possession of a single equivalent word or expression. They admit, however, that more often than not, a concept is to be found in a word. In Farr's words "[o]ften, distinctions are not and need not be drawn between these items of speech, language, and thought. Concepts are certainly linguistic entities, in that none exist or can be articulated without the vocabularies of terms in language" (Farr 2004, 9). Thus, in this thesis, the approach is to trace the words in which the concepts are assumed to be embodied, while being alert to the possibility of previous, different linguistic representations of the same concept. For example, the words "publicity" or "disclosure" are taken into consideration as possible precursors of the more recent "transparency".

The methodology of this thesis is inspired by genealogy and the theory and practice of conceptual history, especially those developed by the Anglo-Saxon school. The preference for a combination of both is explained below.

2. Genealogy

Genealogy is one of the methodological approaches used by scholars inspired by the work of Michel Foucault. As a methodology, genealogy has been used by scholars who focus on rationalities of government as a way to capture, identify and articulate the constitution of a field of knowledge and consequent problematizations of government. Genealogy is concerned with uncovering the past formation of categories and narrative arrangements that shape the present. Dean defines genealogy as "a kind of historical analysis that questions our common-sense understanding of terms by examining how the meanings of such terms are constructed within diverse practices" (Dean 1999, 61). Genealogy looks for multiple origins and dissemination of terms in order to sketch a "history of the present", as Foucault mentioned. For example, Chignola argues that the theories of the social contract put forth a set of concepts ("individual", "equality", “subject”, “liberty”, “will”, “rights”, “representation”, “legitimacy”, “sovereignty”) that defined the categories, and therefore, the foundations of political modernity (Chignola 2002, 539).

The goal of this kind of analysis goes beyond the discovery of individual histories of concepts that make up the political vocabulary, the goal is to provide “a critical analysis of the logic that presided over its creation” (Chignola 2002, 541). Genealogy reshuffles the past with the goal of challenging the authorities of the present, of questioning the present (Gutting 2005, 50).

However, genealogy as a methodology is wanting. While it offers an ethos of research, it fails to provide clear, systematic steps on how to trace the evolution and multiple manifestations of a concept. It does not offer practical advice on where to start, how to select concepts, what documents are relevant. Probably several of these shortcomings are due to the fact that genealogy is not a methodology specifically dedicated to the history of concepts, but aims to provide a broader type of historical approach. Therefore, I also made use of conceptual history.

3. Conceptual history

There are two main approaches to conceptual history – the ones developed by the German and the Anglo-Saxon schools, though, more recently, conceptual history is also performed by researchers in the Netherlands (Hampsher-Monk, Tilmans, and Vree 1998), Finland (Palonen), and Italy (Chignola 2002).[2] It is possible to bring together genealogy and conceptual history because, despite of the differences signaled below, they share a belief in the mutual constitution of language and politics. Skinner, for example, argued that the study of vocabulary brings about three types of insight: “insights into changing social beliefs and

[2] The works of the German school are not yet available in English, at the time of writing, but one can rely on secondary sources such as Melvin Richter’s *The History of Political and Social Concepts* (Richter 1995) or Hampsher-Monk, Tilmans, and van Vree’s *History of Concepts: Comparative Perspectives* (Hampsher-Monk, Tilmans, and Vree 1998).

theories; into changing social perceptions and awareness; and into changing social values and attitudes" (Skinner 1989, 20).

The Anglo-Saxon school of conceptual history, such as that practiced by Skinner, Pocock, Farr, and Ball, has emerged within the field of political theory as an attempt to correct the lack of historical awareness that characterized the field. These authors argued that a credible political science is necessarily a "historical one" (Farr 1982, 705). Conceptual historians showed that same concepts had different meanings in different epochs and that it was inadequate to assume that some concepts traverse human history as unaltered units of thoughts, as universals. They argued that it is important to pay attention to historical contexts and to what people writing in that period tried to accomplish by their words. In the words of Farr, there are no "genuinely ahistorical concepts" (Farr 1982, 705). Skinner's main theoretical concern has been to refine historical methodology by stressing the importance of incorporating the study of concepts; he pleaded "for the historical task to be conceived as that of trying so far as possible to think as our ancestors thought and to see things their way" (Skinner 2002, 1:47). In other words, attention must be paid "to all the various contexts in which the words were used – all the functions they served, all the various things that could be done with them" since concepts are used to answer various questions at different times (Skinner 2002, 1:84). Conceptual historians also drew attention to "unimportance" of great texts and the significance of minor authors (Skinner 2002, vol. 1). According to Skinner, the emergence of a new concept is signaled by the deployment of a new vocabulary.

Conceptual historians often link conceptual change and political innovation. Unlike the scholars who perform genealogical studies, conceptual historians explain conceptual change and consequently, political innovation, in the interaction between political actors. As Farr explains:

> Conceptual change is one imaginative consequence of political actors criticizing and attempting to resolve the contradictions which they discover or generate in the complex web of their beliefs, actions, and practices as they try to understand and change the world around them. A general model of political problem-solving – a model which upholds both the centrality and limits of human intentionality and rationality – lies behind this basic mechanism of conceptual change (Farr 1989, 25)

Conceptual historians draw attention to the fact that the process of conceptual innovation has its own characteristics. Firstly, it supposes agency. As Farr noted, "since concepts are not subjects (…) conceptual histories must *explain* the emergence and transformation of concepts as outcomes of actors using them for political purposes" (Farr 1989, 38 italics in original). A second insight is that conceptual innovation happens through a certain kind of behavior, most often, problem-solving or criticism of contradictions (Farr 1989, 45). This process presupposes negotiations of meaning. As Ball remarks, "conceptual change does not come about by definitional fiat, but through a complex and protracted process of argumentation" (Ball 1988, x). A third insight points to the fact that conceptual innovation is not only a very slow, but also an intrinsically conservative process: "although critical and creative, conceptual change has a profoundly conservative aspect as well. For it never occurs de novo or ex nihilo. Almost always occurring with reference to relatively settled and stable linguistic conventions, conceptual change tends to be piecemeal and gradual, sometimes proceeding at an almost glacial pace" (Ball, Farr, and Hanson 1989, 3). As shown below, despite the conventional view that the concepts of "governance", "transparency" and "partnership" emerged suddenly in the vocabulary of the EU, it took several decades for these concepts to be formed and become prominent.

To summarize, conceptual historians explain conceptual change and political innovation as a threefold process. First, there is a need to identify the actors most likely to formulate demands and engage in argumentation over meaning. Second, there must be disagreements among these actors, political disagreements in which they engage to negotiate meaning and its applicability. Third, there must be enough energy and time to pursue, sustain, and spread these new meanings for genuine conceptual innovation to take place.

Compared to genealogy, conceptual history has some important insufficiencies from the perspective of the ambition of this thesis. More often than not, conceptual historians limit their analysis to the political plane, to political terms and political conflicts, without paying sufficient attention to the fact that some concepts that come to define the art of governing develop their logic in other planes and then spill over into the political or the governmental field. There are cases when concepts are not even disputed among political agents, but embraced by them all. A second insufficiency of the analysis of conceptual historians is that they focus on the past: antiquity, Renaissance, the 18^{th} century, etc. Most studies in conceptual history focus on “classic” political concepts: “freedom”, “party”, “democracy”, “rights”, “revolution”, etc. This is done to the detriment of an analysis of current concepts with which genealogy and this thesis are more concerned. And finally, a third dissatisfaction with conceptual history comes from the fact that its main ambition is the reform of an academic field, political theory or history, and not so much to offer a critical perspective on current government and practices of government, as genealogy does. However, conceptual history offers more elaborated and systematic methods than genealogy does to investigate the evolution of concepts, both in terms of tracing the concepts and of interpreting them.

4. Combining Genealogy and Conceptual History: Methodological Approach, Sources, Concept Choice

Conceptual history can be performed backward or forward. It is performed, most often, forward, for example from antiquity to the 18^{th} century. It is also performed backwards, from current meanings to the recovery of old meanings. In a 2004 article in which he discusses the history of “social capital”, Farr gives important hints on the methodology of conceptual history. He describes his work in the following way: “[w]e seek earlier conceptions of social capital (sharing family resemblances with contemporary ones), when matched by the term, while attentive to what their authors were doing in using term and conception, in the contexts and as part of the traditions in which they did so. We begin by turning to the first heretofore known user of the term, about whom virtually nothing has been written” (Farr 2004, 10).

Others, such as Skinner, focus on key moments when meaning shifted. Skinner pays particular attention to the moment when, through rhetorical devices, agents succeed in altering the normative value of concepts. This “rhetorical redescription” is, in Skinner’s view, the most common way of conceptual innovation.

The preferred approach in this thesis is to go backwards, from current meanings and uses to the recovery of previous ones. This approach is also more in line with genealogy’s concern for a history of the present.

A backwards conceptual history, such as the one performed by Farr, runs through the following steps. It starts with a basic, commonly accepted current definition of the concept. Sometimes, this definition belongs to the one or some of the most important authors who elaborated on that topic (e.g. Putnam for the “social capital”). It proceeds by reviewing already acknowledged sources of the concept while registering variations, nuances or multiple meanings. It then tries to recover previously unknown sources, while always paying attention to the context and the intentions of the authors that employed the concept in that specific context. This approach signals transformations undergone by the different elements of the definition and the alternative developments. It ends with a re-definition of the concept that includes the lost meanings and tries to prove the usefulness of the restored richness of the concept. The research often includes extensive quotations especially from minor, unfamiliar authors. It usually acknowledges the difficulty of establishing undeniable links among various uses of the concept.[3] In tracing the history of a concept, the interest lies in understanding what made it necessary, what made it possible, why the need to conceive of and elaborate on that particular category of objects and what impact that effort of conception had on government (Farr 2004).

But more practical questions remain: How to trace a concept? How to detect the relevant documents? What concepts to select for study? Conceptual historians believe that the preliminary mapping of a concept should be performed by using a range of documents as wide as possible: "conceptual usage and change are to be established by analyzing materials unusually broad in range, discrepant in origin and appeal, and extending to as many social formations as the sources permit" (Richter 1995, 39). Genealogy upholds a similar concern with broadening the sources of investigation. Initially, three main types of sources are useful—dictionaries, encyclopedias, and thesauri. The Oxford English Dictionary, for example, may provide information about the meanings of concepts and terms, dates of their probable first uses, as well as concrete examples of their use. Another valuable source is the previous works of conceptual or intellectual historians, or other academics.

One important aspect of this kind of preliminary mapping is that it shows for how long the concepts existed with their present meaning in the political vocabulary and how their previous use, if any, has an impact on the present meaning and use. It also helps identify major works and thinkers on that topic. Thus, this preliminary mapping can answer questions such as:

[3] It is important to draw a needed distinction between the work of conceptual historians and political scientists working in the area of comparative politics. The latter dedicate significant attention to concepts, but their goal is to define and clarify a concept for methodological purposes in order to operationalize it in comparative research. Authors such as Sartori, Goertz, Collier and Mahon and Gerring are concerned with concept formation and the means by which to refine concepts in order to improve empirical research (Goertz 2006, David Collier and Mahon 1993, Gerring 1999). This is not the goal of conceptual historians and not the goal of the current research whose aim is instead to uncover the evolution of concepts and the "logic which presides over their creation" (Chignola 2002, 541).

“is the concept a neologism? Has it been long in use? Or does it represent a fundamental revision of meaning?” (Richter 1995, 41).

Because my case study is the European Union, the preliminary mapping of my concepts includes an EU specific review that involves two types of sources – 1) EU documents (legislation, speeches, White Papers, summit declarations, Council conclusions etc), 2) academic work in the field of European studies. Although the amount of data to be investigated seems extensive, the computer-based research engines such as the Eur-lex site (http://europa.eu.int/eur-lex/en/oj/index.html) significantly reduced the time and the effort. The site has search options and allows for the chronological display of the findings. In what concerns academic works, the keywords-based search of academic articles is available via various databases (JSTOR, for example).

The preliminary mapping of concepts suggests further paths of inquiry – newspapers, reports, other governmental, administrative, and legal documents, memoirs, etc (Richter 1995, 39). For example, in the cases of the three concepts of my research “governance”, “transparency”, “partnership”, the documents of the EU pointed to the need to investigate reports and papers produced by other international organizations such as the World Bank, the OECD, the IMF or academic publications. Similarly, the academic publications in EU studies often borrow concepts from other disciplines and, therefore, it was necessary to trace them as well. The flexibility concerning the types of documents to be mapped constitutes one of the basic tenets of both genealogists and conceptual historians who draw attention to the fact political vocabularies borrow from and draw upon more specialized languages and, therefore, it is important yo identify “processes of transgressing, of leaking across discursive boundaries” (Ball 1988, 12).

A comprehensive tracing of the concepts provides us with information about the full range of their meanings, types of documents that make use of them, disciplines in which they originate and disciplines in which they migrate, changes they undergo during migration, and current uses in the EU context.

Another important aspect of the methodology of conceptual history is the interpretation of findings. For Skinner, interpretation is based on understanding “all the various contexts in which the words were used – all the functions they served, all the various things that could be done with them” (Skinner 2002, 1:84). Drawing from Wittgenstein and Austin, he argues that in order to understand concepts, one has to embrace the view that words are also deeds and that their meaning cannot be grasped in isolation from the functions they perform (Skinner 2002, 1:103). To understand a concept, it is necessary to know the full range of things that can be done with it (Richter 1995, 133-4). Skinner stresses that it is important to place the concepts in the intellectual context and see what type of textual intervention they uphold: do they reiterate, defend, and underpin commonly held beliefs or practices? Or, on the contrary, do they deny, repudiate, correct or revise them? (Skinner 2002, 1:117). Concepts are located in texts which are “contributions to particular discourses” and the aim is to “recognize the ways in which they followed or challenged or subverted the conventional terms of those discourses” (Skinner 2002, 1:124). To understand what concepts do, one has to perceive them within an act of communication and try to grasp their intentionality (Skinner 2002, 1:86). Therefore, it is important to consider the specific audience of a particular text, the type of communication format that it represents, the full range of meanings of the concepts used as well as the social context. Skinner’s focus on understanding the functions of concepts resonates with Dean’s emphasis that concepts must be approached as “problematization, representation and program of reform” (Dean 1999, 64).

Yet another crucial question to address is what concepts to select for study and how to select them. The question is of particular significance for those conceptual historians who deal with a distant past and whose sources already limit their capacity to determine what concepts were truly important and how they were connected to each other in a given historical context. Selection is also important for those who try to infer from processes of conceptual change broader transformations in social and political practices. The first problem affects this research less. By dealing with current concepts, this research is not confronted with the difficulty of finding or deciding over sources in the way in which some scholars have to decide concerning the concepts of antiquity. The second issue raised is more relevant to my research. The selection of concepts is important because it affects the conclusions regarding the impact of vocabulary on the activity of government. Although there is an element of subjectivity in any selection, there are several elements that justify the choice of concepts in this thesis.

The concepts chosen (“governance”, “transparency”, and “partnership”) have a significant presence in EU documents, including in important policy positions in white and green papers, and in EU studies.[4] Moreover, numerous academic publications are dedicated to each of these three concepts which they have an equally abundant presence in the official documents of other international organizations or governmental bodies. The massive production of texts around these concepts is a sufficient proof of their centrality and the signal that, indeed, to paraphrase Skinner, a new vocabulary of government has been developed. It is not, however,

[4] Green Papers are documents of the European Commission that invite stakeholders to engage in a consultation process on a specific topic. White Papers are documents of the European Commission in which courses of action at the EU level are proposed, sometimes as a continuation of the public consultation launched by a green paper. If endorsed by the EU Council, white papers may be developed into legislative proposals or Community actions (Summaries of EU legislation - http://europa.eu/legislation_summaries/index_en.htm).

only the sheer frequency of use that justify their selection. The concepts of “governance”, “transparency”, and “partnership” are meaningful in that they also try to answer central questions of government: how to be ruled, by whom, to what end, by what methods.

5. The European Union as a case study

The EU is an appropriate case to study innovation in government for several reasons. It is often considered the epitome of political innovation and the embodiment of current new models and practices of government. The nature of the government of the EU is still a contested topic; there is an ongoing debate over what conceptual tools are more appropriate to understand the functioning of the government of the EU. Some scholars view it as a *sui generis* polity, an epitome of new modes of governance or a regulatory state; while others argue that it is a political system with its own particularities, but not unlike other political systems already existing at the level of the nation-states. The supposed innovatory and still undefined character of the EU makes it a good case to explore how innovation in government takes place.

Moreover, government in the EU seems to display most of the characteristics invoked by academics to describe current changes in government: the replacement of hierarchies with networks and partnerships, the multiplication of actors involved in the act of governing, the resistance to formal, rigid forms of command in favor of more informal, flexible, consensual steering, etc. Thus, using the government of the EU as a case study serves two purposes: 1) it offers an appropriate case to study innovation in government and test our assumptions and; 2) it helps to eventually bring more clarity to the academic debate over the nature of the government of the EU.

Since the early 1990s, several models, tools, and hypotheses have been introduced to study the government of the European Union in the now widely-acknowledged shift in the EU studies from the why of European integration to the how of the government of the EU (Pollack 2005, Kohler-Koch and Rittberger 2006). As mentioned above, the conceptualization of the government of the EU has varied depending on whether the EU is viewed as a *sui generis* polity or as a political system with its own particularities, but not unlike other political systems. Excellent reviews exist about these approaches to the government of the EU – either as a new polity or a political system, or both (Pollack 2005, Kohler-Koch and Rittberger 2006, Jachtenfuchs 2001, Hooghe and Marks 2008, Peterson 2001, Hix 1998). Therefore, it is unnecessary to repeat the effort to provide a complete account of the evolution of the new approaches to the EU. It is important, however, to highlight their main assumptions and to outline the ways in which they define their research objectives in order to show how this dissertation can contribute to the unexplored aspects of the government of the EU.

Firstly, the study of the EU as a political system has gained ever more ground as a way to understand (and predict) government at the EU level. At the core of this approach is the conceptualization of the EU as a fully-fledged political system to which theories from comparative politics can be fruitfully applied. In the words of Hix, the EU is "an integrated and ongoing political system, where the supply of regulatory, redistributive and allocative policies, via the classic executive, legislative and judicial functions of government, feeds back into new demands and competitive struggles" (Hix 1998, 43). This conceptualization of the EU opens the path to the study of the interplay between politics and government in the EU where politics captures issues related to parties, interest representation, elections, public opinion, and ideological orientations and government refers to the processes of policy-making, the relation between the legislative and the executive, and the functioning of the judiciary, etc (Hix 1998, 56).

Hix thus brings to the study of the European Union the classic equation according to which the interactions between actors' preferences and institutions determine the outcomes of government. Such preferences belong to EU actors (the European Commission, various parties in the European Parliament, voters, interest groups, representatives of national governments in the Council of Ministers, etc). The institutions that condition the interaction between actors are both formal (treaties, etc) and informal; and the outcomes are either public policies or changes in institutional forms (Hix 2005). These elaborations lead Hix to state that to understand the way the EU is governed is to understand "the interests of all these actors, their strategic relations vis-à-vis each other, the institutional constraints on their behavior, their optimal policy strategies, and the institutional reforms they will seek to better secure their goals" (Hix 2005, 14). Consequently, the research informed by this approach has focused on such issues as the legislative process, the evolution of public opinion, the role of parties, the delegation of policy competences, etc.

Although Hix starts with the assumption that the EU is not unlike other political systems, he admits that there is a degree of uniqueness associated with the EU. One aspect of this EU distinctiveness is the predominance of regulatory policies versus redistributive or allocative ones (Hix 2005, 413). However, Hix eludes the explanation of this particular aspect by arguing that all political systems are unique in their own way and that this apparently distinct EU feature is, in fact, the contribution the study the EU can bring to political science. This contribution lies in a better understanding of the trend towards a predominance of regulatory, positive-sum policies in current governing practices: "[i]n the area of policy-making, the EU shows how regulation has become the key instrument of modern governance" (Hix 2005, 413).

The dominance of regulatory policies in the EU brings us to another approach to the government of the EU – Majone's conceptualization of the EU as a 'regulatory state'. This approach is positioned at the border between those who see in the EU a classic political system and those who see it as a new governance model (Hix 1998, 55). Majone projected an understanding of the EU as innovative because it operated under a different logic than the nation-states in terms of the types of policies it developed (Majone 1994). He argued that the EU institutions such as the Commission, the European Court of Justice, or the European Central Bank were the result of the delegation of powers by the member states to ensure credibility of commitments and reduce the transactions costs associated with regulation in certain areas of economic and social policy (Majone 1996a). In this context, according to Majone, the Treaty of Rome may be understood as "a relational contract" (Majone 1996a, 72). To prove his point, Majone explained that these EU institutions displayed specific characteristics such as independence and a non-majoritarian character. Unlike the member states, the EU institutions did not engage (and should not engage, according to Majone) in redistributive, zero-sum game policies, but only in efficiency-related, positive-sum games (Majone 1996b, 294). The regulatory type of policy aims "to increase the allocative efficiency of the market by correcting various types of market failure", and not to ensure redistribution or macro-economic stabilization (Majone 1996c, 47). As a consequence, "[t]he Union is not, and may never become, a state in the modern sense of the concept. It is, at most, a 'regulatory state' since it exhibits some of the features of statehood only in the important but limited area of economic and social regulation." (Majone 1996b, 287). Majone admitted that "[t]he growth of regulation in Europe must be understood not only as a shift from one mode of regulation to another, but even more as a reordering of public priorities", with a transition from redistribution and stabilization to regulation (Majone 1996c, 54). He also engaged in prescriptive assessments for the EU evolution, arguing against the politicization of the EU through the increase in the power of majoritarian institutions such as the European Parliament. He argued in favor of continuing to rely on independent regulatory agencies and advocated the introduction of clearer accountability rules, modeled after the US example, which would strengthen the procedural and substantive legitimacy of the EU.

Another approach to the government of the EU is to study it in terms of its policy-making arrangements and conceptualize it as an example of "governance without government".[5] The "governance" scholars justify their approach by arguing that EU policy-making displays the following features: the lack of a central authority and of hierarchical relations, the emergence of autonomous political actors other than states, and the maintenance of order through new patterns of coordination and negotiation such as networks (Kohler-Koch and Eising 1999). In the words of Kohler-Koch, "[t]he European Community (EC) is governed without government and therefore, it is bound to be governed in a particular way. (…) Europe's supranational Community functions according to a logic different from that of the representative democracies of its members. Its purpose and institutional architecture are distinctive, promoting a particular mode of governance" (Kohler-Koch 1999, 14-15). The "governance" scholars argue that one of the reasons why the Community developed governance without government/ governance through networks is the particular character of the Community as a highly differentiated polity, made up of "highly organized social sub-systems" and that, therefore, the efficiency and effectiveness of the act of governing "ha[ve] to pay tribute to the specific rationalities of these sub-systems" (Kohler-Koch 1999, 32; Kohler-Koch and Eising 1999, 5).

[5] Here "government" refers to a central authority, not the activity of governing.

According to these scholars, in EU policy-making, the role of the central authority is no longer that of an allocator of values, but of 'activator' of networks, the goal of political action being that of ensuring the efficiency and effectiveness of the decision-making process. Kohler-Koch identifies four characteristics of this type of governance: the role of the central authority is that of mediator/activator of networks; governing is based on negotiation, not command; there is a blurring between the public and private spheres and there are multiple levels of decision-making (Kohler-Koch 1999, 25-26). This last aspect resonates strongly with the multi-level governance model developed by Marks who put emphasis on the distinctiveness of EU policy-making as decision-making among supranational, national and subnational actors (Marks 1992).[6]

A recent contribution to the understanding of the EU is brought by scholars who discuss the emergence of an "experimentalist governance in the EU" (Sabel and Zeitlin 2007; 2010a). The scholars argue that the EU has developed "a novel pattern of rule making" whose specificities are not satisfactorily grasped by the existing accounts in the EU literature which focus on the deliberative, informal or multilevel features of the EU governance (Sabel and Zeitlin 2010b, 1). According to Sabel and Zeitlin, a more accurate, complete understanding of the innovative character of the EU governance is to become aware of the "underlying architecture of decision making in the EU": the formulation of framework goals, the involvement of lower units in the actual achievement of these goals and the regular revision of rules based on the monitoring, performance reporting and peer-review of the ongoing implementation of decisions (Sabel and Zeitlin 2010b, 1, 3). These patterns of rule making in the EU find various institutional expressions depending on the policy sector, but they nevertheless appear distinct and repetitive enough, according the scholars, to constitute the core of the EU governance innovative

[6] "Governance" scholars investigate such aspects of the EU policy-making as the use of the open-method of coordination (Eberlein and Kerwer 2002, Borras and Jacobsson 2004) and the activation of policy networks (Schneider, Dang-Nguyen, and Wrle 1994, Peterson 1995a, Kohler-Koch and Eising 1999).

processes. They are often accompanied by the enactment of specific procedural requirements such as transparency and participation.

These authors claim that these patterns of rule making are novel with the respect to both the traditional Community method (involving the Commission, the Council, the Parliament and the Court) and decision making in hierarchical settings or representative democracies, being born out of adaptive process to an environment characterized by strategic uncertainty and multipolar distribution of power (polyarchy). An alternative designation for "experimentalist governance" is "directly deliberative polyarchy", a "machine for learning from diversity" (Sabel and Zeitlin 2010b, 5).

Because the scholars argue that the experimentalist governance in the EU is born out of adaptation to a specific existing environment, they carefully distance themselves from claiming that the EU is a *sui-generis* phenomenon. They formulate the expectation that similar patterns of rule making are emerging or will be emerging in several other cases such as the US or the WTO particularly because these novel rule making patterns appear as best suited "to the temper of our times at both national and global levels" (Sabel and Zeitlin 2007; 2010b, 8). From this perspective, the EU is not an "outlier" in terms of governance, but merely a "frontrunner".

Probably the most significant weakness of this approach is the explanation offered for the emergence of this "novel pattern of rule making". The authors describe the experimentalist governance in the EU "as the product of human action but not human design", pointing out that "until the first experimentalist governance systems were working, no one knew that they could be built" (Sabel and Zeitlin 2010b, 9). Sabel and Zeitlin thus adopt and perpetrate an existing account of innovation in government according to which these changes are the result of external environmental conditions (e.g. strategic uncertainty and multipolar distribution of power), almost accidental discoveries: “actors (…) are even now ‘stumbling’ into experimentalist solutions without having consciously striven to attain them” (Sabel and Zeitlin 2010b, 9). This understanding is problematic as several scholars who adopt it also invoke the impact of EU programmatic documents such as the White Paper on the European Governance on the emergence or consolidation of “experimentalist governance” mechanisms. The connection is problematic because the process that led to the elaboration and the adoption of the White Paper on the European Governance, as shown later on, was precisely a conscious effort to identify new modes of governance in the EU in the context of increased complexity and interdependence. A closer look into the processes surrounding the adoption of the White Paper shows that the preoccupation with the procedural requirements of governance (transparency, participation, learning and revision mechanisms, and enhanced reflexivity of governing processes) preceded their actual enactment described by Sabel and Zeitlin. Therefore, the authors can be blamed for discarding too quickly the elements of design, choice and reflection in the emergence of novel, “experimentalist” governance in the EU. Such a slip is even more problematic as some of the authors adopting the “experimentalist governance” perspective were among the academics involved in the elaboration of the White Papers, particularly in what concerns the benefits of the proceduralization of the EU decisionmaking process. For instance, Olivier de Schutter was closely linked to the Forward Studies Unit, the think tank of the European Commission charged with the elaboration of the White Paper on the European Governance, as one of the editors of the collection of academic contributions that initiated the reflection on the new modes of governance in the EU. He is also one of the contributors to the volume edited by Sabel and Zeitlin concerning the emergence of experimentalist governance in the EU.

One of the consequences of thus misreading the processes that led to the emergence of "experimentalist" governance in the EU is to associate this type of governance with a positive normative content, as Sabel and Zeitlin tend to do, as the best solution given the strategically uncertain and polyarchic context of current decisionmaking. By challenging these assumptions, the thesis thus offers not only a more accurate historical perspective, but also an opportunity or even an obligation to reconsider the normative problems of governance arrangements too often considered as necessary, best solutions.

Finally, in the EU studies, there is an attempt to conceptualize and explain the government of the EU as the result of struggles between various political ideologies, ideas, or polity-ideas. For example, Marks and Hooghe argue that the EU political order is not the result of "random conflicts of interests, nor a reflection of functional pressures", but of more or less articulated struggles among alternative models of political organization and action, of "how to organize and rule Europe" (Marks and Hooghe 1999, 96). Hooghe and Marks suggest that various political actors in the EU hold distinctive ideas about competing models of economic and political architecture and that the struggle among these ideological positions shape the direction of the EU's evolution. Hooghe and Marks identify two such conflicting models: the regulated capitalism one and neo-liberal one. According to these scholars, supporters of the neo-liberal model aimed to shape the government of the EU in order to insulate markets from political interference, while the advocates of the competing EU model of regulated capitalism favored a style of governing aimed at market regulation, redistribution and partnership among public and private actors.[7]

[7] The approach presented by Marks and Hooghe was not received without criticism. Pollack, for example, noticed that "it remains an intriguing irony that, just as scholars like Hix, Hooghe and Marks are exploring the left-right implications of European integration, centrists like Blair and Giddens claim to be transcending a left-right

A similar approach was taken by Jachtenfuchs, Diez, and Jung who argued that “the institutional development of the EU depends, at least in part, on normative ideas about a legitimate political order” and advocated the inclusion of the role of ideas in the research on the integration process (Jachtenfuchs, Diez, and Jung 1998, 410). These scholars used the term “polity-ideas”, understood as “normative orders in which specific constructions of the legitimacy of a political system are (re)produced through the ascription of purpose and meaning” and examined programmatic documents of national parties in France, Germany and the United Kingdom, from 1950 to 1995 (Jachtenfuchs, Diez, and Jung 1998, 413). They formulated four such complex polity-ideas that they labeled: “federal state”, “intergovernmental cooperation”, “economic community” and “network”. They found that the formulation of polity ideas depend on both party ideology and national context. While the authors did not relate any of these polity-ideas with the actual transformations of the government of the EU, they suggested that these models of proper, legitimate governance, deep-rooted in national contexts would influence any institutional design at the EU level (Jachtenfuchs, Diez, and Jung 1998, 434).

Likewise, Martin Rhodes and van Apeldoorn inquired into the “kind of socio-economic order” which developed in the EU (Martin Rhodes and van Apeldoorn 1997, 171). As Hooghe and Marks, they defined competing models such the European social democracy, neo-mercantilism, neo-liberalism, and embedded neo-liberalism (Martin Rhodes and van Apeldoorn 1997, 183). Just like Hooghe and Marks, they argued that these models received support from various European Union actors (such as Delors’ support for a pan-european social democracy). Unlike Hooghe and Marks, Martin Rhodes and van Apeldoorn identified a different actor, the European Roundtable of Industrialists (ERT, an association of European business leaders) as

distinction that is too blunt, and too outdated, to serve as a guide to policy in the new global economy” (Pollack 1998: 39).

particularly influential in advancing the model of embedded liberalism in the EU. The authors thus referred to the "emergence of a transnational business 'ideology'" in which the role of the supranational institutions was to "provide coherence and stability and help co-ordinate national efforts to promote economic expansion through investment in infrastructure and R&D" (Martin Rhodes and van Apeldoorn 1997, 184, 185). According to Rhodes and van Apeldoorn, the influence of the embedded neo-liberalism model is to be seen particularly in content of the Maastricht Treaty.[8]

Most of the scholars who study the influence of ideas on the government of the EU tend to construct their models on an ideological, Left-Right alignment, to which they add the supranational – intergovernmental cleavage. Jachtenfuchs, Diez and Jung focused on ideologies and parties. Hix spoke of a "new right" and a "new left" that the EU politics brought forth. Hooghe and Marks based their analysis on the ideological preferences of the European institutions staff. These accounts still project the image of the EU as *sui generis* since the all polity-ideas or ideologies they invoke include an element of adaptation to the specificity of the EU. Moreover, right-left ideological cleavages cannot and do not explain why some of the features of the government in the EU – e.g. networks – persist and crisscross ideologies.

An different approach, focused on rationalities of government, has been applied in the EU by Andrew Barry, William Walters and Jens Henrik Haahr (Barry 1993, Walters and Haahr 2005 and Haahr 2004). Andrew Barry inquired in "the methods with which the Community has sought to establish the possibility of European government" (Barry 1993, 314). He examined the single market project of 1992 not only as a neo-liberal effort to liberalize and deregulate, but also as an effort to create the conditions for the government of Europe. The principle of

[8] There are several academics who identify the EU political order as an emanation of a neo-liberal ideology (Bieler 2005) and some identify it as a "market-preserving federalism" (Harmes 2006).

harmonization aimed at creating a European networked 'space', an object of knowledge, amenable to government. And not any type of government, but one which corresponded to a particular vision embraced by Delors. This vision rejected the reconstruction of a paternalist welfare state at the European level, favoring instead the cooperation between public authorities and private actors to achieve common goals. According to Barry, this vision corresponds to the image of the 'État animateur' which Delors borrowed from the French sociologist Jacques Donzelot. In Barry's words "[t]hus, Europe would be governed not through the formation of a European state, but through the autonomous economic actions of its subjects" (Barry 1993, 315). Barry devoted considerable attention to how the principle of harmonization was put into practice as a method to create the conditions for European government "the process of harmonization is intended to effect a comparatively novel reordering of European space: to produce a spatial order which embodies the metaphor of the network and with a heightened emphasis on the political, economic and cultural importance of mobility" (Barry 1993, 316, 317). He referred to Commission's efforts in the early 1990s to create networks within several programs such ESPRIT, SCIENCE, Trans-European Networks, etc (Barry 1993, 321).

Like Barry, Walters and Haahr examine practices through which Europe was gradually governmentalized through the discovery and formation of various social and economic spaces amenable to government such as the common market, the eurozone, the area of freedom, security and justice (Walters and Haahr 2005, 10, 11). Their goal is to "denaturalize" Europe, to show that its actual evolution was just one possibility among several possible alternatives. Probably one of the most interesting points the authors raise is that the governmentalization of Europe obeyed different logics of government: "[t]here is no generic European government or European integration. There are only particular regimes of thought and practice within which certain ways of governing Europe become possible" (Walters and Haahr 2005, 14). This "discontinuous and contingent" governmentalization of Europe went hand in hand with the creation of multiple identities for the governed, again depending on the area and the type of intervention (Walters and Haahr 2005, 140). For example, in the area of freedom, security and justice, a paternalist type of relation towards the governed has been enacted, while in the single market, the governed were shaped as free agents of self-improvement.

One of the possible explanations of this variation of type of rationalities across policy areas is that they were borrowed. This is a recurrent idea in the work of Walters and Haahr. The authors find that government in the EU and government in the member states are similar. But not, as Hix would argue, in terms of them being political systems with legislative, judiciary and executive mechanisms, etc. They are similar because "both are dependent upon technologies of power – apparatuses that are frequently borrowed – in order to function as a center of governance" (Walters and Haahr 2005, 141).

Walters and Haarh illustrate their approach in a series of cases. They show how Monnet's vision of high-modernism, fuelled by the ethos of planning, provided the support for the formation and government of the first European Community. The authors also discuss, through a reinterpretation of the Treaty of Rome, how the construction of the common market was informed by ordoliberalism, an economic doctrine in post-World War II Germany. The main ordoliberal idea was that the market was an artificial creation and that, therefore, political and legal intervention were needed to ensure its good functioning.

Walters and Haarh distinguish the common market project from the single market project which was informed by the different logic of extending market rationality in all areas. They describe this rationality of government, borrowing from Rose, as advanced liberalism, grounded on a certain “conception of society, the economy, the public, and their relationship to the state” (Walters and Haahr 2005, 119). The open method of coordination, developed in the EU, is seen as a particularly good example of advanced liberalism in that “is all about governing in ways which seek to elicit agency, enhance performance, celebrate excellence, promote enterprise, foster competition and harness its energies” (Walters and Haahr 2005, 119). The open method of coordination is about applying business and management techniques – such as “mechanisms of partnership, techniques of empowerment, procedures of benchmarking and methods of best practice” – to the field of government (Walters and Haahr 2005, 118). The image of the governed is that of the entrepreneur. The goals of government are not “guided by a concern for the protection of rights, for freedom or for justice or security”, but by the “economic notions of efficiency, wealth and competitiveness” (Walters and Haahr 2005, 128, 134).

To mark the differences between various governmentalisation projects of Europe, Walters and Haahr note that while the high-modernism project presupposed an “inert society”, advanced liberalism conceptualizes society as “a multi-levelled space of autonomous agencies, a domain of individual and institutional agencies which it seeks to catalyze, coordinate and harness” (Walters and Haahr 2005, 135).

My approach is similar to these elaborations in that it challenges the view that government in the EU is the mere result of random conflicts of interests or of functional pressures. There have been, as Hooghe argued, increasingly systematized visions of “how to organize and rule Europe”. However, unlike scholars such as Hooghe and Marks mentioned above, I do not locate a priori these rationalizations in evolving ideologies of parties, or the preferences of the Commission staff or the interests of the business leaders on the assumption that they are political actors who can influence the evolution of the EU. Nor do I start with expectation of identifying a struggle among competing models of governing. Rather, by tracing the history of three key EU concepts, I build on the ideas advanced by Walters and Haahr and explore whether "technologies that are used to make Europe governable are always the products of other events and discoveries made in domains that have no immediate or necessary connection to European integration" (Walters and Haahr 2005, 142). Conceptual history would thus constitute an attempt to investigate the apparent innovatory and unique character of government in the EU and understand the regime of truth that made it conceivable and possible.

II. On the concept of governance

This chapter examines the EU rationality of government through the history of the concept of "governance". The embrace by the EU institutions of the concept and its use at the centre of their discourse on governing means that the EU also adopted a particular understanding of the objectives and means of government incorporated in the concept. Tracing the genealogy of the concept helps to spell out these objectives and means.

At first sight, the concept of governance is unproblematic. According to the Merriam-Webster dictionary, the concept exists since the 14th century and is synonym with such words as administration, authority, rule or government. However, the concept stirred considerable debate in the literature, in the past 20 years, on what it really means and why it became so widespread. One of the most frequent explanations is that there have been significant changes in the political environment that affected states´ capacity to manage societies and led to important transformations in governing. "Governance" is the concept chosen to designate this new style of governing based on networks and partnerships, and more flexible steering, etc.

However, the story of "governance" can be told differently. It can be told as the story of the fine-tuning of the rationality of government to changes, not necessarily in reality, but in the understanding of social reality produced by theories produced by various social sciences, such as systems theory, reflexive law theory and neo-institutional economics.

The chapter proceeds as follows. Consistent with the methodology of conceptual history, it starts with a preliminary mapping of the concept in EU documents.[9] This preliminary mapping

[9] When I use the expression "the European Union", I refer to the EU institutions (the European Commission, the Council, the Social and Economic Committee, the Committee of the Regions, the Court of Justice, etc, or individuals expressing themselves in their EU official capacity: e.g. Romano Prodi as the President of the Commission). When I refer to EU documents, I refer to public or internal documents of the above institutions. These

helps singularize various instances of the concept as used in EU documents. It also points to some of the sources of inspiration and their weight in the way the EU uses this concept. The rest of the chapter, and the most substantial part, is dedicated to uncovering, backwards, the ways in which the concept was formed and what intellectual purposes it served and still serves. This genealogy necessarily leaves the limited area of EU documents and directs the investigation to various academic disciplines (economics, legal theory, sociology, political science, etc) and documents of various international organizations (the World Bank, the IMF, the UN, the OECD).

The main goals of this chapter are to show that: 1) the EU borrowed the concept from various sources; 2) the use of the concept represented a deliberate attempt to systematize, rationalize the government of the EU and this rationalization was necessarily based on the regime of truth created by evolutions in social sciences, from a knitting of theories, particularly systems theory and neo-institutional economics.

A. The use of the concept of governance in EU documents

1. Preliminary mapping

In a Eur-lex search, on all types of documents adopted by all EU institutions and bodies**,** between January 1, 1990 and December 31, 1999, only 147 hits containing the term governance were found compared with 2150 hits in the period January 1, 2000 and January 1, 2008. Significantly enough, no hits were registered for the period 1950 – 1995. Among the 147 hits in the 1990s, 81 contained the expression "good governance" and 25 "corporate governance". Most documents that contained the expression "good governance" addressed the topics of the external relations of the EU. Some dealt with EU relations with ACP (African, Caribbean and Pacific) countries on subjects such as cooperation, development, assistance, aid and sustainable

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documents can be legislation (primary and secondary), preparatory documents (white papers, green papers), speeches, staff working papers, Court judgements, etc.

development. Others documents dealt with the EU relations with international organizations such as the UN and the WTO on topics concerning international coordination and cooperation. To a lesser extent, “governance” was used in this period in relation to the common market (“corporate governance” in competition-related issues) or in the expressions “economic governance” and “local governance”.

The expression “economic governance” was used in the reflection of the economic reform of the EU, especially after the adoption of the euro and the launch of the Lisbon Strategy (see, for example, *the Report on an Agenda for a Growing Europe: Making the EU Economic System Deliver* by the Independent High-Level Study Group established on the initiative of the President of the European Commission [hereinafter the Sapir Report] 2003). The Sapir Report highlighted the need to change the institutional framework of the EU in order to improve economic performance. As mentioned in the Sapir Report: “[t]here has been a growing sense that improved economic governance is critical to the chances of the European economy performing better, that institutional and management deficits impede economic performance, and that getting the governance right will be even more important as the Union enlarges” (the Sapir Report 2003: 75). The creation of public-private partnerships and the use of the open method of coordination were two examples discussed in the reflection on the economic governance of Europe.

The spectacular increase in the use of the term governance in the early 2000s is in large part due to the elaboration and the publication by the European Commission, in 2001, of the White Paper on European Governance [hereinafter the WPEG]. Under the banner of “good governance”, the European Commission proposed five principles which would guide the reform of the governing of the EU: openness, participation, accountability, effectiveness, and coherence. The principles were further spelled out as improved communication of EU activities to the public; wider participation of civil society and local governments in the EU policy-making process through the activation of networks and partnerships; clearer demarcation of roles and responsibilities among EU institutions and member states; greater responsiveness and flexibility in policy-making through decentralization and reliance on less rigid or non-legislative instruments; and finally, greater coherence across policy areas by better co-ordination among EU institutions and member states (European Commission 2001).

From this preliminary mapping, two considerations can be deduced. Firstly, prior to the WPEG, there was familiarity with the concept of governance at the EU level, in the expressions “good governance” and “corporate governance”. However, “governance” was not used in relation to the governing of the EU as a whole, but mostly in the management of EU’s conditionality towards third countries (as articulated in development policies), in the management of international interdependence (as articulated in EU’s documents on international cooperation) and in the management of the EU’s single market (as articulated in its competition policies). The sources of inspiration in this phase are documents of international organizations such as the World Bank and the United Nations (in the case of “good governance”) and the field of business regulation for the expression “corporate governance”.

2. The White Paper on European Governance

The increased use of the concept is partly due to the publication of the WPEG to which many subsequent documents and positions made reference. However, an explicit use of the concept as a reflection on the way the EU is governed was introduced in the Commission, several years before the publication of the WPEG, in the process of the elaboration of the WPEG. As shown below, the sources for the WPEG were mostly academic or borrowed from international organizations such as the World Bank. These sources were visible during the three stages of the elaboration of the WPEG: the initial reflection on “new modes of governance” in the Forward Studies Unit – a think-tank within the Commission, the initiation of the WPEG by the European Commission, the consultations on the draft document of the WPEG.

The initial reflection on “new modes of governance" developed within the Forward Studies Unit, which had its origins in the Delors years. The second phase was the initiation of the WPEG that coincided with the beginning of Romano Prodi’s presidency of the Commission. The idea of the reform of the European government was first mentioned officially in the Communication from the Commission “Strategic Objectives 2000- 2005” (European Commission 2000a). It was followed by Romano Prodi’s speech to the European Parliament (Prodi 2000) and the elaboration of the Commission staff working document entitled “White Paper on European Governance. Enhancing democracy in European Union” (European Commission 2000b). This third phase corresponded to the consultations within twelve interdepartmental working groups coordinated by the Governance Team. The consultations took place between December 2000 and April 2001 and involved a variety of actors – representatives of Parliaments, of national and regional governments, and of various EU bodies such as the Committee of the Regions, academics (such as Giandomenico Majone, consulted as an expert within two such groups), other experts and civil society representatives.

The Communication from the Commission announced the WPEG and the need to consider new forms of European governance in the wake of challenges caused by the EU enlargement and deeper integration (European Commission 2000a). This document offered no explicit definition of “governance”, though by using the expression “new forms of governance” embraced a particular mode of governing already discussed at that moment in wider academic and policy contexts. These hints were confirmed by the actual proposals of reform formulated in the document.

In the section dedicated to promoting new forms of European governance, the text indicated the directions that the reforms should take in broad, but vague lines. What did surface was the idea that the Commission was overloaded with executive tasks ("almost half the Commission officials are fully occupied in executive tasks, in implementing policies, and in managing and controlling programs and projects") and unable to focus on its core functions of policy conception, political initiative, the enforcement of Community law and the stimulation of the European project (European Commission 2000a, 6). In this context, the text argued, the Commission needed to clarify its priorities and to adjust its resources to the priorities dictated by the core functions mentioned above. Therefore, the Commission needed to share responsibility in shaping, implementing and presenting policy with the public authorities at national, regional and local levels. The new forms of governance, the text argued, should focus on decentralization, delegation, "building new forms of partnership between the different levels of governance in Europe", and respect and implementation of the principle of subsidiarity (European Commission 2000a, 5). Another reform advocated in the text was the involvement of citizens in policy shaping and implementation through open government and improved accountability. The goal was to increase citizens' awareness of the EU policies and their ownership of the European project.

Romano Prodi presented the new Commission's mandate in his speech "2000-2005: Shaping the New Europe" to the European Parliament on 15 February 2000 (Prodi 2000). Although based on the Communication from the Commission mentioned above, Prodi's speech further elaborated the vision behind the new forms of governance advocated by the Commission.

The principles chosen to guide the reflection on new forms of governance were: decentralization, participatory democracy, efficiency as source of legitimacy, and governance by networks with a reformed Commission freed from inessential tasks and focused on its role as a political driving force. As already mentioned, both these elements and the expression “new forms of governance” were part, at that moment, of a broader academic and policy debate on a new style of governing. The Commission, by adopting these terms and proposals, already took for granted the premises and the solutions advocated within these debates. Prodi advocated “[a] new, more democratic form of partnership between the different levels of governance in Europe”, with European institutions, national, regional and local authorities as well as civil society participating in the government of Europe, “a completely new form of governance for the world of tomorrow”. In Prodi’s words, “we have to stop thinking in terms of hierarchical layers of competence separated by the subsidiarity principle and start thinking, instead, of a networking arrangement, with all levels of governance shaping, proposing, implementing and monitoring policy together”. Prodi claimed that the new forms of governance should be built on people’s expectations from the European project: “a much more participatory, “hands-on” democracy” and an efficient delivery of results. Effective action, Prodi argued, should be pursued by European institutions as it was their greatest source of legitimacy.

Both the Strategic Objectives and Prodi’s more targeted points were transformed in concrete directions for reflection in the work program on the WPEG (European Commission 2000b). This work program was the first document that considered various meanings and uses of governance and offered a justification and a working definition of governance. The document distinguished between four existing uses of “governance”: the UN use of “global governance” referring to the existence of rules even in the absence of a global government; the use of “good governance” in development policy to refer to transparency, accountability and effectiveness as necessary conditions for successful public policy, “multi-level governance” as sharing of governing responsibilities among various levels of governmental units, and finally “corporate governance” as accountability of management towards stakeholders of a company (European Commission 2000b, 3-4).

In this context, the definition chosen for the purpose of the WPEG was “rules, processes and behavior that affect the way in which powers are exercised at European level, particularly as regards accountability, clarity, transparency, coherence, efficiency and effectiveness” (European Commission 2000b, 4). However, when the work program justified the use of the concept, it added other elements as well: “[t]his approach is particularly suitable for looking more closely at the European democratic model in general and the role played by the Commission in particular. It refers to situations with many decision-making centers at various geographical levels, both public and private, within the Union; it also underscores the importance of legitimacy that derives from the acceptability of rules, public participation and allowance for cultural, linguistic and geographical diversity” (European Commission 2000b, 19). The work program claimed that governance best addressed the “wealth and uniqueness of the European Union as a political system” because it was “grounded in ideas of interdependence and interaction between various powers at multiple levels” and because it “highlights the involvement of regional, local and nongovernmental actors in the policy-making process” (European Commission 2000b, 4). As seen below, this perspective embraced many elements that were also found in the academic literature which described changes in the social and political environment, and, consequently, in government: the existence of multiple centers of influence, the increased complexity and diversity of societies, the benefits of the partnership between public and private sectors, etc.

The work program established six work areas including those focused on broadening and enriching the public debate on European matters; improving Community regulation in order to increase the acceptability and, therefore, the effectiveness of rules, by applying different forms of regulation, co-regulation or voluntary agreements; improving the exercise of European executive responsibilities through decentralization - horizontally (delegation of executive tasks to agencies) and vertically (sharing of responsibilities with national, regional and local authorities). In this last category, the work program suggested to draw lessons from the implementation of the Administrative Procedures Act in the US as well as the use of the expertise of the European University Institute in Florence on the role of European agencies as instruments of decentralization. And finally, the work program directed attention to the promotion of coherence and co-operation within a 'networked' Europe. The activation and managing of various trans-European networks was invoked as a solution when faced with the challenge to maintain overall coherence in a diversified and decentralized political system. In this context, the Commission cut for itself a role that resembles the role of mediator/activator of networks that governance theories assign for the state in the context of its diminishing capacity to govern, due to the increased interdependence and complexity that characterize societies.

Twelve interdepartmental working groups within the Commission were in charge of formulating proposals in each of the work areas mentioned above. A Governance Team was designated to coordinate and participate in these working groups, while also organizing consultation with various actors (representatives of national, local governments, experts, etc) and drafting the WPEG. This consultation phase allowed more input from experts, including academics such as Giandomenico Majone, a prominent EU scholar who supported a specific understanding of the EU as a "regulatory state", as seen above. However, since it was prestructured on six main themes, the consultation did not produce significant changes in the way the reform of governance was conceived in the work program. The criticisms that were expressed, for example, by Paul Magnette or the representatives of the European Parliament during the consultation phase were largely ignored.[10] The Commission was selective and kept its own vision of governance reform.

It is important to understand that the WPEG did not emerge from nowhere. It was the result of a conscious, years-long effort to reflect on and define the government of the EU. Even though the concept of governance did not appear prominently in the EU official documents until a few years later, the concept was already used within the EU institutions, particularly the Commission, in a conscious effort to reflect upon governing in the EU. This initial reflection on “new modes of governance" developed within the Forward Studies Unit (FSU), a think-tank within the Commission. The FSU produced a set of documents, often overlooked in the literature, which nevertheless played a key role in the Commission’s reflection on the reform of the government in the EU and the main directions of the WPEG.

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[10] As mentioned, reactions to the proposals to be included in the White Paper on European Governance were not always positive. Some criticisms were directed precisely against the use of the concept of “governance”. The European Parliament, for example, argued that the use of this concept might advance a perspective that marginalizes established principles of representative democracy, especially in what concerns the role of parliaments, in favor of too much attention given by the European Commission’s proposals to the involvement of the civil society.
This point touches upon a broader issue concerning the inclusion of contestation narratives of the concepts that are discussed in this thesis. All the three concepts have been contested in both the academic sphere and by policy-makers. A thorough discussion of these contestation narratives would certainly contribute to a more sophisticated understanding of how innovation in government takes place, by attempting to clarify why some narratives succeed while others fail. However, to embark upon this more sophisticated argument, a proof must be first made of an existing link between current changes in government and cases of conceptual innovations. This thesis chooses not deal with these contestation narratives because it is first of all interested in establishing a link between conceptual change and innovation in government. As a consequence, it is bound to focus, first of all, on success stories. This requirement is made even more stringent due to the time and space constraints of dissertation writing. Certainly, the inclusion of contestation narratives would give a more complete account of the historical or genealogical evolutions of the concepts discussed, but as mentioned above, this approach makes more sense as a second step towards a more sophisticated theoretical development once the link between conceptual innovation and changes in government has been established.

3. The concept of governance in the work of the Forward Studies Unit

In her account of the preparation phases that led to the WPEG, Amanda Sloat pointed out to the influential role played by the FSU in setting the theoretical framework for the project of governance reform launched by the European Commission (Sloat 2003).[11] The FSU was founded in 1989 as a think-tank within the Commission, reporting directly to the President of the Commission. The FSU proposals on the reform of the European governance were the result of the collaboration between the FSU, the Centre for the Philosophy of Law of the Catholic University of Louvain and the European Institute for Public Administration, Maastricht. The proposals were presented in a 1997 document entitled “Evolution in Governance: What Lessons for the Commission? A First Assessment” (Lebessis and Paterson 1997). Sloat referred to the 1997 FSU document as a text that “provided an impetus for the wider governance initiative, and laid the groundwork for the White Paper” (Sloat 2003, 130). Other contributions from this period were later published, in 2001, in a FSU publication entitled “Governance in the European Union” (de Schutter, Lebessis, and Paterson 2001).[12]

The continuity between the work of the FSU and the elaboration of the WPEG was also reflected in the fact that four out of the nine members of the Governance team – the team in charge of coordinating the preparatory work on the European governance and drafting the successive versions of the WPEG – were former members of the FSU. Among them were Jerôme Vignon, former director of the FSU from 1989 to 1998 (also head of the Governance Team) and Notis Lebbessis, coordinator of the FSU project on governance since 1996.

[11] Amanda Sloat was a trainee in the Governance Team – the team in charge of coordinating the preparatory work on European governance and of drafting the successive versions of the White Paper.
[12] Sloat pointed out to that “governance” was an Anglophone concept and the Team had difficulties in translating it.

The FSU started its work on the reform of the government of the EU in 1995. The governance project within the FSU was specifically focused on the role of the Commission and its methods "in the broader context of the transformation of modes of governance in democratic societies" (Lebessis and Paterson 1997, 3). The starting point was the assumption that both national governments and the Commission were confronted with the need to devise new governance arrangements in the face of the insufficiencies of the forms of parliamentary democracy to deal with the complexity, diversity and interdependencies of contemporary societies. Though it used the concept extensively, the 1997 FSU document did not present a definition of governance. Most of the time, it employed the expressions "new modes of governance" and "new governance arrangements", implicitly, but not explicitly, opposing them to "government action", "traditional model of representative democracy", "traditional, parliamentary, representative government" or "traditional modes of governance". The 2001 FSU document started with a broad definition of the European governance as "a new way to share legislative and executive powers in a community of nations who pool their sovereignty" (Vignon 2001, 4). The 2001 document also included a definition offered by Calame and Talmant according to which: "[g]overnance is the capacity of human societies to equip themselves with systems of representation, institutions, processes and intermediary bodies in order to manage themselves by intentional action. This capacity of conscience (the intentional action), of organisation (the institutions and intermediary bodies), of conceptualization (the systems of representation), of adaptation to new situations is a characteristic of human societies" (Calame and Talmant quoted in Lebessis and John Paterson 2001: 272). However, the capacity of the concept to project a different vision of governing lay in the way it opposed itself to traditional ways of governing and, thus, created a space of new possibilities and solutions, most of them already invented such as networks, partnerships, etc.

The 1997 FSU document pointed to the fact that while the EU was criticized for its weak parliament and its subsequent democratic deficit, national governments were not in a healthier situation since representative, parliamentary democracy and centralized, hierarchical government failed to produce efficient results any longer. The document stressed that the solution for the EU as well as for the national states lay in designing and adopting new modes of governance that would go beyond the limits of the representative, parliamentary democracy. The following extract offers a sample of the type of reasoning adopted by the FSU:

> National governments and the institutions of the European Union (most notably, the Commission) are implicated in these developments in ways which are not adequately accommodated by the concepts and forms of parliamentary democracy. The challenges presented by contemporary society in terms of complexity, diversity and interdependency mean that these traditional forms are stretched beyond their limits and that new forms begin to emerge. In the context of such challenges, judging the new forms (including Commission methods) by the standards of the old is inappropriate and risks hindering the development of modes of governance adequate to the range and magnitude of problems confronting contemporary society (Lebessis and Paterson 1997, 7).

In the work of the FSU there were a number of assumptions. Firstly, there was a tacit acceptance of the existence of a crisis of governability, visible in the difficulties that public authorities had in attaining results to satisfy the expectations of society. It concerned the diminishing credibility and legitimacy of national governments and politics manifested in the reduction of party and trade unions membership and an increased involvement in alternative representative forms such as lobby and interest groups. A second premise was that of social complexity, diversity and interdependencies which created resistance to attempts to impose homogenized rules. The FSU embraced a description of the social reality as complex, functionally differentiated, and made up of autonomous, self-governing entities.[13] A third assumption was the conviction that both the models of the "interventionist welfare state" and of the market-based strategies of deregulation were deficient. Other premises concerned the acceptance of the superiority of networks and partnerships over hierarchies, of the flexibility of command over coercion, of delegation and decentralization over centralization, of the benefits of the involvement of all sectors (public, private and voluntary) in the decision-making process and an emphasis on processes of feedback, correction and learning. The role of the Commission, as articulated in the documents of the FSU, should have been that of an animator of collective action, a manager of networks made up of private, public and voluntary actors (Lebessis and Paterson 1997, 25-26).

What is striking when reading the FSU document is the similarities of concepts and approaches to be found in the academic literature at the beginning of the 1990s.[14] The concept of governance, as opposed to government, helped provide the cognitive and normative maps that identified problems and solutions. The WPEG and the emerging EU rationality of government built on these mental maps.

The proposals embraced by the FSU openly relied on a legal theory whose premises came from a set of sociological, economic and political science theories. The influence of these

[13] This view is also supported by Barry and Walters. In their 2003 article "From EURATOM to 'complex systems': technology and European government", Barry and Walters draw attention to the influence the work of the FSU had on the elaboration of the WPEG and to the fact that these documents can be used in a genealogical analysis of European government (Barry and Walters 2003, 305). They emphasized that the FSU advocated the presentation of the European Union as a social condition best described as "complexity" (Barry and Walters 2003, 305). The authors explained the emergence of the complexity image through the adoption by the EU of a "technical metaphor" based on networks and complex systems interactions and inspired by the EU's engagement with technology policy since the EURATOM period, including through the recruitment of engineers and scientists to work for the EU institutions, the Commission in particular.

[14] Though it is not a topic researched here, the influence of an active academic environment in Brussels must be mentioned. During that period, several conferences and workshops on the topic of new modes of governance were organized in Brussels, with the participation of Commission´s representatives.

theoretical arguments was openly admitted by Jerome Vignon, the head of both the FSU and, later on, the Governance Team:

> These people [professors of philosophy of Law at the Catholic University of Louvain] interested us [the FSU, therefore, the Commission]. […] They told us: 'It is not the increasing importance and institutional position of the Parliament […], nor the election of the European Commission by universal suffrage that will really solve the problem of the Commission's legitimacy deficit'. […] They made us understand that there were also ways to foster participatory legitimacy and not only the classical representative one. While everyone was concentrated on traditional issues - the decision-making process, decision-making based on a qualified majority, all that took place inside the microcosm of the European institutions in Brussels, these law philosophers have shown us [that it was necessary] to be interested much more in what happens before a proposal is formulated, who takes part, who is listened to, who says a word in the development of a Community initiative." (Saurugger 2006, 13)

Saurugger's interview with Vignon shows the influence of ideas from the academic environment on the reflection concerning government in the EU, as developed in the FSU and not only. The proceduralisation of the law model developed by professors of law at the Catholic University – Louvain set the theoretical background of the FSU work on governance which in turn constituted the basis for the future WPEG. This model positioned the understanding of the production, justification, and applications of norms within the broader framework of understanding the production of knowledge in a society – a specific rationality which underpinned both legal and political systems. The scholars that formulated this model claimed that both the formal rationality that underpinned the classic liberal state and the substantive rationality on which the welfare state was based were no longer in harmony with how the production of knowledge was currently understood. According to these scholars, the institutions and policies of the welfare state were based on the erroneous assumption that public authorities had the cognitive and material resources to understand and solve the problems with which society was confronted. Given that this assumption was wrong, these scholars argued, the institutions of the state should be freed from the constraints of substantive rationality. Instead, the state should focus on putting in place the procedures (hence, the name of the model as "proceduralisation" of law) that would encourage the participation of all those affected as well as promote the evaluation and correction of public action and collective learning. These procedures should be put in place in all phases of justification, production and application of norms – "from the definition of public problems and of objectives, through the development of principles and mechanisms of action, up to their evaluation and the possibility of redefinition and reformulation". The proceduralisation of the law – it was claimed - not only increased the effectiveness of public policies by increasing their responsiveness and flexibility, but also their legitimacy (since the participation of all stakeholders was encouraged in all phases).

> In the context of complexity, of the pluralisation of explanatory models, of interdependency and of uncertainty, the centralized and *a priori* formulation of public problems (let alone solutions) as supposed by substantive rationality is rendered difficult. Coupled with the consequent difficulty of organizing collective action on the basis of standardized norms, this situation suggests the creation of opportunities for the formulation of problems which brings together all affected actors in settings where there is the possibility for collective or mutual learning - in other words, *the contextualisation of the production and application of norms*. (Lebessis and Paterson 1997, 14 italics in original)

The proceduralisation of the law model called for practices such as broader consultations; judicial review of administrative action, an increased use of evaluation and audit mechanisms, institutional flexibility, reliance on networks instead of on hierarchies, and contextualised implementation (Lebessis and Paterson 1997, 14). In the proceduralisation of Community law, the role of the Commission should concentrate on opening up the decision-making process, by increasing and diversifying the forms of consultation and engaging civil society in the formulation and the implementation of policy (de Schutter 2001, 199; Lebessis and Paterson 2001, 270). Lebessis and Paterson suggested putting in place consultative mechanisms such as citizens' conferences, deliberative opinion polls, citizens' juries, public hearings, focus groups, and forums (Lebessis and Paterson 2001, 276). The opening up of the decision-making process should be accompanied by a general policy of transparency (to allow for informed participation) as well as the formalisation of the rights to information, consultation and expression and the granting of extensive rights of action in the Community courts, including class actions (Lebessis and Paterson 2001, 283; de Schutter 2001, 206).

The proceduralisation of the law model challenged the traditional parliamentary democracy and centralized, hierarchical form of government because it questioned the adequacy of parliaments "for the generation and observation of knowledge in complex decision-making processes" and the capacity of central governmental bodies to "adequately define problems, formulate solutions and implement them" (Ladeur 2001, 60; Lebessis and Paterson 1997, 15). Ladeur argued that "[t]he complex society confronted with uncertainty must turn into an 'experimental society', restructuring its institutions in the sense of a reshaping of incentives for learning and adaptation" (Ladeur 2001, 68). Applying the proceduralisation of the law model to the European level implied rejecting the idea that the democratic deficit in the EU could be addressed by transposing existing institutions of representative democracy at the European level. Dehousse, one among the several prominent academics in EU studies that contributed to the FSU documents, for example, argued that "the traditional, parliamentary-based, approach to the reform of European institutions is defective, normatively as well as analytically" (Dehousse 2001, 169). The democratic deficit should be addressed through an "alternative, procedural approach, in which concepts of openness, transparency and participation play a central role" (Dehousse 2001, 169).

Several major premises accompanied this legal theory and hence, the work of the FSU: that of social complexity, of the deficiencies of hierarchies and the superiority of networks, of a crisis of governability and of new way of understanding the effectiveness, efficiency and legitimacy of governmental actions. In the work of the FSU, these premises have been taken for granted and presented as self-evident, but, as we will see below, these premises emerged from developments in the social sciences and were the result of a reflection within a certain regime of truth that they helped consolidate.

B. The history of the concept of governance

While the work of the FSU and the WPEG were supposedly innovative, they drew inspiration from long standing trends in the social sciences. The use of “governance” is not recent fashion as many authors conclude, identifying the emergence of “governance” with the academic response to the transformation/weakening of the state or the rise of neo-liberalism, both phenomena which became visible in the 1980s-1990s. Definitions of “governance” emerged as early as the 1940s, and the concept had been used systematically throughout the 1960s, 1970s and 1980s in areas such as business organization, economics and neo-corporatism. Social sciences did not have a subsequent role in the emergence of “governance”, as Pierre and others suggest (Pierre 2000). On the contrary, social sciences were the first to refurbish the concept and played a central role in its articulation and subsequent diffusion.

The rise of the concept of governance coincided with the emergence of a representation of society as highly complex and functionally differentiated. The history of the concept of governance shows how it was first systematically articulated in several social sciences (political science, sociology, economics, etc) to describe governing processes within private associations – trade unions, corporations, universities, etc.

1. Governance and the formation of the notion of "private government"

The rise of the concept of governance coincided, initially, with the formation of the notion of "private government". It was the time when, in the US, political science was claiming its autonomy as an academic discipline and aimed at extending its area of expertise. The interest in the governing processes within private associations began in the 1940s and continued throughout the 1950s and the 1960s in the US. Initially, two areas of "private government" drew particular attention due to their size and impact in the US society: corporations and labor unions. Later on, a third one was added: the university. The reflection on private governments brought forth the idea of autonomous, self-governing units within society that share the governing of individuals with the public government.

Robbins and Heckscher noticed that attributes such as power and authority, liberty and freedom, duty and obedience traditionally ascribed to the relationship between the individual and the state were to be equally found in the relationships between the individual and various private associations or autonomous groups such labor unions and corporations (Robbins and Heckscher 1941, 3). These private associations performed functions that overlapped with those of the state and made them appear as "states within states". The authors argued that, therefore, it was false to assume that "*governance* is a matter for the State alone" or that the activity of management or business administration was intrinsically different from public government (Robbins and Heckscher 1941, 19, 19-20 italics in original). The identity between the two lay in having to deal with the same problems of representation, of policy-formation, of controlling administrative routine, of compromising factional interests (Robbins and Heckscher 1941, 20). The difference, however, was that while public governing was constrained by such measures as a bill of rights, or the principle of the separation of powers, when it came to private governments there was no legal doctrine that protected individual rights within private associations. On the contrary, the authors argued, the principles of limited government and freedom of association seemed to prevent public intervention from protecting these individual rights in the area of private associations.

The idea that private associations and the public authorities had the same function of governing was elaborated in the work of Charles Merriam who coined the term of "private governments". Merriam argued that "there is governance everywhere" as wherever there are laws (rules or regulations) there is governance: [t]he thread of governance runs through all the web of social life in varying forms, in varying units. The problem of systems of rules, the problems of consent, and the problem of leadership are common to all units of association, whether labeled public or private" ((Merriam 1944, 1, 2). He claimed that universities, corporations and other types of associations were private governments because they all "have their own rules and regulations. All have their own personnel. All have their own plans and programmes, formal and informal. All have their own codes, common understandings, and expectancies as to courses of action" (Merriam 1944, 7). Moreover, "all of these groups have their own sanctions or penalties. The state can throw a man into prison. But an employer can take away his job" (Merriam 1944, 9).[15] The elaboration of the concept of governance as referring to a system of rules that organized the functioning of entities in both the public and private spheres was an effort by political scientists to extend the domain of their expertise to other areas of social life, not exclusively political or governmental.

Richard Eells provided a similar view of governance when he discussed it within the context of the corporation: "[g]overnance, as a distinctive kind of social control, prevails in

[15] (Merriam 1944, 4) described the department store Macy's, for example as a "world with coordination well defined, with highly developed administration, with personnel problems, fiscal problems, budgetary problems, problems of administration, of adjudication, with lines of justice and injustice, right and wrong".

private as well as public polities. It permeates the social structure. Rule making, rule enforcement, administration, arbitration, and adjudication – these familiar processes of public governance all appear in such private polities as labor unions and business corporations" (Eells 1960, 320). He argued that the issue of corporate governance not only challenged the assumption that "government is the exclusive business of the state", but more importantly brought into attention "the larger issue of distributing the authority and responsibility for governing the affairs men throughout a society characterized by numerous private and voluntary associations" (Eells 1960, 308). Eells put forward the idea that "government, in a free society, is emphatically not the exclusive business of public polities; the burden has to be shared with all legitimate private systems" (Eells 1960, 322, 325).

However, Eells also drew attention to the risks of politicizing the corporation, to the fact that "a direct transfer of constitutional concepts from public government to the corporate polity could result in transforming the corporation into a less effective and a more bureaucratic organization than it is now" and "if the corporation fails as an efficient producer, it will not serve the needs of customers" (Eells 1960, 55, 227). Constitutional principles such as the separation of powers, checks and balances, and judicial review as well as other practices such as periodic elections and the party system, were not considered appropriate for the corporation since they would divert it from its goal which was essentially economic in nature: profit-making.

Prophetically, Eells argued that

> The development of a theory of business polity will constitute a new and important chapter in the history of political science itself (…) We may be living at a time when we are on the brink of important new developments in political theory. For, just as the great councils of the past introduced patterns of theory and practice that profoundly influenced the development of Western parliamentary institutions, so the modern corporation may bring forth theory and practice that will shape many social patterns of the future" (Eells 1960, 5)

These evolutions, in the 1940s and 1960s, in the US, show the slow rise of the concept of governance as an acknowledgement of governing processes in and through private entities. The social sciences are mostly responsible for acknowledging and conceptualizing these governing processes, for framing them in a particular way. Social sciences are also responsible for further developments on this topic, such as the insistence by Eells, for example, that public objectives of governing (justice, for example) are and should remain distinct from the private goals of governing (profit-making, in the case of the corporation). There has been both an acknowledgment of commonalities between governing in and through public and private entities and an embrace of the multiplicity of objectives. The consequences of these evolutions is that the concept of governance slowly emerges as a concept that refers to a generic act of governing, present both in public and private spheres, to which a multiplicity of goals can be assigned.

Governance was also used, in that period, to refer to governing processes within universities. Inspired by the work of Merriam, Corson defined governance within universities as "the process or art which scholars, students, teachers, administrators, and trustees associated together in a college or university establish and carry out the rules and regulations that minimize conflict, facilitate their collaboration, and preserve individual freedom" (Corson 1960, 12-13). The problem of university governance attracted wider attention in the late 1960s when students demanded increasing involvement in the governance of their universities and campus unrest took place in several prestigious universities across the US (New York Times, April 15, 1969).

However, just as in the case of corporations, some scholars argued that the specific goals of universities prevented the imposition of constitutional provisions specific to the public government, such as democratic rules. Just as Eells criticized the efforts to politicize the corporation, arguing that it would it divert it from its main goal of profit-making and economic efficiency, Talcott Parsons argued: "[w]hat, then, are we to make of institutions of higher education as socio-political systems? To treat them as "pure democratic associations" including students as 'fully equal' members, would negate the special functions of faculties and administrations and undermine the basis for their acceptance of responsibility for those functions" (Parsons 1969, 512).

Other scholars, however, argued that it was necessary to submit these private forms of governing to the constraints applied in the case of public government. Selznick used the idea of "common law principles of governance" as a way to justify the public control of the increasingly powerful private governments such as labor unions and corporations (Selznick 1963). He argued that the law of governance should be applied to "any institution that was functionally a government, in which governance was present" (Selznick 1963). He defined "governance" as a function to be found not only in that "peculiar set of institutions that we call the state", but also in other institutions where the "governmental process, as a specific type of relations between individuals and certain kinds of authority, is found" (Selznick 1963). Governance was a "generic social process", in Selznick's words, but not a simple exercise of power. Governance was identifiable by specific patterns of authority and nature of membership. Selznick believed that governance should be restrained by a proper regard for all legal interests affected (Selznick 1969, 253; Black 1972). Therefore, principles that regulate public governing should be applied to private forms of government as well (due process of law, protection of the individual, etc).

Throughout this period, governance became an established term to refer to the internal organization and decision-making process within private associations, from corporations, universities to charitable foundations and other types of private associations in the US. The topic of private governments brought forth the idea of autonomous, self-governing units within society that share the governing of individuals with public authorities. It also marked a tension between public goals (equality, freedom, protection of individual rights, etc) and private goals (profit-making – in the case of the corporation, academic excellence – in the case of the university).

These developments shaped a new image of society and raised questions about how the government of this type of society was possible. Society was now represented as a complex, functionally differentiated structure. The answers of how to govern complexity came from a budding theory at that time – systems theory and an accompanying discipline – cybernetics.

2. From private governments to the highly differentiated society. The governing of complexity

a) The principles and vocabulary of cybernetics

It is essential to understand the systems theory and cybernetic approaches because they merged their conceptual frameworks to answer the question of how to govern complexity. It is important to mention that both systems theory and cybernetics aimed at a "unity of science", therefore, at producing a set of concepts and principles that would find application in all sciences. Systems theory was helpful when it came to define the control of complexity because it was concerned with how the whole, with multiple parts, functions, with "the arrangement of and relations among the parts that connect them into a whole" (Heylighen and Joslyn 1999, 898). According to Heylighen and Joslyn, systems theory emerged as "the transdisciplinary study of the abstract organization of phenomena, independent of their substance, type, or spatial or temporal scale of existence" (Heylighen and Joslyn 1999, 898). The goal of systems theory was to inquiry into "both the principles common to all complex entities and the (usually mathematical) models that can be used to describe them" (Heylighen and Joslyn 1999, 898).

Systems theory is a holistic approach in that the concern with the whole becomes more relevant than the consideration of the parts. Thus, the attention moved from the analysis of the parts to the effort to understand the properties and functions of the whole system: the dynamic relations among the parts and the interactions with its environment. Systems theory became a "metatheoretical background" on which many social sciences built (see Jessop 1995 as well). It led to a change in the understanding of society that was no longer defined as a collection of individuals, but as a system or a collection of sub-systems (Luhmann 1992). Luhmann argued that "the assumption that society consists of human beings or of relations between human beings (…) [is a] humanist prejudice (…) Society is the comprehensive system of all communications, which reproduce themselves autopoietically through the recursive network of communications which produce new (and always other) communications" (Luhmann 1992, 73).

Within systems theory, cybernetics emerged as a discipline concerned with control in complex systems. It developed as a science in the late 1940s, in an interdisciplinary effort to understand how control in remarkably complex systems such as the brain or the economy was possible. Cybernetics aimed to develop a conceptual apparatus to be applied to all scientific fields (biology, sociology, physics, etc) which dealt with these complex systems.

In cybernetics, a system was generally defined as "any cohesive collection of items that are dynamically related" (Beer 1959, 7). However, what was important for cybernetics was to realize that connections/relationships between items in a system were not "a loose conflux of events, but a tightly knit network of information" (Beer 1959, 23). Therefore, it was argued, systems ought to be considered "in their formal structures as information networks operating as sets of decisions functions" (Beer 1959, 24).

Cyberneticians also specified the notion of control itself. Examining examples from the natural world, scholars reached the conclusion that the understanding of control as coercion is misleading. They argued that "the purpose of a system is what it does" and that control is "the strategy [of the system] for achieving that purpose" (Stafford 2002, 217; Beer 1959, 7). Therefore, control is more accurately understood as self-regulation, usually performed through a mechanism of feedback. Examples of such mechanisms are the thermostat or the steering mechanism of a ship. The name of the discipline itself "cybernetics"– given in 1947 by Norbert Wiener who is considered the father of the discipline – came from Greek word "kybernetes" meaning "steersman". It is interesting to notice that the word "governance" comes from the same Greek word "kybernetes" (Stokke 1997, 28). Cyberneticians argued that an effective control mechanism is a self-regulatory mechanism, part of the system to be controlled, acting on the system through a feedback (Beer 1959, 23).

Another preoccupation in cybernetics was how to design effective regulators of complex systems. They claimed that a first criterion of a successful regulator is the reliance on a feedback, self-regulatory mechanism. A successful regulator would take advantage of "the ability of a system to teach itself optimum behavior (...): we must know how to design the system in the first place as a machine-for-teaching-itself. There must be exactly the right flow of information in the right places; rich interconnectivity; facilities for the growth of feedbacks and many-one transformation circuits; and so on" (Beer 1959, 57). As seen above, this feedback and learning feature was also a key element in the governing model proposed by the FSU and found in the WPEG. This style of control finds echoes in some basic characteristics of the "new mode of governance" such as transparency (flow of information), partnership and consultations (feedback and learning). It is a central element in the proceduralisation of the law model in the sense that it gives up the ambition of substantive outcomes, replacing them with the goal of putting in place the procedures to ensure self-regulation. More details on these evolutions are presented below.

Another crucial criterion for successful regulation is to respect the law of requisite variety (Ashby 1956).[16] Variety refers to the number of distinct elements in the system – a complex system has a high number of distinct elements, therefore a high degree of variety (Beer 1959, 43). The law of requisite variety suggests that a regulator that is simple (has little variety) cannot successfully regulate a system that is complex (has a lot of variety). The effective regulation of a complex system is possible only if the regulator itself is complex. Again, this is an element that is to be later found in the "new governance model" as it rejects the effectiveness of a centralized, hierarchical form of authority and control in favor of more complex arrangements of government.

It is important to stress that cybernetics was concerned with the possibility and effectiveness of control of complex systems, with the optimization of control, but they were not concerned with goals and objectives of these complex systems, or with their nature. Thus, when the vocabulary developed in cybernetics was appropriated, as we shall see below, by other social sciences and in the field of government itself, we inherited a representation of society and an understanding of control indifferent to any objective of government, except the one concerned with the possibility and effectiveness of control. This constitutes a subtle reversal of more traditional ways of thinking about government which start, for example, with such questions as: given that we choose to see individuals are equal and free, how can we design a government that would, at the same time, respect their freedom and ensure their equality? How can we create a government that preserves justice? Cybernetics, on the contrary, suggests that "the purpose of the

[16] See below how Schmitter and Streeck present the associative model of social order as a way of increasing the requisite variety of the state's policy options and thus increasing its capacity to respond.

system is what it does" and the way to control it, is actually by allowing its autonomy and self-regulation. Taking these elements into consideration, a question emerges as to what extent the new style of governing, conceptualized in the vocabulary of governance and adopted in the EU, also inherits an indifference to more traditional goals of government and its questions.

The concepts proposed by cybernetics (networks, feedback, steering, etc) and the principles of regulation that it advanced (the rejection of control as coercion, the reliance on self-regulation, the law of requisite variety, the importance of communication and information in the control of a system, the speed of response as a condition for system survival) were taken over by other social sciences and came to constitute the representation of society and its functioning on which the current rationality of government is partly built. As shown below, the formation and spread of the concept of governance is central to this process that led to a transformation in our rationality of government.

The spillover of cybernetic principles was facilitated by the increasing use of systems theory in sociology and political science. In sociology, systems theory shaped an understanding of society as highly differentiated. The two most important representatives of this argument are Talcott Parsons and his student, Niklas Luhmann. Parsons described society as made up of systems and subsystems, functionally and structurally differentiated. Luhmann, on the other hand, focused on the description of society in terms of autopoietic (self-reproducing), closed systems. This sociological understanding of social reality together with the science of control developed by cybernetics contributed to the background on which governance approaches emerged. To illustrate this point, in the following, a special attention is given to the development of Dutch governance theory and its influence on actual practices of government.

b) The Dutch school of socio-cybernetic governance[17]

The Dutch school of socio-cybernetic governance is relevant because it provided one of the most articulated accounts of new modes of governance in Europe and its contribution was specifically recognized as such by other scholars. From the point of view of this research, the School is significant because the work of its representatives shows the connection between cybernetics and the development of approaches on new modes of governance. Thus, one of the School's most famous contributors, Jan Kooiman, openly acknowledged the source of his governance approach: "upon reading his [Ashby's] observation that only variety can destroy variety this helped the notion that dawned on me that it takes a variety of governing instruments to tackle the diversity of governing situations" (Kooiman 1999, 74). He noticed "[t]he eminent importance of what Ashby has formulated as a principle on the governance level has hardly been recognized: how the creation of variety in instruments is a prerequisite for adequate governing" (Kooiman 1993a, 47). He also acknowledged the influence of Luhmann in the description of society on which his governance theory built:

> Here two authors need to be mentioned who have put this issue [the question of how to cope with complexity] central on the agenda of the social sciences, Simon (1962)[18] and Luhmann (1982, 1985). So, to cut a long story short: I choose dynamics, diversity and complexity as the three main concepts to characterize societal conditions, situations and developments, which can be considered as basic governing challenges or, to put it in analytical terms, the main 'interdependent' variables in governing analysis" (Kooiman 1999, 74).

Kooiman's choice of describing social reality as complex, dynamic and diverse together with Ashby's law of requisite variety led him to advocate new forms of interaction between public authorities and society. He asked "how can dynamic, complex and diverse social-political

[17] The expression "Dutch school of governance" was proposed by Rhodes (2000).
[18] Herbert A. Simon, The Architecture of Complexity, *Proceedings of the American Philosophical Society*, Vol. 106, No. 6. (Dec. 12, 1962), pp. 467-482, an article in which Simon discussed cybernetic principles.

systems be governed in a democratic and effective way? The first answer is that governing and governance itself should be dynamic, complex and varied" (Kooiman 1993a, 36). On these foundations, Kooiman based his model of governing and the rejection of hierarchy in favor of interactions between various types of actors (Kooiman 1993b, 3).

He defined the objectives of governing as the ability to cope with uncertainty, instability and diversity (Kooiman 1993a, 48). He described governance as "[a]ll those interactive arrangements in which public as well as private actors participate aimed at solving societal problems, or creating societal opportunities, and attending to the institutions within which these governing activities take place" (Kooiman 1999, 70). The solutions Kooiman proposed reflect a concern with efficiency and effectiveness, but not primarily with the goals of ensuring freedom, equality, and justice. The objects of governing are the social-subsystems and the goal of governing is the capacity to control, to steer. These ideas spilled over into the governmental field, as seen below.

Kickert, another member of the Dutch school of governance, helped introduce the cybernetic approach as a policy-making practice (Kickert 1995). He presented his ideas and actual experience in his 1995 article on the emergence of the "steering at a distance" practice within the Dutch Ministry of Education. Like Kooiman, he was strongly influenced by systems theory and cybernetics. Both scholars embraced the conviction that public authorities had to deal with an increasingly diverse, uncertain, and complex environment and that they were ill prepared to do this. In order to cope better, government, as exercised by public authorities, had to change both its objectives and means of intervention. Kickert argued, for example, that: "[p]ublic governance is in reality control in complex networks (…) a search for new concepts of governance or steering, should evidently begin with a consideration of the basic idea about steering as it exists in cybernetics and systems theory, that is, the concept of ‘control’” (Kickert 1993, 193, 195).

Kickert acknowledged his six-year involvement in the Dutch Ministry of Education and his involvement in the development of the new ‘steering at a distance” concept to which he referred as a new form of governance, a paradigmatic change in governing practices (Kickert 1995, 135, 152). He advocated that the intervention of government must switch from ex-ante formal regulation to feedback control output – an assessment of output quality based on a system of monitoring and control. The public authorities are only some of the players in complex networks and must rely on the autonomy and self-regulation of other actors. The idea of control as coercion is abandoned as ineffective and replaced by steering by ‘incentives’ or ‘behavioral stimuli’ (Kickert 1995, 149). He argued that control as coercion is ineffective because the networks are self-regulatory and resist steering – “[t]he network determines to a large extent its own course of events (…) and does not allow much steering” (Kickert 1995, 149-150). The new goal of public authorities is to present their proposals as an agenda for dialogue, seeking to engage as many actors as possible. Openness and dialogue are essential elements in the new paradigm engendered by cybernetic principles that state that a system is viable if it has speed of response and this speed of response depends on the efficiency of its communications.

Kickert repeatedly insisted that the motivations behind the “steering at a distance” model were completely justified in terms of increasing the effectiveness of governing, and not in ideological terms (Kickert 1995, 154, 136, 147). He argued that the new governance paradigm is more effective because autonomy and self-regulation increase flexibility, speed of response, adaptability and innovation (Kickert 1995, 137). Indeed, the new paradigm was elaborated with the goal of efficiency in mind, but seemingly indifferent to broader societal objectives such as freedom, equality or justice, as cybernetics was also indifferent to these goals.

c) Systems theory and modifications in legal theory

The understanding of society as made up of functionally differentiated, autonomous systems led also to modifications in legal theory. Teubner employed the notion of “reflexive law” to refer to a legal order that recognized and enforced the autonomy and self-regulatory capacity of social sub-systems (Teubner 1983). Reflexive law is “self-restrained” law, which “instead of taking over regulatory responsibility for the outcome of social processes (…) restricts itself to the installation, correction, and redefinition of democratic self-regulatory mechanisms” (Teubner 1983, 239). The interest in these legal theory perspectives is justified by the fact that they strongly influenced the proceduralisation of the law model proposed in the FSU works. These legal theory perspectives argue, just like the proceduralisation of the law model, in favor of abandoning the ambition to achieve substantive goals through law, therefore through government. The goal of law should be “the legal control of self-regulation”, therefore, putting in place the procedures of self-regulation, which is exactly what the proceduralisation of the law model proposes. The professors from the Catholic University of Louvain, which influenced the work of the FSU, often invoked the writings of Teubner in their publications.

What is important to underline is that these modifications of legal theory were based on a certain image of society appropriated from systems theory scholars. Teubner was very clear about this borrowing (Teubner 1984). He argued that the legal perspective that supported the welfare, interventionist state was based on “rather primitive models of social reality” (Teubner 1984, 298). Reflexive law model, on the contrary, was sophisticated enough to consider “the autopoietic structure of the social subsystems that constitute the law’s environment” (Teubner

1984, 297, 298). Reflexive law model assumes a basic cybernetic principle that states that the most effective regulation of a complex system is not by coercion from outside, but by allowing self-regulation: “taking self-reference seriously means that we have to give up conceptions of direct regulatory action. Instead, we have to speak of an *external stimulation of internal self-regulating processes which, in principle, cannot be controlled from the outside*” (Teubner 1984, 298, italics in original).

Reflexive law aims to respect, but also to encourage self-regulation in order to “cope with highly functionally differentiated, autonomous social subsystems” (Teubner 1984, 299). Its means are not coercive and not directed towards pre-established ends. As such, it goes beyond both “liberal and welfarist type of regulation” which are prone to fail when confronted with the complexity and the differentiation of modern societies. Reflexive law refers to legal control that is indirect and abstract (Teubner 1983, 274).

Teubner links his theory with that of responsive law developed by Nonet and Selznick (Teubner 1983, 251).[19] According to Teubner, the points of resemblance lie in the fact that both theories claim that laws should not focus on obtaining, extracting substantive outcomes, but should try to put in place procedures that would allow for effective and more legitimate self-regulation (Teubner 1983, 251).

The work of Selznick, Nonet and Teubner was a direct source of inspiration for the academics that focused on procedural rationality and developed the proceduralisation of the law

[19] Selznick and Nonet (1978: 18) had an influential role in the evolution of legal theory by analyzing legal orders as forms of governance. They distinguished among three historical types of legal orders (repressive, autonomous and responsive) and argued that “repressive, autonomous, and responsive law are not only distinct types of law but, in some sense, stages of evolution in the relation of law to the political and social order”. Selznick and Nonet (1978: 110) developed the model of purposive regulation that “presumes a far wider and inclusive conception of the legal process. In that perspective, law is a problem-solving, facilitative enterprise that can bring to bear a variety of powers and mobilize an array of intellectual and organizational resources”. These approaches to law lead to the justification of an abandonment of substantive outcomes (associated with the interventionist welfare state) in favour of encouraging self-regulation.

model that underpinned the work of the FSU, as seen above. The focus in the model proposed by the FSU, as in those developed by Selznick, Nonet and Teubner, is on enabling procedures, rather than on achieving substantive outcomes. Essential to this view was an emphasis on society organized in networks rather than hierarchically. Developments in economic thought met and complemented these evolutions in social and legal theories.

3. Governance as institutional matrix to economize on transaction costs

This section links the use of the concept of governance with significant shifts in economic thought produced by the development of transaction cost/neo-institutional economics. According to transaction cost economics, the most significant factor that influences economic performance is the institutional matrix or governance structures that underpin economic activity – be it at the level of the firm, of an industrial sector, or the macro-level of a national economy. The novelty of this approach is that it advances the idea that this institutional matrix or governance structure does not have to be necessarily the market. Unlike neo-classic economists, economists embracing transaction costs theory argue that the market is only one among several governance structures that could lead to economic efficiency. Hierarchies, clans, associations, networks are alternative governance structures to the market and they all may present significant economizing advantages compared to the market, depending on the circumstances of a transaction.

To grasp the core of the paradigm shift in economic thought is to start, like most neo-institutional economists, with Coase's 1937 article entitled "The Nature of the Firm" (Powell 1990, 296; Williamson 1998, 75; Williamson 1996, 7; North 1990, 12; Majone 2001; Eggertsson 1990). Coase asked why firms as "alternative methods of coordinating production" exist when it was assumed that production should be regulated by price mechanism in the market: “if production is regulated by price movements, production could be carried on without any organization at all, well might we ask, why is there any organization?” (Coase 1937, 388). Coase argued that forms of organization exist because finding out the relevant prices in the market was costly. The prices associated with using the market were later labeled “transaction costs” and constituted the starting point for a significant shift in economic thought. By pointing out to these “transaction costs”, Coase’s ideas put forward the hypothesis that there were other organizational forms, besides the market, that could improve economic performance (Powell 1990). The firm – which is, as an organizational form, a hierarchy or bureaucracy – is such an alternative because it internalizes some of the costs associated with using the market (Powell 1990, Williamson 1996, Majone 2001).

Neo-institutional economics builds on these two ideas: that transaction costs are positive and that there are alternative organizational forms or institutions that can, in certain conditions, economize on transaction costs and, therefore, improve economic performance. The main preoccupation of neo-institutional economists is to find out which type of governance structure best serves economic performance and under which conditions. At the macro-level of national economies, neo-institutional economists are interested in what conditions political institutions should meet in order to improved or maximize economic performance. They examine, through historical evidence, which type of political institutions had proven more capable to secure economic growth. Based on this historical analysis, they developed a set of recommendations for both the economic development in Third World countries and the developed economies of the West. Most of these recommendations are those that underpin the good governance approach of the World Bank, the OECD and the IMF, as it will be detailed later on, in the section dedicated to understanding the formation of the concept of “good governance”.

Before doing that, it is important to show how the concept of governance came to be used to describe institutional matrixes to economize on transaction costs. One of the most important contributions to this argument came from the economist Oliver Williamson. Williamson had a background in organizational studies, being familiar with the works of Herbert Simon and Chester Barnard and built on Coase’s idea that markets are not always the cheapest, most efficient form of economic organization. As early as 1975, Williamson developed the idea of hierarchies – such as firms, corporations – as economically efficient organizational alternatives to markets. Williamson was concerned with the efficient organization of economic activity or “the governance of contractual relations” and was interested in matching governance structures with types of transactions with the goal of reducing transactions costs and, thus, improving economic performance. Williamson defined a governance structure as “the institutional matrix within which transactions are negotiated and executed” (Williamson 1979, 239). He explained that the focus on governance is “an exercise in assessing the efficacy of alternative modes (means) of organization” (Williamson 1996, 11). It is very important to highlight that the economic take on governance, just like in the case of cybernetics, searched for effectiveness and efficiency of particular arrangements and not the achievement of substantive outcomes. In Williamson´s words: “[t]he main purpose and effect of economic organization is economizing on transaction costs. Considerations of power (…) and justice (…) thus give way to or are subsumed under the economizing calculus” (Williamson 1996, 7-8). As later mentioned by Ouchi, “[t]his transactions cost approach explicitly regards efficiency as the fundamental element in determining the nature of organizations” Ouchi (1980: 129). These aspects are relevant especially because, as shown later on, they are borrowed in other social sciences and mark mutations in the art of governing. For example, Mayntz noticed that the use of the concept governance as alternative forms of social coordination "seems to be derived from transaction costs economics, in particular from the analysis of the market and the hierarchy as alternative forms of economic organizations" (Mayntz 1999: 4, my translation).[20]

The evolution from the "private governments" of Merriam and complex systems in cybernetics to the governance structures of Williamson marks the blurring of the distinction between governing in public and private spheres. The vocabulary employed by the social sciences is increasingly built around the concepts of "systems" and "organizations". Moreover, the search for alternative governance structures is guided by a search for effectiveness and efficiency, not other substantive goals such justice and equality.

Initially, Williamson defined two types of governance structures – hierarchies and markets, but other governance structures were added in the literature inspired by his work. The contribution of Hollingsworth and Lindberg is of particular relevance. They extended the concept of governance from the level of the firm to the level of sectors of economy and the economy as a whole, and discussed such governance structures as clans, networks, and associations. In 1985, Hollingsworth and Lindberg defined "governance" as "the full range of institutional possibilities for deriving collective decisions in an economy" or as "several institutional mechanisms through which firms as complex organizations have come to deal with other organizations or actors in response to problems of resource scarcity (uncertainty with

[20] Moreover, because transaction costs economics start with the analysis of the firm, the concept of governance was most probably derived from the expression "corporate governance" already in use at the time Williamson started employing it in his analysis. Williamson, North, Weingast all admit that transaction cost economics start with a theory of the firm. Williamson (1996: 356): "the firm-as-production function give way to the firm-as-governance structure (in which the firm is understood mainly as an organizational rather than a technological entity)…align transactions, which differ in their attributes, with governance structures, which differ in their costs and competence, in a discriminating (mainly transaction cost-economizing) way".

respect to the availability of capital, raw materials, human resources) and information complexity (uncertainty with respect to competition, products, markets, technology and government regulation)" (Hollingsworth and Lindberg 1985, 221). They specified that "[t]he objectives of economic governance are efficiently and adaptively to co-ordinate the activities of firms and their 'relative environments'" (Hollingsworth and Lindberg 1985, 221). Hollingsworth and Lindberg identified four forms of governance: markets, hierarchies (bureaucracies such as the apparatus of the state or the modern corporation), clans or community, and associations – the last one inspired by the neo-corporatist theory developed by Schmitter and Streeck. Hollingsworth and Lindberg argued that these governance forms depended on the specificity of each industrial sector and that they were crucial to understandimg economic activity and, therefore, determining public policy decisions.

In late 1980s – early 1990s a new form of economic organization was observed and advocated by economists – the networks. Networks were defined as "long-term, purposeful arrangements among distinct but related for profit organizations that allow those firms in them to gain or sustain competitive advantage vis-a-vis their competitors outside the network" (Jarillo 1988: 32). Networks were thought to be, in certain conditions, more economically efficient – in terms of lowering transaction costs – than markets and hierarchies. Jarillo explained that networks were economically efficient because they allowed both the flexibility associated with the market and the possibility of specialization associated with hierarchies (Jarillo 1988, 39). The most benefit of networks concerned the flow of information. According to Powell, networks were better adapted to make the information flow rapidly and reliably in multiple directions, and therefore, "greatly enhance the ability to transmit and learn new knowledge and skills", to cope with uncertainty, to respond rapidly to a changing environment (Powell 1990, 304, 319). This is similar language with the one deployed in cybernetics which takes into consideration the internal organization of a system and its relationship with the environment. Moreover, Powell observed that one of consequences of the spread of networks was "to blur the boundaries of the firm" through the involvement of new sets of actors such as local authorities, universities, research institutes, trade associations and other firms which became "crucial to economic success" (Powell 1990, 313). The understanding of organizations through this terminology, helped blur not only the boundaries of the public sector, but also those of the private sectors, as the argument functioned both ways.

The dichotomy between markets and hierarchies, later enlarged to include networks, was adopted in public policy (Scharpf 1993, 126). The preoccupation in interorganizational studies in late 1970s was "goodness of fit". The challenge was to define a policy problem and determine the structural and organizational requirements that would lead to effectively solving that problem (Hanf and Scharpf 1978; Scharpf 1993). This approach was overtly inspired by Williamson's initial dichotomy between hierarchies and markets as alternative forms of organization that could enhance economic efficiency. An intermediary form of this transfer was the neocorporatist approach, presented below.

4. Neocorporatism: the "associative model of social order" as an alternative governance structure

Neo-corporatism combined preoccupations with both private governments and alternative governance structures when elaborating a new approach on how to make public policy. Schmitter and Streeck started with the existing at the time concept of private governments to build their own notion of "private interest government" which they defined as "collective self-government, self-regulation, self-discipline, or self-control by interest groups in specific policy-areas"

(Schmitter and Streeck 1985a, vii). They argued that these private interest governments generated a distinctive type of social order on which the state could rely in order to increase the effectiveness of public policies (Schmitter and Streeck 1985a, 16). The "associative model of social order" thus emerged as an alternative to hierarchies/bureaucracies, markets, and communities in terms of new opportunities for the formulation and implementation of public policy. The corporative-associative order which they advocated represented "a separate logic of collective action and social order", characterized by interdependence and negotiations among self-governing organizations (Schmitter and Streeck 1985a, 11).

The authors distinguished their approach from both neo-liberal attempts to return to a market-based social order and the communitarian approach to return to the community-based social order. Schmitter and Streeck argued that while neo-liberals and communitarians put the individual's motivation and behavior at the centre of their concern, neo-corporatism focused on "the collective self-interest of social groups to create and maintain a generally acceptable social order, and it is based on assumptions about the behavior of organizations as transforming agents of individual interests" (Schmitter and Streeck 1985: 16, emphasis in original).

The concept of governance was used by Schmitter and Streeck to capture the internal organizational dynamics of private governments and the relationship between various organizations within private interest governments. Schmitter and Streeck's ultimate goal was to present the advantages that the associative social order could bring in terms of increasing the efficiency of public policy. Schmitter and Streeck claimed that the associative social order could compensate, in some sectors, for the failures of market, communities and state/bureaucracy because it presented functional advantages (Schmitter and Streeck 1985a, 24, 25). The scholars argued that the associative model should co-exist with and not replace the other types of order. It should merely enlarge the policy alternatives of the state, its requisite variety, thus increasing the capacity of the state to respond to new problems: "[i]t is important to emphasize that the state is not absent in the associational mode of social order, and nor is the market or the community. Corporative-associative order emerges in thoroughly 'mixed' polities. Typically, institutions of private interest governance are geared to selected sectors, industries and policy areas – with other collectivities and issues being directly governed by the state, left to the forces of the market, or taken care of by community action" (Schmitter and Streeck 1985b: 134).

The associative social order model was built on the understanding of social units as being self-governing. It aimed to harness this self-governing capacity of these autonomous, self-interested social units to increase the efficacy of public policy. As the authors themselves remarked, the starting point for the elaboration of this model was not the individual and his/her needs, but the acknowledgement of the existence of autonomous, self-governing organizations, able to enhance the public policy capacity of states. As a consequence, the associative social model is to be judged primarily by its capacity to increase the effectiveness/efficiency of public policy and not by its adequacy to meet the needs of the individuals who make up organizations and society.

Schmitter and Streeck elaborated the associative model of social order from their study of business organization. The book they edited in 1985 work included the work of Hollingworth and Lindberg who specifically addressed the issue of alternative governance structures in industrial sectors. This may support the claim that the concept of governance, inspired by studies of corporate governance and transaction-cost economics, slipped into public policy analysis through neo-corporatism. The pattern that allowed this transfer was the search, in both cases, to diversify the range of available governance structures and match them with specific types of activities under the imperative of efficiency and effectiveness. This search was determined by the fact that social science were at the time concerned with what they defined as the “crisis of governability” of welfare states across the world.

5. The crisis of governability in the welfare state: explaining public policy failure as an organizational deficiency

To complete the picture, the third area in which the concept of governance emerged is the academic literature on the reform of the welfare state. During the 1970s and beyond, existing theories in social sciences such as systems theory inspired the choices made by scholars to conceptualize and respond to the crisis of the welfare state. German steering theories constitute a significant example. The concept of governance was key to these developments. In fact, the German concept of “Steuerung”, prevalent in that period, refers to both “steering” and “control” similarly to the Greek *kybernetes* that inspired both the naming of cybernetics as a discipline (as seen above) and the concept of governance itself (see also Mayntz 1993, 10-11).

Confronted with the crisis of the welfare state, scholars had to come up with a grid of intelligibility through which to understand the situation and offer solutions. Thus, they made several choices and appealed to existing theories. The first choice concerned the terms in which the crisis of the welfare state was defined – as failure of performance – “failure of effectiveness in the management of the economy, failure of efficiency in the management of the social services sector, failure of responsiveness to differentiated, qualitative demands in the performance of government functions” (Scharpf 1977: 343). The crisis of the welfare state was framed in terms of a crisis of governability and of system survival. As Mayntz put it when referring to developments in German theory at that time, the conviction was that “[si]nce the state is not able to steer social development in a preferred direction, in order to prevent unwanted developments it is either necessary to look for alternative instruments or to lower the aspirations of central-state control" (Mayntz 1993: 10).

The second choice was performed when explaining the causes of these failures as an organizational, structural deficiency of the welfare state. The underlying assumption was that the organization of the public sector played a significant role in the failure or success of public policies. Therefore, scholars proposed to study the relation between public sector structures and policy outcomes, or the "organizational causes of policy failures" (Scharpf 1977: 359). Academic disciplines such as political science and the sociology of public organizations were helpful in providing "a better understanding of the internal structures, processes, and selectivities of the public sector" which, in turn, "may become a crucial precondition of successful problem-solving strategies" (Scharpf 1977, 345-6). As Scharpf argued "[i]f we focus on the organizational causes of policy failures, we should be able to provide specific as well as systematic knowledge on what our governmental institutions cannot do. By thus identifying the opportunity costs of existing structural arrangements, we may help to generate more pressure for reorganization and structural change" (Scharpf 1977, 359).

The third choice was to embrace the understanding of society in terms of complexity, as made up of several autonomous, self-governing units (Mayntz 1993, 20). Thus, in the 1970s and beyond, a conviction emerged that solving the problem of governability rested not so much on the instruments of governing as on a "special form of organizing the policy process" which took into account the complexity of both the governing subjects and objects (Mayntz 1993, 20). The resistance of autonomous, self-governing social units to governing was one of the explanations of the crisis of governability. One of the solutions was to co-opt them in the act of governing as proposed by theoreticians of neo-corporatism (Mayntz 1993, 18, 20).

A fourth choice was to adopt a particular understanding of the role of the social sciences. Scharpf argued that research should be policy-oriented, less focused on interpretations and more on prediction and prescription (Scharpf 1977, 349). The goal of research was "to increase the range and variety of substantive and institutional policy options which are available for consideration" (Scharpf 1977, 359). The starting point for this type of research was the null hypothesis that "public policy should choose those (available) instruments which will solve societal problems effectively and efficiently" (Scharpf 1977, 350). Consequently, the focus of research should be on "goodness of fit" which referred to a situation when a decision structure best met the necessities of a certain policy area (Scharpf 1977, 358). It meant looking for alternative decision structures until "best fit" found. This search for "best fit" would have to take into account "the extremely complex and multi-layered policy-making by which we are in fact governed" and consider the redistribution of policy responsibilities between various levels of government (Scharpf 1977, 359). As mentioned earlier, this type of reflection was clearly inspired by Williamson's approach to match types of transactions with governance structures under the imperative of efficiency and effectiveness (for further proof see Hanf and Scharpf 1978; Scharpf 1993).

A piecemeal reform of the welfare state was not enough. What was needed was "a new configuration of the relative power and the functional relationships of the state, the economy and private individuals and groups" (Scharpf 1977, 343). The problem-solving capacities of the political systems had to be regained through a major overhaul of their structural bureaucratic organization (Mayntz and Scharpf 1975, 1). The search was for "a set of more specific structural prerequisites which a policy-making system must possess in order to generate the kind of policies which may have a chance of coping effectively with the problem-generating tendencies of modern societies" (Mayntz and Scharpf 1975, 4).

The focus on improving the implementation of public policies was a result of a search to define the "conditions of effective public policy" (Mayntz 1983). The implementation studies revealed that the "[t]he effectiveness of a given programme depends on a number of conditions external to the program: the structure of interests in the intervention field, or target group and agency characteristics" and that, therefore, public policy should take into consideration the complex structure of the object of governing (Mayntz 1983, 141).

The reflection on the crisis of the welfare state met with neo-corporatism and systems theory because it started taking into consideration the "social structure as contextual factor in policy choice" (Mayntz 1983, 138). Again, scholars resorted to systems theory to provide a grid of intelligibility "there is also an important structural characteristic of modern societies which affects programme design. This well-known characteristic is the development of large formal organizations in the various functional sub-systems of society" (Mayntz 1983, 138). Scholars argued that one way of solving the problems of governability is the use of these organizations and sub-systems as "agents of policy implementation" (Mayntz 1983, 140). Mayntz argued that these "third sector organizations" may be used in the implementation of structural, but not redistributive, public policies (Mayntz 1983, 140). What is important to underline is that by adopting a system theory grid of intelligibility, these scholars gradually altered the understanding of the objects of government. They legitimized thus the idea that the objects of governing "are no longer conceived of as particular categories of persons, households or organizations, but as societal subsystems such as economy, science, health, etc" (Mayntz 1993, 14).

This section showed how the reflection on the crisis of the welfare state involved some choices that led to the adoption of principles that accompanied governance approaches from other disciplines. These were choices to describe the crisis of the welfare state in terms of failures of performance and organizational deficiencies. Scholars thus focused on the relation between organizational structures and policy outcomes. These choices allowed the transfer of the concept of governance defined as organizational structure from transaction-cost economics. The search was for more efficiency and effectiveness. The German reflection on the state was supported by systems theory, based on the understanding of society as highly differentiated and resistant to steering.

6. Neo-institutional economics and the use of "good governance" by the World Bank, the IMF and the OECD

As seen in the preliminary mapping of the concept, another major influence on the EU use of the concept of governance is in the expression of "good governance". The EU explicitly adopted the concept from the World Bank discourse on development policy. It referred to the principles of transparency, accountability and participation. At the time of the adoption of the WPEG, the concept of governance together with the principles that it invoked had already constituted a major topic in the discourse of various international organizations – the World Bank, the OECD, the IMF and the UN. The World Bank had been advocating, since 1989, the principles of accountability, transparency and participation, rule of law and efficient public service as essential conditions for the success of its development policies in Third World countries. The OECD had followed the World Bank and, since 1993, put an increasing emphasis on the good governance criteria in its reports and recommendations (Development Assistance Committee 1993, 1997). These governance criteria were the establishment of effective institutions, of policy coherence, better communication and consultation with stakeholders, openness and transparency, the existence of an effective legal system. The IMF aligned its monetary and financial policies to include such issues as the effectiveness and accountability of the public sector and the overall transparency and stability of the economic and regulatory environment in member countries (Dhonte and Kapur 1997).

There is a vast literature dedicated to explaining the rise of the concept of governance in and through the documents of the World Bank. Several scholars identify the 1992 World Bank document entitled "Governance and Development" as one of the first texts to use the concept of governance. This goal of this section is to show that the World Bank adopted the concept of governance from the neo-institutional economists. The World Bank promoted the concept of "good governance" within a new understanding of how economic development is possible, an understanding which relied considerably on the economic ideas advanced by neo-institutional economics (the works of Douglass C. North, in particular). Other institutions such as the OECD and the IMF embraced the concept later on. The concept was embraced by the EU and the members states as well, as seen in preliminary mapping section.

Many scholars credit the World bank with the promotion of the concept of governance, but few connect the use of the concept with neo-institutional economics, therefore with its essential economic character. Most scholars connect the use of the concept by the Bank with the rise of neo-liberal ideology. However, as shown below, the justification for the Bank's use and promotion of the concept was provided by neo-institutional economics. It is important to underline, from the start, that the World Bank is an institution openly committed to economic objectives as main priorities. As Ibrahim Shihata, its General Counsel, explained "[t]he only considerations which, under the Articles, are relevant to the decisions of the Bank and its officers are those which qualify as 'economic considerations'" (Shihata 1991, 66). The adoption of governance by the World Bank can only be explained in this context – because, ultimately, it made economic sense. The Bank always made clear that its priorities are economic and that governance fell into this pattern: "[t]he Bank, it should be recalled, is a financial institution, which borrows and lends; it should be concerned with its financial strength and its standing in the market. This requires it, on the one hand, to avoid the vagaries of partisan politics, and, on the other hand, to be careful that its funds are lent only for sound and efficient uses. *Technical considerations of economy and efficiency, rather than ideological and political preferences, should guide the Bank's work at all times*" (Shihata 1991, 95 original italics).

The influence of neo-institutional economics on the notion of good governance concept of the World Bank, later adopted in the WPEG and other EU documents, is significant. This influence is to be located: 1) in the way the World Bank came to understand the problems facing its development activities at the end of the 1980s; 2) in the way the Bank came up with solutions to address these problems and modify its lending policies in the 1990s (and beyond).

At the end of the 1980s, the World Bank was confronted with the disappointing results of structural adjustment policies. As de Capitani and North put it, the Bank was "at a loss to explain large differences in the outcomes of virtually identical structural adjustment policies" in developing countries (de Capitani and North 1994, 1). In order to explain these differences and to act upon them, the Bank turned to institutions and governance as variables that influenced economic performance. The solutions that the World Bank chose focused on putting in place those mechanisms/institutions of governance that lower information costs; provide incentives for contract fulfillment; secure property rights and ensure the credible commitment of governments to free market policies. All these recommendations are closely linked to neo-institutional economics. These links are to be found in direct references to the works of neo-institutional economics theorists in key governance documents of the World Bank (detailed below); the acknowledgements by the World Bannk staff as to the influence of the neo-institutional economics, and finally, in significant overlapping of assumptions, concepts and solutions between the Bank´s and the neo-institutional economics discourses.[21]

The first mentioning of "governance" in a World Bank document was in the "Sub-Saharan Africa. From Crisis to Sustainable Growth. A Long-Term Perspective Study" (World Bank 1989). The following statement appeared in a section of the document entitled "Governance for development": "[u]nderlying the litany of Africa's development problems is a crisis of governance. By governance is meant the exercise of political power to manage a nation's affairs" (World Bank 1989, 60). In the Foreword, the then president of the World Bank, Barber B. Conable argued that: "a root cause of weak economic performance in the past has been the failure of public institutions. Private sector initiative and market mechanisms are important, but they must go hand-in-hand with good governance – a public service that is efficient, a judicial system that is reliable, and an administration that is accountable to its public" (Conable 1989, xii). And finally, in the text, "Africa needs not just less government but better government - government that concentrates its efforts less on direct interventions and more on enabling others to be productive" (World Bank 1989, 5).

This first report identified governance as a variable to be taken into account in explaining economic performance. It went beyond requirements of accountability and rule of law, to include pluralism, freedom of press and human rights (World Bank 1989, 61). Due to the bold claims it

[21] Filip interviewed WB staff members during her PhD research and although she was not directly interested in this question, noted that "the contribution of institutional economics to the evolving thinking of the Bank in terms of governance issues was stressed by many of the Bank staff members interviewed in the course of this research" (Filip 1997, 41).

made, this report caused a great deal of discussion within the WB (Filip 1997). The General Counsel was requested to give his opinion on the legality of the Bank's tackling of governance issues and the potential conflict with the Articles of Agreement that prohibited the Bank to engage in political considerations. At the same time, the Bank required studies to familiarize its staff with the literature linking governance and economic performance. Neo-institutionalist economics occupied part of this literature review.[22] Both the opinion of Ibrahim Shihata, the General Counsel, and the literature review were later used as a basis for what is considered the most important document in which the World Bank exposed its official position on governance – the 1992 "Governance and Development" (World Bank 1992).

Governance was also briefly mentioned in the 1991 World Development Report "The Challenge of Development": "[r]eform must look at institutions. The establishment of a well-functioning legal system and judiciary, and of secure property rights, is an essential complement to economic reforms (…) Strengthening these institutions will increase the quality of governance and the capacity of the state to implement development policy and enable society to establish checks and balances" (World Bank 1991, 10). The World Bank advocated not only the reduction of state intervention in some areas, but also its increase in other areas (secure property rights, provide reliable legal system that would enforce contracts and limit state's arbitrariness). As

[22] The literature review "Governance and economy" was done by Deborah Brautigam (Brautigam 1991). Brautigam engaged in providing the Bank staff with an understanding between three aspects of governance (accountability, rule of law, openness/transparency) and economic performance. After reviewing new institutional economics, political science and development management literature, Brautigam found a strong link between economic development and well-specified property rights and enforceable contracts. She also found proved correlation between discretionary regulatory procedures and lack of accountability and economic waste. In what concerns participation, she found that participation of interested parties in projects increased the likelihood of success of specific projects. She failed, however, to find strong support in the literature for the correlation between regime type (authoritarian vs. democracy) and economic performance since policies that support economic growth were to be found in both types of regimes. Brautigam defined governance as a neutral concept, as the exercise of power/control and authority, or "the political direction and control exercised over the actions of the members, citizens, or inhabitants of communities, societies, and states" quoting the Random House College Dictionary (Brautigam 1991, 3-4).

shown below, this strongly resonates with the policy recommendations formulated by neo-institutional economists.

A document that significantly influenced the WB understanding of governance is the memorandum of the General Counsel at the time – Ibrahim Shihata. His task was to come up with a justification and conceptualization of governance that would not violate the Bank's prohibition to tackle political considerations, as expressed in the Articles of Agreement. Shihata had to determine which aspects of governance fit into the description of "economic considerations" and rule out those aspects that were essentially political and, therefore, prohibited by the Articles of Agreement.

Shihata argued that the key to determine these economic aspects of governance is to understand governance as "good order", as "an appropriate legal system, properly administered and enforced, for creating an environment conducive to business development" (Shihata 1991, 88). He claimed that the rule of law provided stability, predictability, social discipline and prevented arbitrariness – all requirements for a stable business environment. Governance issues such as civil service reform, legal reform, accountability for public funds, budget discipline could be understood as "economic considerations" (Shihata 1991, 86).

The documents mentioned above (the 1989 Report, the 1991 Report, Brautigam's review and General Counsel's opinion) all contributed in various proportions to the crystallization of the position of the World Bank in its 1992 "Governance and development". The 1992 World Bank document made direct reference to the work of Douglass North and that of Eggertsson who discussed neo-institutional economics, including the work of North (Eggertsson 1990).

In this document, governance was defined as "the manner in which power is exercised in the management of a country's economic and social resources for development. Good governance, for the World Bank, is synonymous with sound economic management" (World Bank 1992, 1). The document specified Bank's concern with "encouraging the formation of the rules and institutions which provide a predictable and transparent framework for the conduct of public and private business and to promoting accountability for economic and financial performance" (World Bank 1992, 3). The areas of public intervention were accountability, legal framework for development, information and transparency.

The World Bank openly embraced neo-institutionalist economics once Joseph Stiglitz became its chief economist in 1997. In a 1998 paper entitled "Towards a New Paradigm for Development: Strategies, Policies and Processes", Stiglitz argued that there was a need to go beyond the limitations of the Washington consensus and pay attention to the institutional infrastructure needed for efficient functioning of the market: "many countries followed the dictums of liberalization, stabilization, and privatization, the central premises of the so-called Washington consensus, and still did not grow. The technical solutions -- the prescriptions of the Washington consensus -- were evidently not enough…An economy needs an institutional infrastructure" (Stiglitz 1998, 1, 9). Stiglitz promoted the idea of development as a comprehensive transformation of society. He advocated such principles as transparency, openness, ownership, participation and strengthening of civil society as necessary conditions for building consensus and ensuring long-term commitment to development. He specified that behind the principles he advocated was "a theory of development, as well as evidence that these processes can lead to more successful development efforts" (Stiglitz 1998, 42).

The 1999 World Development Report on "Entering the 21st Century: Development Imperatives" focused on new directions in reflecting on development, mostly based on perspectives provided by neo-institutional economists (World Bank 2000). The document quoted and developed North's definition of institutions and his arguments on how economic change was possible (World Bank 2000, 22, 23). The new directions in development thinking were based on the understanding that "[s]ustained development requires institutions of good governance that embody transparent and participatory processes and that encompass partnerships and other arrangements among the government, the private sector, nongovernmental organizations (NGOs), and other elements of civil society" (World Bank 2000, 14). The efficacy of the markets depended on these enabling institutions, an effective civil service, an efficient judiciary, a government that "provides incentives for efficient production and for ongoing gains in productivity" (World Bank 2000, 23).

These positions of the World Bank played a significant role in the adoption of the notion of good governance by the OECD and the IMF. Occasionally, neo-institutionalist economists contributed directly by developing policy proposals in the working papers of these institutions (de Capitani and North 1994; Williamson 1993). The OECD presented similar arguments as the World Bank "[l]iberalisation of trade and investment is a necessary but not a sufficient condition for sustainable development progress and poverty reduction…Good governance, effective institutions, coherent economic policies and well-targeted social and infrastructure investments are essential" (OECD 1999, 10). It emphasized the need to create a "favourable 'transactions environment' in order for the market to function efficiently" (OECD 1999, 20). It advocated the rule of law, an efficient public sector/efficient public management, fight against corruption, policy coherence, consultation with civil society, participation, communication, dialogue, ownership as means to create consensus and support for economic reform:

> The public needs to be informed as to why open trade and investment are considered so important to their future well-being. Open dialogue and communication, involving all major stakeholders on the benefits and costs of open trade and investment, can improve understanding on all sides of short- and long-term effects of action and non-action, and

> on the distribution of costs and benefits (…) Communication can strengthen the voices of those who support and benefit from open trade and investment. Important allies include: businesses which will gain from low cost, high-quality goods and services inputs; consumers; and employees in fields in which job creation and wage growth will benefit from open trade and investment. (OECD 1999, 22)

As will be seen in the other chapters, this type of discourse inspired by neo-institutional economics and embraced by the international organizations such as the World Bank, the OECD or the IMF also played an important role in the rise of the other two concepts of transparency (communication, information) and partnership (dialogue, ownership). Besides, the OECD paid particular attention to the issue of policy coherence and expertise in public decision-making as a means to increase the intelligibility and predictability of public policy, both elements later to be found in the WPEG (OECD 1999, 32, 33).

The IMF aligned its policy recommendations to the good governance requirements. In a 1997 working paper for the IMF entitled “Towards a Market Economy: Structures of Governance”, Dhonte and Kapur specified the concept of economic governance and its implications for economic development in the following way: “the capacity of governments to credibly ensure a secure economic environment provides an important benchmark against which governance can be evaluated. Such an environment – which is essential for sustained growth in a market economy – can be established through a rules-based system which ensures freedom of entry into the market, access to information, and sanctity of contracts” (Dhonte and Kapur 1997, 1). They put an emphasis on the “[a] secure economic environment results from the assurance that the return on enterprise and investment will accrue to the entrepreneur and the investor; as such, it is a critical requirement for sustained growth”, “the credibility of the government as perceived by the investor” (Dhonte and Kapur 1997, 3).

The official position of the IMF focused on good governance requirements such as the rule of law, the efficiency and accountability of the public sector, the eradication of corruption, the transparency of state´s financial transactions, the development and maintenance of a transparent and stable economic and regulatory environment conducive to efficient private sector activities (IMF 1997).

The neo-institutional economics were essential to the formation of the good governance concept by the World and other international organizations. Again, the importance of this discussion is that the EU invoked the concept of "good governance" and its principles in its discourse on governing in the EU. After examining the neo-institutional economics theory, it will be possible to identify even deeper ways in which this theory influenced choices at the EU level, through the intermediary of experts (such as Majone, consulted during the elaboration of the WPEG, who recommended the creation and use of independent agencies and nonmajoritarian institutions in the EU). As seen below, both independent agencies and nonmajoritarian institutions were recommended by the neo-institutional economists as institutions conducive to economic growth because they ensure "credible commitment" of public authorities to policies and incentives for economic development.

The Nobel Prize winner Douglass North is probably the most representative economist of the branch of neo-institutional economics that focused on the broader level of the institutional environment of a national economy. North and de Capitani argued that political and social institutions were the most important factors in determining the growth or the decline of a national economy because they create or impede the possibility to economize on transaction costs: "[i]t is polities that shape economic performance because they define and enforce the economic rules of the game" (de Capitani and North 1994, 10). Institutions are defined as constraints that structure political, economic, and social interactions (North 1990, 4). Very importantly, these constraints are both formal – constitutions, laws, property rights – and informal – customs, traditions, codes of conduct, beliefs. North explained why some countries developed strong, growing economies and some did not, why, in North's words, historically, economic growth is the exception and not the rule. North´s goal was to find out what types of political institutions were more likely to lead to economic development and to explain how change towards these desirable institutions was possible.

He argued that the institutions that led to economic development were those which allowed for successful economizing on transaction costs, and thus created incentives for entrepreneurs to engage in productive economic activity. North argued that "[f]irms come into existence to take advantage of profitable opportunities, which will be defined by the existing set of constraints. With insecure property rights, poorly enforced laws, barriers to entry, and monopolistic restrictions, the profit-maximizing firms will tend to have short time horizons and little fixed capital, and will tend to be small scale" (North 1990, 67). Therefore, institutions that lead to economic growth are institutions that define and protect property rights, enforce contracts, and lower information costs. Credible, long-term commitment to these practices is an additional requirement. The state must be prevented from exercising its powers in arbitrary ways which create uncertainty and, therefore, inhibit productive economic activity. According to neo-institutional economists, this problem of "credible commitment" is as much a problem of developing countries as that of developed ones.

North explained that the difference between Third World countries and the developed economies of the West lies in the existence of these institutions that lower transaction costs: "[t]he institutional structure in the Third World lacks the formal structure (and enforcement) that underpins efficient markets" (North 1990, 67). North also drew attention to the role of informal constraints in economic growth. He argued that cultures that rewarded economic performance contributed to economic growth. He stressed the role played by a strong civil society, committed to property rights and economic growth, in the economic development of England or the US. Social widespread consensus around institutions that promoted economic growth played a crucial factor in economic development.

Having identified what type of institutions are likely to induce economic growth, North asked how it is possible to change existing inefficient institutions into efficient ones. He argued that this change must occur at both levels of formal and informal institutions; otherwise change would be superficial and unstable. Changing formal institutions – constitutions, judicial system, etc – would not be enough. The much needed transformation of *informal* institutions was slow and difficult; North was relatively pessimistic about the possibility of change, warning that it would be "overwhelmingly incremental" (North 1990, 89). Conversion would have to operate at the level of the subjective perceptions of individuals and organizations which would find it to their benefit to engage in modifying the existing institutional matrix. This change of perceptions would depend on the information that individuals and organizations had to re-assess their benefits from change. Therefore, conversion of inefficient institutions into efficient ones depended on creating organizations that had an interest in this change (North 1990, 365).

Together with de Capitani, North presented the neo-institutional economics understanding of economic development in a working paper of the World Bank (de Capitani and North: 1994). The authors argued that "[i]t is essential to change both the institutions and the belief systems for successful reform since it is the mental models of the actors that will shape choices. Therefore, belief systems and the way they evolve will be the ultimate determinants of the institutional matrix" (de Capitani and North 1994, 11).

The good governance concept of the World Bank is based on these recommendations. The requirements of accountability, rule of law, transparency, and participation are the reflection of the neo-institutional economics understanding of institutional criteria for economic growth and conditions of change. While some of the features of good governance stress the formal institutions – e.g. rule of law, property rights – some are directed to the transformation of the informal constraints or of the belief systems. The focus on participation, on the involvement of civil society, falls into this category. Behind these principles are North's ideas that change towards economically favorable institutions is possible when the organizations realize their benefits from change and engage in altering the existing inefficient institutional infrastructure. Communication and transparency – the availability of information – serve as means through which belief systems change and social consensus towards practices favorable to economic growth is formed. An analysis of the documents of the World Bank, the OECD and the IMF show that, indeed, the reasons behind advocating participation, transparency and communication was to make populations realize the benefits from economic reforms and the creation of social consensus necessary to support economic reforms.

Neo-institutional economists also discussed the problem of credible commitment. The problem of credible commitment goes beyond the requirements and conditions to build an economically favorable institutional infrastructure in developing countries. Developed countries are concerned as well in maintaining state's commitment to institutions and policies that favor economic growth. The problem of credible commitment is particularly relevant to the discussion in this thesis because it has direct consequences in the WPEG, in such proposals as the delegation of policy-making powers to independent regulatory agencies, reliance on expertise, and the decentralisation of decision-making process.

North's argument outlined above emphasized that the political institutions played an essential role in economic development. For economic development to occur there is the need of an effective state able to enforce contracts and establish and protect property rights. However, the state itself must be controlled, because an effective, therefore powerful, state raises the risk of arbitrary decision-making and confiscation of wealth, both risks that inhibit engagement in productive economic activity: "[b]ut therein lies the fundamental dilemma of economic development. If we cannot do without the state, we cannot do with it either. How does one get the state to behave like an impartial third party?" (North 1990, 58).

Further developments in economic theory tackled the question of how to maintain the state as an impartial third party, to make sure that the state remained committed to economically favorable policies (Qian and Weingast 1997, 84). Barry Weingast argued that credible commitment depended on the governance structure of the state: "[in] important respects the logic of politic institutions parallels that of economic institutions. To borrow Williamson's phrase, the political institutions of society create a 'governance structure' that at once allows the society to deal with on-going problems as they arise and yet provides a degree of durability to economic and political rights. Importantly, these help limit the ability of the state to act opportunistically by confiscating wealth it had previously attempted to protect" (Weingast 1993, 288).

Democracy, the rule of law, and the principle of separation of powers can all play a certain role in maintaining the credibility of state policies by limiting its discretionary powers. However, these principles do not offer sufficient safeguards against the possibility of a reversal of policies. Democracy, in particular, due to electoral cycles, is prone to policy instability: "[i]n and of itself, instituting democracy alone is not sufficient to protect markets" (Weingast 1993, 288). A similar argument is made by Majone who draws attention that majoritarian democracy leads to the "politicisation of economy" and has negative effects on economic growth:

> The expansive potential of majoritarian democracy has been demonstrated, most clearly in Europe, by the incessant growth of public ownership, taxation, and discretionary policymaking for several decades after the end of World War II. The reaction to the politicisation of the economy that eventually set in, combined with the ever closer interdependence of the national economies, led to the rediscovery of the importance of constitutional and other constraints on the discretionary powers of governments. (Majone 2001, 57).

Governance structures that include nonmajoritarian principles of organization are more likely to preserve credible commitment. Federalism is such a governance structure. The decentralisation of information and of regulatory authority, the unrestricted flow of goods and services among competitive jurisdictions are all elements that limit the discretionary powers of the central authority and lead to credible commitment to economically efficient policies (Weingast 1993, 289-290). The securing of market-preserving federalist principles in a constitution is an even more reliable way of securing credible commitment (Weingast 1993).

Governing in the EU relies on several nonmajoritarian institutions such as independent central banks, regulatory agencies, courts, administrative tribunals, even the European Commission. Majone discussed the problem of credible commitment in Europe, along the lines inspired by neo-institutional economics (Majone 2001, 58; 1996a; 1996c; 1996b). He advocated the delegation of regulatory powers to independent agencies as a way to ensure credible commitment. He criticized the ineffectiveness of state dirigisme, public ownership (nationalization) of utilities and bureaucratic centralization. Majone favoured "a style of regulation characterized by independence, expertise and policy entrepreneurship" (Majone 1996d, 21). Delegation of policymaking powers to autonomous agencies meant "insulating regulators from the political process to enhance the credibility of regulatory commitment" and commitment to optimal long-run policy (Majone 2001, 66, 62). He admitted that this process supposed a "reordering of public priorities", the shift from the redistributive and stabilization functions of the state to the regulatory one "attempts to increase the allocative efficiency of the market by correcting various types of market failure" (Majone 1996c, 54). It is interesting to notice that his ideas resemble those of the procedural law theorists who equally argue that law and public authorities should abandon the ambition of determining substantive outcomes of governing and should focus instead on putting in place the procedures of self-regulation. Majone played a significant role in the preparatory phases of the WPEG as he helped promote the idea of independent, regulatory agencies. One of the themes of the preparatory working groups of the WPEG was precisely the use of independent executive agencies, to which Majone contributed. He justified the need to rely on expertise and warned against the "perils of politicisation" of the European Commission.

Some of the neo-institutional economics ideas are to be found in the WPEG, but also in the reflection on the completion of the single market (High Level Group on the Operation of Internal Market 1992) [hereinafter the Sutherland Report 1992] and the economic governance of the EU (the Sapir Report 2003). As mentioned in the Sapir Report: "[t]here has been a growing sense that improved economic governance is critical to the chances of the European economy performing better, that institutional and management deficits impede economic performance, and that getting the governance right will be even more important as the Union enlarges" (the Sapir Report 2003: 75).

C. Conclusions: The impact of economic theory on the current rationality of government

The emergence of the concept of governance has been a process that started several decades ago through the knowledge produced by social sciences. This knowledge contributed to the configuration of a new rationality of government. The concept was formed in three areas of thought – in the study of private governments, in systems theory and cybernetics, in academic debate on the state/ critique of the welfare state, and neo-institutional/transaction cost economics. Though presented here distinctly for analytical purposes, these areas relied on each other and shared premises and solutions.

The rise of the concept of governance coincided, initially, with the formation of the notion of private government and the emergence of a representation of society as highly complex and functionally differentiated. Systems theory further advanced these representations and cybernetics developed a new notion of control in the context of high complexity. Cybernetics proposed a series of concepts which were taken over by other social sciences and contributed to the representation of society and of its functioning on which the current rationality of government has been partly built.

The concept of governance accompanied a paradigmatic shift in economic thought through a focus on political institutions as determinants of economic development and growth. This type of reflection underpinned the notion of good governance of the World Bank and engendered further reflection on what type of political institutions were needed to create and maintain an institutional infrastructure that led to economizing on transaction costs.

The impact of transaction cost economics on the emerging rationality of government was at two levels. First, it introduced the idea of alternative governance structures as essential determinants for the efficiency and effectiveness of economic activity – the match between type of transaction and organization structure under the criteria of economic efficiency. The idea and the expression were subsequently transferred to the analysis of public policy as ‘goodness of fit’ – to match governance structure with policy area under the criteria of efficiency and effectiveness. That, in turn, led to a diversification of organizational structures through which the activity of government could be performed. The second impact was more direct and more significant. It concerned the branch of neo-institutional economics that focused on the macro-level of a national economy and asked what conditions political institutions should meet in order to lead to economic performance. In this type of reflection, political institutions were evaluated as means to economic performance and not as means to ensure the freedom of individuals, equality or justice. The ideas behind good governance – transparency, accountability, rule of law, participation – have been justified in terms of their capacity to lead to economic performance, and not to improve democracy.

This type of reflection contributed to an emerging rationality of government in which the starting point is not primarily directed at given results such as the protection of individual freedom, equality or justice. Recent reflection on innovation in governing focused on ways to increase the efficiency and effectiveness of government, seemingly indifferent to expected substantial outcomes, with the exception of economic development. The WPEG drew from all the above-mentioned sources and embraced their representations and assumptions, meaning that this rationality of government is also present within the EU. The work of the Forward Studies Unit and the preparatory working groups that elaborated the document that constituted the foundations for WPEG offer evidence in this sense. The influence of the neo-institutional economics is visible in the embrace of the “good governance” discourse of the World Bank and the OECD in such documents as the WPEG, the Sutherland Report 1992 or the Sapir Report 2003.

The rise of the concept accompanied some modifications in the rationality of government among which the modification of the object of governing: the gradual substitution of individuals with organizations or systems – generically defined - as objects of governing. A second modification regards the why of governing. The activity of government is redefined as the ability to steer a system, but no longer to determine its substantive outcomes. From all possible goals of government, what seems to remain then are the goal of efficiency and effectiveness. Thirdly, there is a modification in the how of government, of the means of government, mostly located in the emergence of new legal instruments, no longer focused on the extracting substantive outcomes, but on ensuring the procedures that lead to self-regulation.

III. On the concept of transparency

As seen in the previous chapter, the concept of transparency was often present in the discussion on “governance”. Neo-institutional economics, which influenced the good governance approach, proposed the design of transparent political institutions and decision-making processes in order to reduce transaction costs and ensure credible commitment. According to the neo-institutional economists, transparency may also play a role in the difficult task of changing poorly performing institutions since through transparency actors realize their advantages in adopting institutional frameworks likely to generate better economic performance. Additionally, transparency prevents corruption – a phenomenon criticized for increasing transaction costs and, thus, inhibiting economic activity.

Deepening the discussion on transparency in the EU is useful for a number of reasons. Firstly, it is necessary to correct the widespread misunderstanding in the EU literature that the discussion of transparency in the EU has been largely concerned with the effort of democratizing the EU by recovering the classic liberal principles of publicity and open government. Before promoting transparency as access to EU documents, the European Community used the concept extensively in the economic field. The preliminary mapping section of this chapter shows the presence of the concept of transparency in the European context since the 1950s in such expressions as “price transparency” and “market transparency”. In the history of European integration, the concept was a key intellectual element in the reflection on ensuring markets integration, defining competition policy, completing the internal market and establishing the institutional infrastructure for monetary union.

Secondly, it is important to show just how entrenched the economic concept of transparency has become in the EU rationality of government. The rise of the concept of transparency depended on changes in economic theory, more precisely, on the inclusion of information as a critical element in explaining economic behavior and performance. This inclusion happened in transaction cost economics, but also in the explosive literature on game theory in which the analysis of strategic behavior took into account the information available to actors as an essential condition that shaped their choice of courses of action. From this logic, transparency emerged as a necessary requirement to foster cooperation and compliance, therefore, a crucial element in the design of efficient international regimes. Transparency played a key role in the reflection on free trade regimes and the integration of markets, be it at the European level (the European common market) or the global level (the former GATT and current WTO arrangements). Transparency as key element in game-theoretical approaches also appeared in the developments in monetary theory, especially in relation to the institutional design for efficient monetary policy that took into account the rational expectations of economic actors. Finally, transparency emerged in the reflection related to the conditions of competition. Economists argued that the availability of information (on prices, quality, etc) also known as "market transparency" and "price transparency" was indispensable for a truly competitive market. As seen in the preliminary mapping below, these elements coming from economic thought helped the introduction and maintenance of transparency in the EU discourse and governing.

The structure of the chapter is the following. Just like the previous chapters, it starts with a preliminary mapping of the use of the concept in EU documents. As mentioned above, this section shows how the European institutions used the concept much earlier than the 1990s (the period credited by the EU scholars for the emergence of transparency in the European institutions discourse) in such expressions as "price transparency" and "market transparency".

The second section of the chapter discusses how the EU literature explains the emergence of the concept in the EU almost exclusively in terms of access to information and opening-up of the decision-making process, neglecting the evolution of the concept in economic thought. Most of these studies equate the EU use of transparency with the recovery of classic liberal principles of publicity and open government.

The third section of the chapter traces the history of the concept and links the EU use of the concept with developments in economic thought. It highlights, for example, the connection between German ordoliberalism and European competition policy; the insights of game theory with the design of efficient regimes and the requirements of institutional economics with the disclosure of information and the opening-up of the decision-making process. The goal is to show how governing in the EU borrowed from an existing rationality of government largely shaped by economic thought. To strengthen this argument, a section in this chapter also considers in more details the contrast between the principles of publicity as inherited from classical liberal thought and that of transparency that has come to replace it. The conclusions of the chapter focus on some of the consequences of this transition from publicity to transparency for the current rationality of government.

A. The use of the concept of transparency in EU documents

1. Preliminary mapping

Most academic accounts identify the introduction of transparency in the EU in early 1990s, in connection to the adoption and ratification problems of the Maastricht Treaty (Grønbech-Jensen 1998; Lodge 1994; Peterson 1995b; Oeberg 1998; Oeberg 2000; O'Connor 1997; Thomson 1998; Moser 2001). Grønbech-Jensen stated that "[i]n only a few years the notions of openness and transparency have been integrated into the Community vocabulary"

(Grønbech-Jensen 1998, 185). According to Bjurulf and Elgstrom “the EU transparency process started in earnest with a non-binding declaration on the right of access to information in the Maastricht Treaty” (Bjurulf and Elgstrom 2004, 254). Moser equally claimed that “[n]either democracy nor transparency was on the agenda of the early European Community for Coal and Steal (….) Transparency and openness came first on the agenda in the early 1990s” (Moser 2001, 5, 6). Consequently, for most of these accounts, the transparency issue in the EU is defined in terms of citizens’ access to EU information and decision-making process, both issues closely linked to the problem of the democratisation of the European Union. However, the use of transparency by the European institutions goes further back in time and played a crucial role in the reflection on the creation and completion of the common, and later on, single market, serving a clear economic purpose.

Contrary to most existing academic accounts, transparency played a significant role in the earlier stages process of European integration, including the European Community Coal and Steel, when the concept was used in relation to market and price transparency. Moreover, in the early stages of the European integration, it was invoked and applied by the European institutions – especially by the Commission and the Court of Justice – in order to compel member states to provide information necessary for the effective and coherent implementation of European legislation across the then European Community. The flow of information between the Commission and the member states and among member states was considered a key condition for the both the integration of European markets and the proper functioning of the new integrated market by creating the conditions for genuine competition. The Commission required information about existing legislation and various social and economic indicators from the member states as a pre-condition to act at Community level. Highlighted below are some key areas in which the European Community and, later, the European Union, used the economic concept of transparency. It is important to note that the use of transparency in the European context started decades before the Maastricht Treaty and it was unrelated to any democratization ideal, carrying only an economic rationale. As seen later in this chapter, in the section dedicated to the history of the concept, the rise of the concept of transparency was mainly justified by changes in economic theory reflected in policy recommendations.

2. Price transparency in the common market: the competition imperative

To create a common market required the elimination of economic discrimination across borders. One of the means to achieve these goals was to impose market transparency. Diebold discussed the price policy of the European Coal and Steel Community and pointed to the fact that one of the expected benefits of this policy was to increase "market transparency" (Diebold 1959, 276). The price policy included an obligation to publicize prices to prevent cross-border discrimination: "prices are to be public and non-discriminatory" (Diebold 1959, 240). Spaak and Jaeger discussed the provision in the European Coal and Steel Community Treaty which obliged "all enterprises to publish, to the extent and in the form prescribed by the High Authority, their price-lists and conditions of sale" (Spaak and Jaeger 1961, 493). The word "transparency" did not appear in the text of the 1951 Treaty. However, the concept was present because the Treaty required the publication of prices (the chapter "Prices" of the Paris Treaty, article 60, paragraph 2). In 1961, Spaak and Jaeger explained the introduction of this provision in the following terms:

> The main concern in laying down these rules was not so much to ensure competition as such, as to secure perfect market transparency in order to assure equal access to the sources of production to all consumers, in particular to consumers of a nationality different from that of the producer; and to make any discrimination and unfair practices, if not impossible, at least very difficult. This absolute principle of nondiscrimination, a

> vital necessity for abolishing differences of nationality in a common market, has thus been incorporated into the rules of competition (Spaak and Jaeger 1961, 493).

The importance of price and market transparency since the inception of the common market is also noticed by Collinson who remarked: “[t]he second major objective of the Paris Treaty provisions concerns publication of transport charges and the consequent creation of market ‘transparency’” (Collinson 1972, 227). Collinson referred to article 70, paragraph 3 of the Paris Treaty which required the publication of transports rates and conditions or the information of the High Authority on these aspects.

The European Economic Community continued to pursue the principle of transparency in the transport market. The nature, form, and extent of publicity of transportation rates had been the object of a regulation proposed by the Commission in 1963 that aimed, among others, to provide “a sufficient transparency of the market and a certain stability of rates" (quoted in Collinson 1972, 287, 291).

Moreover, the European states pushed for their standards of market transparency internationally. For example, Koehane and Ooms quoted a speech by Helmut Schmidt, the then minister of finance of the Federal Republic of Germany, in the opening plenary session of the International Industrial Conference, San Francisco, California, 17 September 1973 in which Schmidt called for "greater transparency of international trade and capital movements" (Keohane and Ooms 1975, 171). Another example is the creation of the Standing Group on the Oil Market as an information gathering body demanded by Germany, among other countries (Keohane 1978, 937). The task of the Group was to provide aggregated data on oil prices or studies on oil company finances to the Secretariat of the International Energy Agency and to member states with the aim to achieve full “transparency” of the oil market (Keohane 1978: 938). Schachter recorded similar proposals for increased market transparency at the global level formulated by the French foreign minister, Michel Jobert, who asked for the creation of a UN global economic monitoring center with the goal of enhancing market transparency through the recording and publication of prices (Schachter 1975, 109).

At the European level, the concept persisted and was extended to policies in relation to state aid and public procurement. The goal was to foster competition and to prevent the introduction of new trade barriers, by state authorities or private enterprises (Mathijsen 1972, 377). Mathijsen detailed the Commission's principles of co-ordination for state aids for regional development among which transparency played a key role: "[t]ransparency of the aids and the aid-schemes is considered essential for the application of the principles. Consequently, the member states will, during the transitional period, eliminate all non-transparent aids" (Mathijsen 1972, 383-4). As shown below, this same principle was extended to specific sectors of the common market.

In 1980, the European institutions embarked on a programme designed to encourage energy saving in the European Community. In the annex to the Council Resolution on "New lines of action by the Community in the field of energy saving", it was specified that "energy prices on the market should be characterized by the greatest possible degree of transparency. Publicity about energy prices and the cost to the consumer of energy used by appliances and installations should be as widespread as possible". A year later, the Commission produced a follow-up document to the above mentioned Council resolution in which the promotion of transparency was justified as "one of the best means of ensuring that prices genuinely reflect cost and market conditions, and distribute costs fairly between consumers" (Commission of the European Communities 1981, 2). Transparency in the energy market was defined in terms of “the scope and quality of public information on energy prices” (Commission of the European Communities 1981, 2). Transparency targeted consumers who “should be able to reach informed judgments on trends in energy pricing” (Commission of the European Communities 1981, 7).

In 1989, the Commission prepared the ground for legislation that would give it the right to pursue more vigorously price transparency policies in the energy sector. It added a set of new arguments in support of its approach. It no longer targeted information and the diversification of choices for consumers, but wanted to make sure energy prices did not conceal unauthorized state aid. The Commission argued that “[w]hen energy prices are not transparent, they are capable of containing elements of state aid unauthorized by the Commission or covering up anti-competitive practices by undertakings in breach of Community rules on competition” (Commission of the European Communities 1989b, 4). The goal of price transparency was no longer targeted at stimulating energy-saving consumer behavior, but was much broader: “[t]he contribution made by improved price transparency must therefore be seen in the overall context of the completion of a single unified energy market and carrying out of the Community’s structural policies bringing increased competitiveness and profitability” (Commission of the European Communities 1989b, 5).

From the quotation above, it is easier to understand the key role assigned by the Commission to the principle of transparency in its effort to pursue the achievement of an integrated market. Transparency, of prices in particular, not only increased competition by giving consumers greater choice and by the removing the possibility of hidden state aids, but also allowed the Commission to scrutinize the faithful application of Treaty rules. As seen below, in the section dedicated to the history of the concept, this position was based on existing economic approaches at the time, especially ordoliberalism and the “markttransparenz” doctrine dominant in Germany. The term “markettransparenz” was the preferred term in German competition theory and practice from the 1950s on and German economic thought had a significant impact on the creation of the common and, later, single market. Transparency as knowledge about market conditions increased market rationality by facilitating best choices for both consumers and entrepreneurs.

The legal base sought by the Commission to pursue more vigorously price transparency policies in the energy sector was provided by the Council Directive 90/377/EEC of 29 June 1990 regarding a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users. The Council Directive once again emphasized that energy price transparency was a key element in the successful functioning of the internal energy market because it fostered competition and choice between various energy sources and suppliers. Moreover, enforcing similar transparency standards across Europe was presented as a condition for the completion of the single market. Transparency was achieved by the “publication and circulation of prices and price systems as widely as possible among consumers”. Member states were required to forward this type of information to the Statistical Office of the European Communities.

Three years later, the Commission published a report on the operation of the Directive 90/377 in which it argued that by increasing the transparency of prices, the industrial end-users were able to negotiate contracts with suppliers more effectively (Commission of the European Communities 1993b, 3). It thus represented the first step towards the establishment of “free and competitive markets for gas and electricity” (Commission of the European Communities 1993b, 3).

It is important to note that a similar debate on transparency in the energy sector surrounded the creation of the International Energy Agency (IEA) in 1974, to which the European Commission was an observer (Willrich and Conant 1977). The IEA Agreement provided for the establishment of the Standing Group on the Oil Market. As mentioned above, the role of this Standing Group was to collect and circulate information about oil companies. The goal was "to make the operations of the companies more 'transparent'" as required by European countries and Japan (Willrich and Conant 1977: 208). Price transparency was another goal of IEA providing participating states with valuable information about the practices of oil companies: "[t]he oil market information system and oil company consultation framework can serve to increase not only the transparency of oil industry operations but also the confidence of the participating countries in the "fairness" of oil industry operations" (Willrich and Conant 1977: 221).

In the case of the telecommunications market, the Commission used the principle of transparency to compel member states to publish information on tariffs concerning access to leased lines (Commission directive 90/388/EEC on competition in the markets for telecommunications services, Council Directive 92/44/EEC of 5 June 1992 on the application of open network provision to leased lines, Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision). The goal was to enforce the competition and non-discriminatory rules of the Treaty and to achieve a "liberalized and harmonized European [telecommunications] market" (Commission of the European Communities 1997b).

The Commission and Council applied the principle of price transparency to the pharmaceutical market as well. The Council Directive 89/105/EEC of 21 December 1988, also called the Transparency directive, required member states to provide information regarding the prices of medicinal products for human use and their use in the national health systems. This information would allow the Commission to prevent national measures that would constitute quantitative restrictions on imports or exports or measures having equivalent effect leading to unlawful distortions of the pharmaceutical market.

From this section, it can be inferred that the principle of transparency played a key role in the creation of the common market, particularly in what concerned price transparency as a first step towards ensuring non-discrimination and competition. As seen above, the publicity of prices held a special place in the Treaty of Paris, especially in the area of transportation policy. It is interesting to note that price transparency remained one of the first principles the Commission sought to enforce when it intended to integrate still fragmented markets (e.g. the energy market, the telecommunication market). As shown below in the section dedicated to the history of the concept, price transparency plays such an important role because economists believe it is one of the most reliable regulatory mechanisms of markets and a key condition for effective competition. However, this economic rationale is not the only one that propelled the use of transparency in the EU as seen in the following sections.

3. Transparency of member states as a necessary condition to enforce Community legislation

The European Community has a long tradition of imposing transparency standards to member states with the goal of creating a functioning internal market. Probably one of the first uses of the concept of transparency by a European institution occurred in a 1972 Commission document which emphasized that "[t]he logic behind the integration of Europe calls for a greater transparency not only of social realities but also of economic data. The harmonization and upward alignment of standards of living, one of the objectives of the Community laid down in the Treaties of Rome and Paris, cannot, moreover, be achieved without prior knowledge of the situation existing in each of the member countries" (Commission of the European Communities 1972, 1).

The principle of transparency was present in the obligation of the member states to notify the Commission of the intention to introduce technical requirements that could constitute barriers to the free movement of goods within the single market. This is important because the implementation and the enforcement of the Treaty provisions on the free movements of goods is often considered a template subsequently applied to the enforcement of the Community legislation concerning the three other freedoms (people, capital and services).[23] Council directive 83/189/EEC of 28 March 1983 specified the procedure for the provision of information in the field of technical standards and regulations. This procedure aimed to prevent the emergence of barriers to the free movement of goods that might arise from the imposition of unnecessary technical regulations. Member states were required to notify the Commission when they envisaged new technical standards and regulations. The Commission, once notified, had to decide whether the proposed standards and regulations had any unlawful effect on the free movement of goods. In the judgment "Commission of the European Communities v Republic of Finland" of April 26, 2007, the Court decided that the obligation of transparency was derived from the principle of non-discrimination enshrined in the Treaty.

This notification procedure established in Council directive 83/189 became known as the "regulatory transparency mechanism" and it was extended to other areas such as the information

[23] Some of the most important rulings of the Court of Justice were taken in the area of the free movement of goods: Van Gend & Loos (1963) which instituted the direct effect of Community law, Costa vs. ENEL (1964) which established the primacy of the Community law over the national law and Cassis de Dijon (1978) which established the principle of mutual recognition.

society services. The Commission defined the procedure specified in the Directive 83/189 as the "most extensively use of regulatory transparency mechanism to date", a key instrument of Internal market policy. It justified its extension because it led to "*the smooth functioning of the Internal Market particularly by preventing the creation of new obstacles*" (Commission of the European Communities 1996b, 1c italics and underline in original). The application of the transparency procedure to the internal market for information society services entailed an obligation from the part of the member states to forward to the Commission any draft legislation that concerned the regulation of information society services. The Commission subsequently shared the information with the rest of the member states. The benefits for the market included the prevention of the (re) fragmentation of the internal market and the "stability and accessibility of the regulatory framework" (Commission of the European Communities 1996b, 27). Last, but not least, the Commission found that the "[t]he transparency mechanism is a particularly effective tool of administrative co-operation which may lead to a genuine, collective European reflex" (Commission of the European Communities 1996b, 27). It added that in order for these benefits to materialize, the transparency mechanism must become legally binding: "[i]f it were left to the discretion of the member states to communicate their draft regulations on Information Society services, this would limit considerably the scope and effectiveness of the transparency and would detract from the spirit of administrative co-operation" (Commission of the European Communities 1996b, 31).

The Commission positioned the obligation of transparency within the broader obligation of loyalty of member states towards the European Community. Council Directive 83/189 invoked article 5 of the Treaty of Rome according to which "member states shall take all appropriate measures, whether general or particular, to ensure fulfillment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community. They shall facilitate the achievement of the Community's tasks. They shall abstain from any measure which could jeopardize the attainment of the objectives of this Treaty".

The Commission directive 80/723/EEC of June 25, 1980 on the transparency of financial relations between member states and public undertakings required the former to provide information to the Commission on the use of public funds in regard to public undertakings. The Commission conceived this requirement as a measure to monitor state aid control and, therefore, make sure that conditions for competition were fulfilled in the then common market. The Court of Justice upheld the Commission directive 80/723/EEC of June 25, 1980. The Court emphasized that "a fair and effective application of the aid rules in the EEC treaty is possible only if those financial relations are made transparent" (Judgment of the Court of 16 June 1987, Commission of the European Communities versus Italian Republic).

The European Commission was not the only one using transparency in relation to public procurement and state aid. The OECD took a similar approach. In 1983, it published a report on "*Transparency for positive adjustment. Identifying and evaluating government intervention*" (OECD 1983). The goal of the report was to "describe the techniques and institutional arrangements used to identify and evaluate financial subsidies within a number of member countries. It examines the completeness and quality of information available both to the public and to decision-makers regarding the magnitude and economic consequences of those subsidies" (OECD 1983, 9). The OECD referred to both "internal transparency" – the information available to decision-makers and "external transparency" – information available to the general public (OECD 1983, 10). It argued that underlying economic rationale for transparency rested in the rational expectations model: "[t]he nexus of the problem is that the behavior of economic actors

– workers, managers, and financiers – may be conditional upon their anticipations of government policy. And government policy, to be most effective, must take account of anticipations-induced behavior” (OECD 1983, 25). Krasner credited the EEC and the OECD for setting standards on government procurement, later adopted as international criteria during the Tokyo round of the GATT 1973 – 1979 (Krasner 1979, 514). The transparency standards included the “publication of rules for biding; adequate time to prepare bids; and publicity about winning bids” (Krasner 1979, 514).

The Commission presented similar arguments in its Work Programme for 1985. It argued that the transparency of the decision-making process in member states was an essential tool in the control of state aids and the enforcement of competition rules across the European Community. Enhancing certainty and transparency in the decision-making process in the member states would help the Commission “adopt the same firm attitude to schemes which promote protectionism, distort competition, and help firms which are never going to return to viability to survive” (Commission of the European Communities 1985, 21). In the same document, the Commission committed itself to transparency in regard to the use of its financial instruments.

4. Transparency as a requirement for the completion of the internal market

The European Commission under the leadership of Jacques Delors pushed the goal to complete the internal market at the end of December 1992, in accordance with the deadline set by the 1987 Single European Act. The principle of transparency acquired a central status in the final phases of this effort, so much more as it was required by the Sutherland Report of 1992. The report identified “communication” as the major problem confronting the functioning of the internal market. According to the report, the success of the internal market largely depended on consumers and firms making use of it. For this to happen, both consumers and firms must become aware of the opportunities offered by the internal market and gain confidence in using them (the Sutherland Report 1992: 4-5). Transparency was key to achieve these goals, as required in two essential areas identified in the Report: the communication of information to consumers and firms and the decision-making process of the European Community institutions. The report noticed that the first area could be improved by providing information about rights and existing regulatory framework to consumers and firms through brochures, manuals, interpretative notices, guides and databases. The consumers and firms must have easier access to courts for redress when their rights were not respected. Secondly, the Report argued that it was essential to open up the European decision-making process to include more frequent consultations with both consumers and firms in the preparatory phases of the legislative process: "[c]onsumers and firms need to be consulted – and involved – more systematically and effectively" (the Sutherland Report 1992, 6). In 1993, in a follow-up document to the Sutherland Report, the Commission identified the consolidation of legislation as one element in the process of improving transparency in the single market. Legislative consolidation would imply, in the Commission's formulation, making Community legislation "more accessible, concise and comprehensible, while assuring legal security" (Commission of the European Communities 1993c).

The Sutherland report played a major role in the EU engagement with transparency as increased access to documents and increased participation in the decision-making process. It carried a compelling argument: the single market could not be accomplished if transparency were not improved because neither consumers nor entrepreneurs would increase their participation in the market. The Commission referred frequently to the Sutherland report in its memorandums and other internal papers. The fact that the Sutherland report was published at the same time with the conclusion of the Maastricht Treaty may explain why the latter is often wrongly credited with accelerating the use of transparency by the European institutions.

Transparency continued to have a prominent place in reviews of the single market progress. In the 1996 evaluation, the Commission identified several areas where transparency could be increased in order to improve the functioning of the single market. One of these areas was that of public procurement: "transparency: contracting authorities must publish tender notices for contracts in the Official Journal" (Commission of the European Communities 1996a, 46). The Commission complained about the slow pace of national transposition of the Community procurement legislation, but noticed with certain satisfaction that there was improvement in the degree of "transparency and openness" (Commission of the European Communities 1996a, 46). At the same time, it expressed its discontent with the results of the "transparency directive" in the pharmaceutical sector and the telecommunications market (Commission of the European Communities 1996a, 56). In the energy sector, the Commission looked favorably at the start of the liberalization process: "[a]lthough important steps were made in the early 1990s, in the form of the European Union Directives on transit and price transparency, efforts at market liberalization are only now coming to fruition" (Commission of the European Communities 1996a, 68).

A new area identified in the 1996 review of the single market was the job market and the free movement of workers. The Commission welcomed the creation of the EURES, a system aiming to increase labor market transparency by providing "services and information concerning job vacancies, and living and working conditions, throughout the member states, Iceland and Norway" (Commission of the European Communities 1996a, 96).

Other areas evaluated in terms of transparency were the insurance and financial markets. The Commission deplored the lack of transparency in the financial services sector and the difficulties consumers had in understanding various financial offers and products (Commission of the European Communities 1996a, 103).

The Commission employed the principle of transparency in the context of the creation and activation of risk capital markets in the European Union. It argued that job creation in the EU depended on the incentives provided for investors. However, the conditions that would facilitate investments were not met in Europe. The lack of information and transparency in capital markets in member states had a significant negative impact, along other deficiencies such as disparities in taxation, accounting rules and bankruptcy laws. The lack of transparency of the European institutions further discouraged investors:

> The European Union's institutional and regulatory framework does not provide the necessary incentives or create the required transparency, stability and predictability for the growth of pan-European risk capital. A heavy price is paid in poor job creation and sub-optimal economic growth (…) Not only investors, but also the markets which bring together investors and high growth firms must meet the same levels of liquidity, transparency and prudential which characterize US stock markets (…) In order to match the requirements of European investors with European entrepreneurs, a real effort to improve the transparency of companies and markets is necessary. (Commission of the European Communities 1998, 12)[24]

5. Rational expectations, the transparency of the Central Bank and the European Monetary Union

Transparency played a key role in both justifying the need of a common currency and the institutional infrastructure to support it. Price transparency was one of the most used arguments

[24] This aspect reminded of the disclosure requirements long-practiced in the US as regards corporate governance and financial markets.

in favor of a common currency: “increased price transparency will enhance competition and whet consumer appetites for foreign goods; price discrimination between different national markets will be reduced” (Commission of the European Communities 1996a, 74). Price transparency held a prominent position in the well-known report “One Market, One Money” which sought to provide the ultimate justification for the common currency (Commission of the European Communities 1990b). The Commission evaluated the benefits of the common currency against the three requirements of economic policy: efficiency, stability and equity. Related to the contribution of the common currency to economic efficiency, the report claimed that it would lead to price transparency that in turn would favor a true competitive environment (Commission of the European Communities 1990b, 36). Moreover, the common currency would increase monetary and budgetary transparency as well as corporate governance transparency (Commission of the European Communities 1990b, 225, 265).

Transparency was essential in the design of the institutional infrastructure to support the common currency having at its core the European Central Bank. According to Padoa-Schioppa, one of the main architects of the European monetary union, inspiration came from developments in monetary theory: “[t]he Treaty of Maastricht sanctions principles of central banking and monetary policy that were identified through scholarly research and policy experience (...) In a sense, the Treaty embodies what was learned about central bank policies throughout the twentieth century” (Padoa-Schioppa 2004, 19). One of the lessons learnt was that “the central bank must be at the same time independent, accountable, and transparent” (Padoa-Schioppa 2004, 32).

Transparency had its own place in monetary policy inspired by game theory and the rational expectations model briefly presented below. Padoa-Schioppa found that transparency played an important role “by managing expectations in financial markets and guiding the behavior of wage and other price setters” (Padoa-Schioppa 2004, 92). He explained the paradigmatic shifts in economic theories that raised the importance of transparency in monetary policy. The institutional set-up that supported the adoption of the euro, the European Central Bank and the reform of national central banks, reflected these monetary theory considerations. The transparency of the Central bank wass justified by its simultaneous engagement in “hard action and in the game of influencing collective behavior” (Padoa-Schioppa 2004: 90).

Padoa-Schioppa differentiated between transparency and accountability arguing that while they were often seen as “interchangeable”, they “originate from rather different requirements” (Padoa-Schioppa 2004, 32). The differences between transparency and accountability are the differences between effectiveness and democratic control. Transparency is justified in terms of monetary and economic policy effectiveness and is distinguished from the information destined to ensure accountability within a democratic process. Transparency referred to “[u]tterances aimed at effectiveness [...] forward-looking and easily understandable to economic agents and financial markets. The optimum does not consist in maximizing the amount of information but rather in a targeted selection of messages and clear command of the interpretative keys used by the receivers. If appropriately managed, the communication of intentions can raise policy effectiveness enormously” (Padoa-Schioppa 2004, 95). On the other hand, the communication required by accountability and democratic control, has “a mainly backward-looking content, needed primarily to explain how the institution has fulfilled its mandate and how its actions relate to the interest and welfare of the citizens” (Padoa-Schioppa 2004, 95).

The presentation above on the role of transparency in the creation of the single market and single currency helps us see the transparency and the opening-up of the EU decision-making process primarily as the extension of an economic logic. Existing academic accounts present a different view, mainly because their analysis is based on a limited survey of the EU experience with transparency. Most of the academic accounts start their investigation with the 1991 Maastricht Treaty as presented below.

6. Transparency as access to EU documents and the opening-up the EU decision-making process

Most academic works consider the Declaration No. 17 of the Maastricht Treaty as the initial EU concern with transparency. This Declaration focused on the right of public access to information held by EU institutions and required the Commission to report on the measures adopted to improves this access. In 1992, the same year the Sutherland Report was published, the Presidency Conclusions of the European Council in Birmingham included a declaration (subsequently known as the Birmingham Declaration) proposing several measures to open-up “the work of the Community's institutions”. The declared goal was to “make the Community more open, to ensure a better informed public debate on its activities”. The Declaration recommended wider consultation by the Commission prior to drafting legislation, the regular use of Green Papers, the earlier publication of Commission’s annual work program (by October of the previous year). Other measures concerned the European Parliament which was encouraged to have more systematic contact with national parliaments. The Birmingham declaration emphasized the principle of subsidiarity and the better involvement of the Committee of Regions and the Conference of Parliaments in the decision-making process.[25]

[25] For a chronology of the use of transparency as access to documents and open-up of the decision-making process, see *Transparency – a Historical Overview*, on the Council of the European Union website

Three months later, in December 1992, the Edinburgh Council developed the ideas launched in Birmingham. The Presidency Conclusions in Edinburgh emphasized the consolidation and codification of EU legislation and improved access to information. The possibility of opening-up Council meetings was mentioned in annex 3 of the document. "Negotiations on legislation in the framework of the Council" the document stated "shall remain confidential". However, voting records should be made public and the Council may decide, by unanimity, to open up some of its meetings. In the cases in which the Council decided to open-up the meetings, "public access" was achieved by televising the meeting in the pressroom of the Council building. Other measures to improve transparency of the Council included the provision of explanatory notes on points A (adopted without debate) of the Council agenda, improved dissemination of information on Council's functioning and responsibilities, and "reinforcement of the press service" by organizing journalists group visits to the Council.

In October 1993, an Interinstitutional declaration on democracy, transparency and subsidiarity was adopted at the Interinstitutional Conference in Luxembourg. Each institution assumed specific tasks to improve transparency. The European Parliament was to ensure transparency through the public nature of plenary sessions and the meetings of its committees. The Council pledged to open some of its debates, publish records and explanations of votes, publish common positions, improve information for the press, improve general information on its role and activities, provide access to archives, and support the simplification and consolidation of Community legislation. The Commission pledged to ensure wider consultation through Green and White Papers before formulating its legislative proposals, to publish its work programs in the Official Journal, to facilitate access to its documents, improve access to databases and adopt a

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http://www.consilium.europa.eu/uedocs/cmsUpload/web-en.pdf). It is very relevant to notice that all dates in this document refer to transparency as access to documents and no reference is made to the use of the concept in its economic sense.

new information and communication policy. A series of other documents followed this pattern of equivalence between transparency and access to documents and decision-making process (documents related to the IGC 1996, the Amsterdam Treaty, the regulation no. 1049/2001 of the European Parliament and of the Council, of May 30, 2001, regarding public access to European Parliament, Council and Commission documents, etc). Recently, the Lisbon Treaty which entered into force on December 1, 2009, introduced new rules regarding public access to information on voting in the Council. Therefore, a new decision concerning the rules of procedure of the Council was adopted (Council Decision of 1 December 2009 adopting the Council's Rules of Procedure 2009/937/EU). The new Council rules of procedures provide that "the Council shall meet in public when it deliberates and votes on a draft legislative act". Moreover, Article 15 of the Lisbon Treaty states that "in order to promote good governance and ensure the participation of civil society, the Union institutions, bodies, offices and agencies shall conduct their work as openly as possible".[26]

The EU literature interpreted the emergence of the concept of transparency almost exclusively in the light of these documents and within the democratization efforts of the EU. Viewed, however, from the perspective of the previous uses by the European institutions, the transparency discourse in the EU can be interpreted in terms of a continuation of an economic logic of market integration instead of a revival of the liberal principles of publicity and open government. Let us now look at existing explanations of the emergence of transparency in the EU studies.

[26] For a detailed discussion of the changes brought by the Lisbon Treaty in what concerns access to documents, see "The Treaty of Lisbon and EU Openness and Transparency" by professor Steve Peers, University of Essex, 2008, published by Statewatch, available on the Statewatch website at http://www.statewatch.org/news/2009/jun/eipa-talk-june-2008-speers.pdf

B. Existing explanations of the use of transparency in the EU

The topic of transparency is heavily present in the EU studies. There are several competing accounts that try to explain the introduction of the issue of transparency in the European Community/Union. Although these accounts differ on the description of the specific conditions and causes which underlay this introduction, they agree on the identification of the broad context in which transparency emerged in the discourse of the European institutions: the adoption of the Maastricht Treaty and the Danish 'no' result in the referendum on the adoption of the Maastricht Treaty. Most explanations rely on a combination of the factors – the public disillusion with national governments and European integration, the accession of Scandinavian countries, the effort to reform public management in the Commission, the rising influence of the European Parliament and the ensuing interinstitutional re-adjustment and bargaining.

Most accounts identify the adoption of the Maastricht Treaty and the Danish 'no' in the ratification referendum as the main factors that galvanized the EU concern with transparency. The Danish 'no' is considered the political push that made member states and EU representatives realize that public support for integration was no longer unconditional and action was needed to improve people's perception of the European institutions. This dominant interpretation explains the EU concern with transparency as a reaction to popular discontent, alienation and even hostility to European integration. It positions the EU use of transparency within the broader question of how the European institutions decided to address the question of the EU 'democratic deficit'. Oeberg, for example, stated that "[t]he importance of the right of access to documents was stressed, for the first time, in the Maastricht declaration on the right of access to information, which links that right with the democratic nature of the institutions" (Oeberg 2000, 311).

A second type of interpretation links the EU concern with transparency with the Maastricht Treaty, but not necessarily with the Danish ‘no’ (Héritier 2001; Thomson 1998; Westlake 1998). It draws attention to the fact that the Maastricht Treaty already contained an annex in which the problem of transparency was brought forth, before the Danish rejection of the Treaty. This interpretation links the EU concern with the transparency with the attainment of an advanced stage of integration in which people’s support and information could no longer be ignored. The issue of transparency is linked to the evolution from an intergovernmental organization to a supranational one. This interpretation puts emphasis on the expansion of EU legislative powers granted by the Maastricht Treaty. Authors advancing this interpretation claim that while secrecy characterizes diplomatic negotiations within intergovernmental organizations, it is impossible to maintain it in a type of supranational organization that the Maastricht Treaty has created. This interpretation puts more emphasis on the use of transparency as anticipation rather than reaction, but it does not exclude the additional pressure that the Danish ‘no’ brought to the issue of improving citizens’ knowledge and access to the EU information and decision-making.

Hans Brunmayr, at the time deputy director-general of the Council Secretariat, justified the emergence of transparency as a result of citizens’ discontent with their national governments that manifested itself against the project of European integration: “the European citizen of the late eighties and early nineties adopted a more critical stance towards Government and – in parallel with the structural crisis in the field of economy and employment – started to question the achievements and objectives of European integration” (Brunmayr 1998, 69).

Ian Thomson, an EU official, pointed out that the greater emphasis on transparency that followed the Maastricht Treaty was the result of a combination of factors, among which the technological progress that made the dissemination of information easier and faster and the effort to complete the Single Market which rendered the EU policies relevant to a greater number of people (Thomson 1998). John Carvel, journalist for the Guardian, supported this view, arguing that the legislative torrent that accompanied the completion of the Single Market raised doubts about the secretive decision-making process in the EU (Carvel 1998, 56). The Danish referendum came as a shock and pushed the politicians towards pledging more openness and transparency: “[t]here was a panic that people might be becoming disaffected with the European dream. Leaders started thinking about how to bring the EU institutions ‘closer to the citizens’. In the former Soviet Union, President Gorbachev had promised people Perestroika, Glasnost and Democracy. In the EU, the promise became Democracy, Subsidiarity and Transparency” (Carvel 1998, 57).

A number of accounts put emphasis on the role played by the Scandinavian member states in putting the issue of transparency on the EU agenda and pushing for its materialization (Grønbech-Jensen 1998). This interpretation highlights the fact that although it was the Netherlands that pushed for the inclusion of the appendix on transparency in the Maastricht Treaty, the transparency debate really took off only after the accession of Sweden and Finland in 1995. These new member states, together with Denmark, pushed for more open government provisions during the IGC 1996 that led to the adoption of the Amsterdam Treaty in 1997 (Fossum 2000, 128).

According to these accounts, Denmark and Sweden pressed for the introduction of more transparency and openness in the EU in order “to accommodate their sceptical electorates” and to protect their national tradition of open government (Grønbech-Jensen 1998, 186). Sweden, in particular, was concerned that the principle of primacy of Community law over national law would undermine its constitutional principle of open government and would lower standards in terms of access to documents by its citizens, thus representing a significant loss of democracy (Oeberg 2000).

These accounts point out that the Scandinavian countries, unlike other member states, have a tradition of open government; that in Sweden, Denmark, and Finland public access to documents was strongly protected. The Swedish example is the central one, with Swedish open government tradition dating back to the 18th century, since the adoption of the 1766 Freedom of the Press Act. Inspired by the principle of publicity of the English Parliament, the 1766 Act aimed to allow every Swedish citizens access to official documents (Oeberg 2000). The present Act, part of the Constitution states that “[t]o further free interchange of opinion and general enlightenment, every Swedish citizen shall have free access to official documents” (quoted in Oeberg 2000, 305). The Swedish practice is supported by the conviction – originating in the Enlightenment values – that citizens have the right to know what the public authorities are doing and scrutinize their activities (Oeberg 2000, 305). Grønbech-Jensen drew attention to the Declaration of the Swedish government in August 1994 annexed to the Swedish Accession Treaty (Grønbech-Jensen 1998, 193-4). It signaled the Swedish concern with openness and transparency in the EU and its pledge to maintain its national standards:

> Sweden welcomes the development now taking place in the European Union towards greater openness and transparency. Open government and, in particular, public access to official records as well as the constitutional protection afforded to those who give information to the media are and remain fundamental principles which form part of Sweden's constitutional, political, and cultural heritage.

However, an exclusive focus on the Scandinavian influence is deceptive if the long-term use of the concept in the EU, in the construction of the single market, is taken into consideration.

Yet another explanation for the use of transparency by the EU, is offered by Peterson who focused on how the transparency issue evolved within the Commission and argued that the Commission's initial support for transparency was "political" (Peterson 1995b). The Commission, led by Delors, took advantage of the crisis that followed the Danish 'no' in order to expose the Council's secrecy in the decision-making process and its tendency to impose the Commission's agenda, then blame it for unpopular decisions and overload it with responsibilities (Peterson 1995b, 474). However, along the way, transparency became a tool of administrative internal reform within the Commission itself "[w]hat began as a political initiative, led by Commission President Jacques Delors and Pinheiro [João de Deus Pinheiro, European Commissioner for relations with the Parliament, Culture and Audiovisual 1993 - 1995], eventually was transformed into an administrative exercise, led by the Commission's Secretariat-General, to cope with the Commission's management problems. In the end, the primary goal of the initiative was to create (in Pinheiro's words) a new 'culture of organization' within the Commission" (Peterson 1995b, 473-4). Delors and Williamson, Commission's Secretary-General, perceived the debate on transparency as an opportunity to reform the Commission towards greater efficiency. The Pinheiro package called for an earlier formulation of the annual work program of the Commission (in October of the previous year, instead of January), more systematic consultations (more frequent use of green and white papers and the organization of public hearings on chosen topics), clearer rules on access to information and better use of technology to facilitate access. The transparency package represented an effort "to systematize and professionalize the work of the Commission" (Peterson 1995b, 481).

Bjurulf and Elgstrom focused not so much on how the transparency debate started, but more on how it unfolded, particularly by looking at the negotiation and adoption of the 2001 regulation on public access to documents, required by the Amsterdam Treaty (Bjurulf and Elgstrom 2004). They explained the outcome of the transparency debate in the EU in terms of negotiations among key players: the Commission, the member states in favor of maintaining confidentiality (a majority), those in favor of openness (a minority) and the European Parliament. The European Parliament had a strong interest in obtaining more knowledge about the Council's decision-making process in order to gain more leverage in the interinstitutional bargaining processes.

Curtin and Meijers confirmed the link between the rise of transparency in the EU and the increasing powers of the European Parliament (Curtin and Meijers 1995). They claimed that the European Parliament took the first steps in favor of transparency through a number of resolutions adopted in 1984, 1988 and 1994, requiring the European institutions to make available more information. These scholars supported the idea that the transparency debate took hold on the background of the interinstitutional bargaining and the increase of the EP leverage in this process.

Jean-Paul Jacqué, director of the Legal Service of the Council of the European Union (since 1992) described the introduction of transparency as a compensation for the impossibility to simplify the EU decision-making process: "[d]ans la mesure où il n'est pas possible de simplifier le tracé du labyrinthe [décisionnel], la solution a consisté à en rendre les murs transparents, de telle sorte que le contrôle de l'opinion puisse s'exercer sur l'activité des institutions" (Jacqué 1994, 32). He distinguished between transparency in the proceedings of the Council and the transparency of the EU legislation. He argued in favor of more transparency regarding Community legislation, advocating its consolidation, clarification and simplification.

However, he argued against any attempt at further transparency of the Council deliberations, warning that it would lead to a loss of efficiency of the decision-making process.

As seen above, the EU literature proposed various explanations to the emergence of the topic of transparency in the EU among which the public disillusion with government and the project of European integration; the accession of Scandinavian countries, strong supporters of open government policies; the effort to reform the Commission; the rising influence of the European Parliament which sought to obtain more information from the Council, and the ensuing interinstitutional re-adjustment and bargaining. But they all focused, more or less, on the period starting with the early 1990s, when the EU institutions used transparency in the sense of access to documents and opening up the EU decision-making process. The academic focus on this period and the neglect of previous uses of transparency in the creation of the single market influenced the way the transparency discourse has been defined in the literature as a democratization effort of the EU. This academic oversight also led to claims that the EU is "not transparent" while the EU continued to use transparency very frequently in virtually all efforts to integrate new dimensions of the market or initiate a new policy. Currently, the EU uses transparency in efforts to define "economic and financial governance", in the administration and monitoring of funds or in the shaping of the labor market by enforcing the requirement of transparency in the mutual recognition of qualifications. The Commission continues to apply the requirement of transparency in the obligation of member states to provide information and in the consumer and competition policies. Transparency is virtually everywhere.

In the following, it is argued that the concept of transparency rose to prominence because it was underpinned by new developments in economic theory that spilled over into other social sciences. The use of transparency came to complement and, to some extent, replace the liberal concepts of openness and publicity. The European context played an important role because transparency was central in the reflection on market integration that covered the most consistent part of the history of European integration.

C. The history of the concept of transparency

1. Transparency: from a property of objects to a property of mental processes and human relations

The history of the concept intends to show how transparency came to be used in economic thought and how, from there, it spilled over in other social sciences and the governmental field. Transparency is a century-old concept, easily grasped because it captured a property abstracted from basic human experiences. The Merriam Webster online dictionary defines transparency as "the quality or state of being transparent" where something transparent refers to "especially a picture (as on film) viewed by light shining through it or by projection". The concept has been used as a tool by natural sciences such as chemistry, botany, geology to classify and inventory things: gems, minerals, substances, etc. Transparency, in this sense, was no different from other properties such as color, density, hardness, weight, etc.

Transparency gradually started to be used to describe abstract properties as well. In particular, it was used in the effort to conceptualize the relation between mind and reality or between language and reality. It thus became part of the vocabulary built to grasp the conditions that make possible the acquisition of knowledge. Humans are able to know because the relationship between mind and reality is transparent or capable of transparency. If knowledge is possible, a certain level of transparency between mind and reality must be supposed (Muirhead 1897). Transparency between mind and reality would suppose the acquisition of "a system of concepts which exhausts the contents of the world and is internally harmonious" (Muirhead

1897, 482). Transparency, however, also presupposes a certain degree of invisibility, we may reach knowledge though we are not aware of all the mechanisms through which we achieve it "[k]nowing is transparent in action, i.e., structure and function are not visible in experience as materials in the same field with the contents then and there being placed" (Hocking 1906, 10).

A ramification of this idea is that since humans are able to know, they are able to know themselves, and therefore to know the others – to empathize (Maucorps 1960). The capacity to know one another is, according to sociologists and psychologists, a pre-condition of social harmony. Transparency thus came to define a property of social relationships, of human conduct towards one another, a variable to be studied in relation to social harmony. And more often than not, transparency as a feature of human conduct was considered a virtue – individual, social, and even political (Cook 1902). Rousseau used the concept to characterize "open and candid social communication" (Hood 2006, 5). Cohen drew attention that for Marx "relations between human beings under socialism are "transparent" and "intelligible"" because social institutions that maintain social opacity (such as the market) disappear (Cohen 1972, 194, 203). In Marx's vision, socialism achieved transparency because the "discrepancy between the surface of things and their true character" was removed (Cohen 1972, 194).

Simmel used the concept to refer to the fact that "[a]ll relationships of people to each other rest, as a matter of course, upon the precondition that they know something about each other" (Simmel 1906, 441). And although he denied the social benefits of complete transparency, he argued that to "know with whom we have to do, is the first precondition of having anything to do with another" (Simmel 1906, 441). Tagiuri, Kogan, and Bruner used transparency to refer to "the extent to which a subject's preferences are known to the other members of a group" and as Simmel, they argued that "the organization of behavior within a group is necessarily dependent upon a certain level of knowledge by its members of their preferences for one another" (Tagiuri, Kogan, and Bruner 1955, 378, 368). The concept of transparency became a tool in the scientific effort to understand motives, preferences, and interests behind actions, in sociology and psychology. It was used in the inquiry about the ways in which knowledge of preferences and interests affect human behavior. Later on, it became an important element in game theory.

2. Transparency in game theory

One of the interesting developments of the uses of transparency as a property of human relations is in game theory.[27] The goal of game theory is to model strategic behavior and interaction. In the early stages of the development, game theory took the form of "mathematical curiosity" (Schmidt 2002, 1). However, as the theory developed to model more and more complex situations of economic behavior, it was enriched with insights from logic, psychology and theories of information (Schmidt 2002, 5). The theory also thrived in the research on military, operational decision-making (Schmidt 2002, 2).[28] Transparency, defined as the condition in which the players know each other's motives and preferences, became to be studied as a variable in relation to cooperation or defection. It was found, especially in iterative games, that the greater the transparency between players (the better they know each other and their preferences), the greater the propensity for cooperation and the greater the possibility to avoid irreparable consequences. Transparency became especially relevant in deterrence games where the risks of misperception could lead to disastrous consequences (e.g. nuclear wars).

[27] Game theory was developed in mathematics, but the work that introduced the approach to the broad academic environment was von Neumann and Morgenstern's 1944 "Theory of Games and Economic Behaviour" (Morgenstern and Von Neumann 1944). For an overview of the history of the game theory, see Kreps and Rubinstein (Kreps and Rubinstein 1997)
[28] Receiving consistent military funding through such organizations as the Rand Corporation (Schmidt 2002, 2).

The hypothesis that increased transparency improved chances of cooperation and ensured compliance was transferred to study the relations among states as players of strategic games and the emergence of international regimes, as seen below. The European Commission's practice of constantly requiring information from member states to verify and ensure compliance with Community legislation fits into this logic.

3. Transparency as a condition of compliance in international regimes

The question of how to design efficient international regimes captured the attention of many scholars, especially during the 1980s. The reflection on the design of international regimes was underpinned by the governance structures approach in transaction cost economics, already presented in the governance chapter of this thesis. Kratochwil and Ruggie connected the work of transaction cost economists Williamson and Ouchi with the organizational-design approach of the functional theory of international regimes: "the key issue underlying this approach is to discern what range of international policy problems can best be handled by different kinds of institutional arrangements, such as simple norms of coordination, the reallocation of international property rights, or authoritative control through formal organizations" (Kratochwil and Ruggie 1986, 772). A similar argument was presented by Haggard and Beth A. Simmons (1987).

This search for an effective design of international regimes was coupled with insights from game theory. According to these studies, transparency as knowledge of actors' behavior and expectations represented as a key element in the design of regimes (Haggard and Beth A. Simmons 1987, 513). Thus, effective institutional arrangements of these regimes (in areas as diverse as international trade, nuclear proliferation and human rights) required international organizations to play a significant role in ensuring transparency among the actors involved

(Kratochwil and Ruggie 1986, 772). Young, in the famous “Governance without government” edited by Rosenau and Czempiel, argued that transparency was an essential ingredient of regime effectiveness (Young 1992).

In the 1980s, transparency was extensively used in game theory inspired reflection on international regimes, especially in relation to arms control negotiations and treaties. For example, transparency was a concept frequently used by Joseph S. Nye Jr. in most of his works on arms control (Nye 1982). Nye argued in favor of transparency as a confidence-building measure: “one of the goals of long-run nuclear-risk reduction measures is to increase the transparency and predictability in the U.S.-Soviet relationship as a means of reducing the chances of miscalculation” (Nye 1984, 411). Nye singled out the Standing Consultative Commission created by SALT as an example of a body aimed to increase transparency.

A similar position was maintained by Jervis who argued that “[c]ooperation is made more likely not only by changes in payoffs, but also by increases in the states’ ability to recognize what others are doing – called “transparency” in the literature on regimes” (Jervis 1985, 73). Just like Nye, he referred to the Standing Consultative Committee as one of the most successful outcomes of SALT and argued that “in some cases, transparency mainly means determining what specific actions others are taking” (Jervis 1985, 75).

Oye extended the use of transparency as a variable in strategic iterative games beyond arms control to other situations in which cooperation or defection were at stake, for example, defection as continuation of indirect export subsidies in violation of economic agreements (Oye 1985, 16). Transparency ensured the visibility of violations: “[i]f defection cannot be reliably detected, the effect of present cooperation on possible future reprisals will erode” (Oye 1985, 16). Oye thus justified the inclusion of “provisions for surveillance – for example, mechanisms for verification in arms control agreements or for sharing information on the nature and effects of domestic sectoral policies" as a means to increase transparency (Oye 1985, 17). He argued that the literature on game theory and institutional microeconomics provide useful insight into addressing the "increasing iterative character of situations" (Oye 1985, 17).

Transparency was used by GATT since the late 1970s, as illustrated by the 1979 Agreement on technical barriers to trade that required the publication of technical standards to be enforced in member states and the notification of the parties through the GATT secretariat of other details concerning these technical standards (products covered, rationale, etc.). This practice is very similar to the 1983 Council Directive which imposed the obligation to notify the Commission on the intention to introduce new technical standards. Central to both GATT and the WTO remains the principle of non-discrimination and the elimination of barriers through transparency (Hood 2006).

An important spillover of game theory was, as already seen in the preliminary mapping of the concept in the EU, its application in monetary theory in relation to rational expectations. Put it simply, the institutional design of monetary policy, in order to be effective, must take into account the rational expectations and the strategic choices of the actors involved (central banks, wage earners, etc). The effectiveness of monetary policy depends, in fact, on the credibility and reputation of the central banks. These two characteristics, in turn, depend on the transparency of policies enacted by the central banks. Transparency proves beneficial for economic activity insofar as it determines a climate of confidence for all actors involved. What is at stake is the capacity of public authorities to maintain the credibility of their commitment to economically efficient policies. The governance chapter of this thesis already elaborated on part of this discussion which presents transparency as an institutional requirement for economic growth.

4. Neo-institutional economics and transparency

The World Bank, the IMF and the OECD used the concept of transparency to emphasize the institutional requirements for economic development. In 1998, the IMF published the Code of Good Practices in Fiscal Transparency and one year later, the Code of Good Practices on Transparency in Monetary and Financial Policies (IMF 1998, 1999). Transparency was defined in the IMF document as "an environment in which the objectives of policy, its legal, institutional, and economic framework, policy decisions and their rationale, data and information related to monetary and financial policies, and the terms of agencies' accountability, are provided to the public on an understandable, accessible and timely basis" (IMF 1999). The goal of transparency was to create the conditions for the optimal functioning of the market: "[i]n making available more information about monetary and financial policies, good transparency practices promote the potential efficiency of markets" (IMF 1999). It was assumed that the efficiency of the market increased if the private sector was well informed about the policy process and formed expectations accordingly. As seen in the previous chapter on governance, the good governance approach of the World Bank, inspired by neo-institutional economics, included repeated references to the requirements of information, transparency and communication as ways to ensure both credible commitment and the necessary social consensus around the institutions that ensure economic development and growth.

The promotion of transparency by international organizations such as the World Bank, the IMF and the OECD took place, as shown in the previous chapter, within the broader discussion of the good governance principles. It is thus closely related to the neo-institutional emphasis on the role played by the polity – which establishes the rules of the game – in economic development (see also Best 2005). Transparency eliminates uncertainty – which is a significant source of transaction costs, but can also play a major role in ensuring the credible commitment of public authorities to economically efficient policies. In this type of reflection, political institutions are evaluated as means to economic performance; the ideas behind good governance – transparency, accountability, rule of law, participation – are justified in terms of their capacity to lead to economic performance, not in terms of the protection of individual's rights. Better information on the actions of public authority is needed in order for economic agents to engage and perform best in the market. These arguments are abundantly present in the 1992 Sutherland report that made important recommendations for the completion and success of the single market and was extensively quoted in numerous Commission documents. As such, transparency is not a revival of a liberal principle of openness and publicity, but an economic principle regarding the efficient functioning of both markets and political institutions.

5. Transparency in the financial markets: a successor of the 1930s "disclosure"

Transparency also emerged in study and regulation of financial markets and, consequently, in relation to corporate governance. It did substitute, as Hood remarked, the term of disclosure frequently used after the 1929 crash (Hood 2006). The 1929 crisis constituted a key moment that brought attention to the problem of information in the functioning of financial markets, more precisely in what concerned investor protection and market integrity (Doerfer 1934). Disclosure became a pivotal principle of the regulation of securities trade. The Securities Act of 1933, also known as "truth in securities" law, had as objective "to provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent frauds in the sale thereof, and for other purposes".[29] The information had to

[29] Securities and Exchange Commission, *Laws that Govern the Securities Industry* http://www.sec.gov/about/laws.shtml#secexact1934

be made available at the time of the registration of the securities to be traded. Disclosure concerned balance sheets, profits and loss statements, loans, and other information that could affect the decision of buying securities (Hanna and Turlington 1933). According to Blum, the disclosure of information required at the registration of securities was meant to facilitate the “intelligent judgment of its value by the investing public” (Blum 1938, 52). Failure to disclose relevant information was punished as criminal offense (Blum 1938, 52).

The 1934 Securities Exchange Act extended the requirements of disclosure to the internal functioning of corporations. The Exchange and Securities Commission (SEC) founded by the Act was in charge of enforcing rules of disclosure concerning the information given by the management to shareholders prior to voting.[30] This requirement aimed to protect investors and shareholders and ensure the integrity of the market. In the 1970s, the principle of disclosure became the main regulatory tool of the SEC regarding corporate governance – the relations between management, board of directors and shareholders.

The term of transparency is currently used in financial markets as a synonym for disclosure. Investopedia defines transparency as “[t]he extent to which investors have ready access to any required financial information about a company such as price levels, market depth and audited financial reports. Classically defined as when "much is known by many", transparency is one of the silent prerequisites of any free and efficient market. When transparency relates to information flow from the company to investors, it is also known as "full disclosure”.[31]

[30] http://www.sec.gov/about/laws.shtml#secexact1934
[31] http://www.investopedia.com/terms/t/transparency.asp

As seen in the preliminary mapping of this section, the European Commission also used transparency in this sense when referring to the lack of information and transparency in capital markets in member states which discouraged investors.

6. Price transparency, competition and ordoliberalism

One way to understand why the European Commission put so much emphasis on price transparency is to understand the key role competition hold in German economic thought. Scholars often mention that the design of competition rules in the European Community was strongly influenced by a German school of economic thought, namely ordoliberalism (Gerber 1994). Ordo-liberalism is considered a particular branch of neo-liberalism, developed by a group of economists at Freiburg University among whom Walter Eucken, the founder of the journal *Ordo*. Eucken was one of the advisors of Ludwig Erhard who later became the German minister of economy and was one of the negotiators of the Treaty of Rome (Foucault 2008). Other names of the Freiburg school include Franz Bohm, also an influential name in German economic policy in the seventies and Muller-Armack, an economic historian, later on, state secretary of Ludwig Erhard (Foucault 2008). The Freiburg school was particular influential in social and economic policies in that period, especially in what concerned competition policy (Gerber 1994).

For the ordoliberals, competition was key element for a proper functioning of markets (Foucault 2008). However, ordoliberals believed that the market by itself could not ensure competition. Ordoliberals believed that competition was to be achieved through intervention and institutional design. Foucault remarked that for the ordoliberals “competition is therefore an historical objective of governmental art and not a natural given that must be respected” (Foucault 2008, 120). The ordoliberal thought underlined that the proper functioning of the market depended on its being supported by what Foucault described as an "economic-juridical order" (Foucault 2008, 163).[32]

The price mechanism was a key institutional tool to ensure competition. According to Tribe who studied the German economic discourse in the period 1750-1950, ordoliberals considered the price mechanism as the means through which to ensure "the optimal allocation of resources in the market" by establishing the link between producers and consumers (Tribe 1995, 223, 233, 237). Therefore, public intervention was required to create the institutional design that would guarantee the proper function of the price mechanism.

It is in this grid that the constant preoccupation of the Commission with price transparency should be understood. As already mentioned, German ordoliberal thinkers acted as key economic advisors to the influential German minister of economy, Ludwig Erhard, who participated in the negotiation of the Treaty of Rome. Moreover, Tribe argued that:

> The pressures shaping the evolutionary path of the European Union are not short term contingencies; they are part of the ongoing restructuring of the international order that accelerated in the nineteenth century, with the rise of the new industrial economies. The German economic tradition, with its focus upon space, time, human need, and the institutional basis of economic order, was peculiarly adapted to the creation of an integrative strategy for the European economy (Tribe 1995, 261)

Kimball described the German concept of markttransparenz as "the objectives of achieving crystal clarity of the forms as well as a considerable degree of uniformity" so that "competing policies then become readily comparable by inexpert buyers" (Kimball 1962, 25,

[32] It is interesting to notice that when talking about ordoliberalism, Foucault also pointed to its influence on American subsequent development of a particular branch of economic history, referring to the early works of Douglass C. North: "[h]ere the neo-liberals raised a whole series of problems that are more historical and institutional than specifically economic, but which opened the way to very interesting research on the political-institutional framework of the development of capitalism, and from which the American neo-liberals benefited. The ideas of North on the development of capitalism, for example, are directly in line with this opening up made by the neo-liberals (…)" (Foucault 2008, 135). According to the editors of his book, Foucault referred to North's *The Rise of the Western World*, written in collaboration with R-P Thomas (Cambridge: Cambridge University Press, 1973), known to Foucault through its French translation by J.-M. Dems, *L'Essor du Monde Occidental: Une Nouvelle Histoire Economique* (Paris: Flammarion, 1980)

19). Germans enforced the standard of “markettransparenz” and this term became know to those who studied the German experience (Kimball and Jackson 1961, 198). Bodenhofer discussed the transparency of labor markets, arguing that “[f]rom the macro-economic point of view, returns accruing from better information in the labor market are represented in a more efficient allocation of manpower” (Bodenhofer 1967, 443-4).

This German principle of “markttransparenz” influenced greatly the preoccupation with price and market transparency from the early stages of the creation of the common market. The theoretical debate on European market integration in the 1960s focused on the consequences that the enforcement of a market transparency standard would have on competition, though not all agreed on its benefits. Phlips defined a ‘transparent’ market as “a market in which sellers have a precise knowledge of the prices, terms of sale and of qualities of their competitors’ products, and in which buyers have a precise knowledge of the prices, terms of sale and of the qualities of all sellers’ products” (Phlips 1962, 85 footnote 11). Phlips criticized the European policy of publicizing prices arguing that an “imperfectly transparent market” was to be preferred since it created comparative advantage that could further encourage competitive behavior (Phlips 1962, 92). He found that the European Coal and Steel Community policy which aimed to create “a transparent common market by the publication of price lists and freight charges” would actually fail to increase price competition since it risked encouraging the alignment of prices (Phlips 1962, 92).

7. Publicity, open government and the public sphere

To understand the ways in which transparency departs from the liberal principle of publicity is to understand what the principle of publicity was meant to accomplish. The principle of publicity – within classic liberal thought – required the publication of the decisions and the debates that took place in assemblies/ parliaments, together with details regarding the votes – who voted for what and on the basis of which reasoning (Bentham 1999, 38; Guizot 1852, 81).[33] It also required the access of the public and/or journalists to assemblies' meetings (Bentham 1999, 39-40). The principle of publicity was meant to serve several purposes, the main ones being to encourage the public exercise of reason and to prevent arbitrary uses of power by public authorities. In Guizot's words "publicity is perhaps the most essential characteristic of a representative government. …it has for its object to call upon all individuals who possess rights, as well as those who exercise powers, to seek reason and justice, the source and rule of legitimate sovereignty. In publicity consists the bond between a society and its government" (Guizot 1852, 80). It is important to stress that the principle of publicity was only an element within the broader edifice of representative government, along with other fundamental principles as elections and the separation of powers.

Bentham presented several arguments in favor of publicity, all formulated in regard to the relationship between citizens and their representatives in assemblies. He argued that information and public deliberation benefit both citizens and their representatives. Citizens are able to express well-informed votes while the representatives can gain the confidence of the public on their publicized and reasoned decisions. It is important to stress that public deliberation meant for Bentham an open confrontation of opposite points of view and that the benefits of public deliberation consisted in its capacity to produce the best argument out of a set of divergent opinions: "[o]pposition, with all its efforts, far from been injurious to authority, will have essentially assisted it. It is in this sense that it has been well said, that he who resists, strengthens:

[33] Jeremy Bentham, `Essay on Political Tactics: containing Six of the Principal Rules proper to be observed by a Political Assembly, In the Process of Forming a Decision: with the Reasons on which they are Grounded; And a Comparative Application of them to British and French Practice: Being a Fragment of a larger Work; a Sketch of which is subjoined', London, 1791.

for the government is much more assured of the general success of a measure, and of the public approbation, after it has been discussed by two parties, whilst the whole nation has been spectators" (Bentham 1999, 31). This is why for Bentham, publicity meant the publication of the arguments in favor of a motion, but also the arguments formulated against it. It meant the publication of official accounts of parliamentary debates, but also the publication of non-official (newspapers) accounts "to prevent negligence and dishonesty on the part of the official reporters" (Bentham 1999, 40). The hope that publicity held for Bentham, was that, thus, "a habit of reasoning and discussion will penetrate all classes of society" (Bentham 1999, 31).

Probably one of the finest discussions of the liberal principle of publicity is the one carried out by Habermas in his analysis of the public sphere. He traced the evolution of the principle of publicity from feudalism to the welfare state (Habermas 1993). While Habermas acknowledged that "publicity continues to be an organizational principle of our political order", he argued that there had been significant modifications in the understanding and uses of this principle (Habermas 1993, 4). Feudalism was characterized by the "publicity of representation" – the lords "represented their lordship not for, but 'before' the people" (Habermas 1993, 8). On the other hand, in the bourgeois public sphere, publicity became increasingly associated with the public use of reason: "[t]he bourgeois public sphere may be conceived above all as the sphere of private people come together as a public; they soon claimed the public sphere regulated from above against the public authorities themselves, to engage them in a debate over the general rules governing relations in the basically privatized but publicly relevant sphere of commodity exchange and social labor. The medium of this political confrontation was peculiar and without historical precedent: people's public use of their reason" (Habermas 1993, 27). In this sense, publicity was opposed to secrecy – the accessory of sovereign exercise of authority based on voluntas: “[j]ust as secrecy was supposed to serve the maintenance of sovereignty based on voluntas, so publicity was supposed to serve the promotion of legislation based on ratio” (Habermas 1993, 53).

According to Habermas, the welfare state witnessed an enlargement of the public sphere which led to the interpenetration of public and private realms and a loss of the main functions of publicity – that of the rational-critical public debate as an input to the legislative process. He deplored a re-feudalization of the public sphere because the public no longer participated in critical-rational debates, but was only called upon to legitimize the decisions of authorities: “within an immensely expanded sphere of publicity the mediatised public is called upon more frequently and in incomparably more diverse ways for the purposes of public acclamation; at the same time it is so remote from the processes of the exercise and equilibration of power that their rational justification can scarcely be demanded, let alone be accomplished any longer, by the principle of publicity” (Habermas 1993, 180). According to Habermas, the degradation of the public sphere coincided with the transformation of the role of the parliament from a forum of debate to a place where party decisions were simply confirmed (Habermas 1993, 205).

Post-1990s, academics, including Habermas, paid attention to the emergence of a public sphere in the EU. Most of these inquiries looked into the relationship between the existence of a public sphere and the democratization process in the EU. These studies tend to be explorative and normative as they attempt to define the characteristics of a public sphere and map the potential of the emergence of a public sphere (or spheres) in the EU. These studies identify transparency, along with participation and openness, as conditions of a public sphere in the EU. However, the emphasis is on how to generate forums of debate that can provide input in the decision-making and the legislative processes of the EU. Again, in these studies as in the writings of classics such as Bentham and Guizot, the requirement of transparency (publicity, respectively) is subsumed to a larger objective – that of encouraging criticism, deliberation and a rational check upon decision-making. That is why some public sphere approaches to the EU emphasize, to no surprise, the role of parliamentary assemblies or other "deliberative entities", the "strong publics" (Fossum and Schlesinger 2007, 4). Alongside "weak publics" in civil society, parliamentary assemblies constitute one of the pillars of any democratic system (Fossum and Schlesinger 2007, 4). The goal is to create "a communicative space (or spaces) in which relatively unconstrained debate, analysis and criticism of the political order can take place" (Fossum and Schlesinger 2007, 1). Transparency, in itself and by itself is not a goal, but a means. This means that, in terms of institutions, these public sphere approaches to the EU potentially conflict with the "governance" approach since the latter is based on a belief that parliaments are no longer a viable form of representation and decision-making (as in the FSU papers).

D. Conclusions: Transparency versus publicity in the current rationality of government

Transparency departs from publicity because it does not assume, create, or require any mechanisms, channels, or procedures to activate critical public debate. Transparency is not about a confrontation of opposing points of view or about the public exercise of reason. As seen in its evolution, the concept of transparency is about immediacy; it assumes the unity of thought with reality, a unique vision of things that has to be revealed.

The history of the concept shows how transparency became a central element because it was supported by a large consensus regarding its benefits from the various branches of economic theory (game theory, neo-institutional economics, monetary theory, competition policy theories, etc). Transparency as developed in economics concerns the establishment of conditions for optimal market functioning. The ability of individuals – in their capacity as entrepreneurs, shareholders, customers - to make the best judgment in the market is one of these conditions. However, transparency as developed in economics makes no provisions, nor could it make, concerning the forums for public deliberations. The goal of publicity was to encourage people's reflection on public issues while the goal of transparency is to ensure that the optimal economic decisions are made and maintained. This marks a clear distinction with the older concept of publicity that encouraged critical debates as a scrutiny of and input into the legislative process.

Transparency, as it has been used and justified in the earlier stages of the process of European integration, concerned the flow of information between Commission and member states and provided no locus of debate. It was assumed that the Commission was in a better position to propose legislation when it was well informed about the situation in the member states. It was also assumed that the Commission enforced the European legislation more effectively if it had access to data from member states. An even deeper assumption was that the market functioned better when the economic agents knew relevant conditions of the market. This understanding of transparency represents a significant departure from the liberal principle of publicity insofar as it is justified uniquely by its presumed positive effects on economic performance and to the extent that its main outlet is the market. Publicity was closely linked to the existence of forums for public debates including parliaments, elements that lacked in the use of the concept in the earlier stages of European integration.

In what concerns the use of transparency by the EU institutions in order to increase the acceptability of the EU, another interesting use and experience of transparency is worth mentioning, if only anecdotally. In the 1940s, a revolutionary step in marketing was the invention of transparent film wrappings, the cellophane and other equivalent materials. It revolutionized the universe of packaging and advertising. Zimmerman eulogized the new opportunities created by transparent film packaging because "[t]wo-thirds of the items bought on impulse are purchased because of display and 29 per cent because of their transparency. Thus, mass display and pre-packaging are essential in the post- war development of the super market" (Zimmerman 1946, 387). And Francis E. Simmons wrote:

> we are interested in the eye appeal, the attractiveness, the stimulus to impulse buying which transparent wrapping films can impart to many lines of consumer goods"; "[t]hese case histories all demonstrate that the use of transparent wrapping films in packaging, is serving to bring about something of a minor revolution in the experience of marketing. This revolution is not one affecting the nature or form of the product, but it is one which materially affects the presentation of the product to the consuming public" (Francis E. Simmons 1949, 513, 517).

This resonates with the European Commission expectation that the wrapping of a transparent film around the EU would increase its appealing to the masses. But, leaving the anecdotal aside, the history of the concept of transparency and its emergence in the EU discourse show, just like in the case of governance, an interpenetration of economic and governmental rationalities. Once again, we witness the formulation of innovative ideas in the fields of economics that are subsequently extended to other social sciences and in the area of public policy. Transparency is a concept with a solid economic background that came to replace the older concept of publicity, perhaps, thus, losing some important elements in the process, such as the emphasis put on the public use of reason and competing views on policies and decisions.

IV. On the concept of partnership

As in the previous chapters, the interest in discussing the concept of "partnership" is justified by its use in many of EU policies, documents and reform agendas. "Partnership" is a concept that designates a type of relationship based on cooperation, lack of conflict, on the presumption that the parties have common objectives that are dominant in the relations among them. The Merriam Webster online dictionary defines partnership as "a legal relation existing between two or more persons contractually associated as joint principals in a business or the relationship resembling a legal partnership and usually involving close cooperation between parties having specified and joint rights and responsibilities". Since the 1980s, the EU has deployed the concept, to different degrees, in virtually all policy areas, ranging from social and regional policies (especially in what concerns the implementation of the Structural Funds) to transport and communication policy and more encompassing agendas such as the reform of European governance and the stimulation of an active European citizenship and civil society. The concept also played an important role in the reflection on European economic governance in the 2000 Lisbon strategy and its subsequent revisions. The concept continues to have a significant presence in EU documents.

Partnership has also received considerable attention in EU studies mainly among the scholars who used the multi-level governance model (Marks 1993; Hooghe and Marks 2001); those who study the phenomenon of Europeanization (Bache 2000) or the surfacing of ideological cleavages in the EU institutions (Hooghe and Marks 2001). These studies present the use of the principle of partnership by the EC/EU as an indicator of the innovation of governing the EU. They refer both to the overall *sui generis* architecture of the system such as multi-level governance created through partnership among European, national, local and non-governmental levels, or the development of a specific EU ideology – the regulated capitalism model – as a counterpart to neo-liberalism in which partnership implies social solidarity, redistribution of resources and the intention to regulate the markets (Hooghe 1998; Bache 2000). For example, Marks referred to the "fundamental innovations in the administration of the Structural Funds" and asked whether "these institutional innovations indicate a fundamental shift in European political integration", whether is possible to talk about "the outline of a new political order, a Europe of regions, in which states are outflanked by subnational governments dealing directly with Community-wide bodies" (Marks 1992, 192).

The argument in this chapter follows the pattern of the previous chapters. Firstly, I show that partnership plays a significant role in the EU rationality of government, being widely deployed at all policy levels. Secondly, I show that it is not an EU innovation, but is borrowed from an existing rationality of government. To do this, I trace the genealogy of "partnership" and I associate the EU use of the concept with its use in US urban and social policy in 1960s and 1970s, in business models and economic theories and, not least, US theories and practices of federalism.

The genealogy of "partnership" overlaps, to a certain degree, with that of "governance", as both concepts acquire their status within the background of the same or similar developments in social sciences. As seen in the chapter on governance, a new understanding of society and control invites a reflection on new types of relationships between the governors and the governed, among which partnerships and networks. Mutations in economic thought also affected the evolution of both concepts. Neo-institutional economics argue that in order to create the conditions for economic growth, both formal and informal institutions must change. This change is gradual and often happens when the population starts realizing the benefits it stands to gain from altering existing institutions. Neo-institutional economists argue that partnership among public authorities and the population and ownership of policies directed at institutional change or economic development facilitate this recognition and recommend them as important conditions for adopting the institutions conducive to economic growth (Paul Collier 2001; North 2004).

The discussion in this chapter is important because it once again corrects the image of the EU as an innovator, as portrayed in the literature, by showing its foundational sources. Thus, it moves the discussion from the EU level to a broader context in which innovation in government took place. The genealogy of the concept shows that, just like in the cases of governance and transparency, its emergence was facilitated by certain developments in social sciences, the formation of a rationality dominated by an economic logic.

A. The use of the concept of partnership in EU documents

1. Preliminary mapping

EU studies focus on the emergence of the partnership principle in 1988, in relation to the European cohesion policy. Scholars of the EU interpreted the introduction of the partnership principle as a sign of innovation in the European Community and the emergence of a multi-level governance model in which the Commission engaged local and regional authorities, along the national ones, in European public policy (Hooghe and Marks 2001). However, this approach diverts attention from previous and parallel uses of the concept in EU documents and it disconnects its use from contexts outside the EU. The preliminary mapping of the concept in EU documents shows that the concept was used by the EC/EU before the 1988 reform of the Structural Funds and that, seen in the light of previous developments in public policy in the member states and even by European Community itself, the partnership principle appears as a continuation of an already consecrated logic of public action, not a break-through. The 1988, 1993 and 1999 reforms of the Structural Funds generalized a principle that had been making its way in public policy for at least 10 years, in the areas of restructuring economically declined areas and tackling social problems such as unemployment and the transition of young people to the labor market. This preliminary mapping sets the stage to connect the EU use of the principle with the US experience. As shown below, the partnership principle has been practiced in the US where it meant both a reconsideration of the US type of federalism, by better articulating the relationship between the three levels of government (state, federal and local) and a reconfiguration of public policy by sharing or transferring responsibility for urban revival or major public projects to the private sector.

As used by the EC/EU, partnership implied a reconsideration of the meaning and role of specific relationships: between the Commission and the member states, amongst member states, between public and private actors, among private actors themselves, between citizens and public authorities. Three main applications can be identified in the use of the concept in the vocabulary of the EC/EU. The first was the use in social policies and programs. Here, the EC explicitly adopted partnerships as an already existing practice of supplementing or substituting the activities of the (welfare) state through the involvement of private actors, at the local level. In this case, partnership also embodied a consecrated principle of local development and growth, mostly inspired by the US experience. The introduction of the partnership principle in the reform of the Structural Funds followed this model, along with a certain pattern of re-organization of local-state-federal government relations developed from the 1970s on, in the US.

A second application of the concept by the EU was occasioned by the reflection on economic growth and competitiveness in the single market. This phase started after 1992 when the focus shifted from the completion of the internal market to the restructuring of the European economy, seen to be lagging behind the US and Japan. The reflection was on the need to revamp the European economy and reconsider its economic governance in order to make it more competitive. Partnership played a central role in this reflection, which emphasized the need to establish a new relationship between the public and the private sectors and increase ownership of reforms. This reflection was expounded in important documents such as the 1993 White Paper on Growth, competitiveness, and employment, the 2000 Lisbon Strategy, the 2003 Sapir Report, the 2004 Kok report, and the 2005 Renewed Lisbon Strategy. Emphasis was put on public-private partnerships when it came to financing major infrastructure projects, boosting the innovation capacity of the European economy (R&D) or better preparing the workforce through joint school-business training and education projects. This reform of European economic governance required two other types of relationships to change. It required partnership among the member states to coordinate economic policies, especially after the adoption of the euro. And it required partnership between public authorities and societies in order to increase ownership of policies aimed at economic restructuring.

A third and final application was the use of partnership in the reflection on European broader, political governance. Here, partnership captured a specific type of relationship between the EU institutions and the representatives of the civil society. This application coincided with the evolution of the debates on European governance already presented in the chapter dedicated to the concept of governance.

In addition, all along, the Commission used partnership as a tool to speed-up transnational integration of markets and societies by conditioning the access to funds or grants of various projects with the creation of transnational partnerships, be it among firms, public authorities, schools or NGOs. The same criterion has been applied even to projects at the local or regional level, which in order to qualify for EU funding, have been required to show that they are based on a partnership among NGOs, public local authorities and/or businesses.

2. Partnership as an effective tool of the Community social and cohesion policies

In 1989, the Directorate-General for Employment, Social Affairs and Education of the Commission published a document entitled “Social Europe. The Leading Edge. A Review of the Growth of School-Industry Partnership in the European Community” (Commission of the European Communities 1989a). The document presented and evaluated a Commission program developed between 1983 and 1988 aimed at encouraging partnerships between schools and industry in order to facilitate the transition of young people from school to the labor market. The Commission defined the partnership between schools and industry as “a new relationship” and encouraged these connections to “play their full part in support of the Community's efforts to lay the social and economic foundations of the Internal Market” (Commission of the European Communities 1989a, 2, iv). The Commission called on member states to be active in promoting industry-schools partnerships, including through public communication strategies. The Commission argued that these partnerships were more effective if organized at local and regional levels, with the national level providing impulse and coordination. The Community level added value by encouraging the transnationalization of European industry (Commission of the European Communities 1989a, 55). Industry-schools partnerships would help achieve other Community objectives such as tackling unemployment, contributing to rural development and rendering cohesion policy more effective.

The document referred to conferences organized in member states on a similar topic. It can be inferred that the Commission was aware that the subject of school-industry partnerships was relatively popular at the time. According to the Commission, “[t]he report describes the growth of interest in partnership between schools and firms **over the past 5-10 years**” (Commission of the European Communities 1989a, iii-iv my emphasis). Indeed, local partnerships among public and private actors were already used in public policy. The activation of local partnerships in the member states was meant to substitute for the perceived failures of the welfare state in education, housing, even unemployment, but also to encourage tuning to business needs and the entrepreneurship mindset. Thus, the Commission positioned itself in, at the time, an innovative trend in public policy.

The report also mentioned a Bruges seminar organized, in 1988, by the America-European Community Association Trust on the topic of "Public-Private Partnerships in Europe and the United States". It indicated that there was an ongoing exchange of experience between the US and Europe on this subject. The Commission welcomed this exchange and the goals of the Bruges conference (Commission of the European Communities 1989a, i).

The Commission also favorably mentioned the US model through its impact on individual member states like Ireland, the UK, even Denmark and the Netherlands, where business actors were more open to engage, along with public authorities, in activities such as training and education. The Commission seemed particularly sympathetic to the convictions that underlay the US model and its replicas in some member states, among which the idea of local ownership of any development project and of symbiosis among private and public actors, a relationship characterized by the existence of common goals and complementary resources:

> (…) a belief that economic development springs from an attitude of mind in the population, a desire to control its own destiny, and to master the means of doing so; a

> recognition of the concept of the city (or area) as a business or corporate enterprise which should have its overall strategic plan, and image; an emphasis on a concept of "the community" as the sum of public and private resources, and of its welfare as depending on successful partnership between them, so that the decline or malfunction of any major component is a loss of importance to the rest; a belief in the importance of leadership and that the private sector can make an important contribution there; a perception that assembling data about needs, and resources, is a fundamental necessity for organizing cooperative action; an acceptance that long-term commitment is necessary to effect substantial, widespread, change. (Commission of the European Communities 1989a, 48)

The Commission absorbed these convictions and put them at work in its programs. For example, the PETRA Program, launched in 1988, awarded grants to facilitate industry-schools partnerships meant “to mobilize the collective resources of the public, private and voluntary sector so as to develop a cooperative or integrated approach to vocational education, training and counseling for young people and to promote a climate for effective partnership in the agencies concerned” (Commission of the European Communities 1989a, 57). The European discourse during the 1990s regarding social and urban policy was dominated by the logic of partnership, accompanied by a standard reading of social reality and economic development according to which problems are to be solved locally, through the involvement of all stakeholders, both private and public, with the national and European authorities providing guidance and funds.

This presentation of an apparently minor topic is meant to indicate that the introduction of the partnership principle in the 1988 reform of the Structural Funds had a context. The partnership principle was already present in public policy, both in the member states and at the EU level. As seen above, the Commission openly admitted its sources of inspiration, among which the US model of public and private cooperation at the local and regional levels and the ethos of mutual dependency and complementarity. The Structural Funds were particularly fit to introduce a principle already practiced in social and economic policy because their objectives were to encourage structural adjustment and economic growth in the less-developed regions of the European Community, to convert regions affected by industrial decline and to address long-term unemployment and integrate young people into the labor market. For example, the Council Regulation no. 4255/88 of 19 December 1988 specified that the European Social Fund was meant to finance vocational training programs and to subsidize measures meant to create new jobs or self-employment opportunities. The Regulation emphasized that the partners (the Commission, the members states and local and regional authorities) should act as if they were engaged in the "pursuit of a common goal".[34] Unlike the US model, the 1988 Regulations did not yet encourage the involvement of private actors along the local, regional ones, but this would be done in the subsequent reforms of the Structural Funds in 1993 and 1999.

Contextualizing the use of partnership in the Structural Funds as an appropriation of an established public policy practice challenges the common interpretation of partnership in EU studies as a sign of institutional innovation which shaped a *sui generis* architecture of multi-level governance. Hooghe and Marks, perhaps the most prominent scholars of multi-level governance, interpreted the use of partnership as a redistribution of authority among supranational, national and subnational governments which brought along a specific form of governance, typical for the EU: "[p]artnership" among the Commission, national and subnational authorities, and private organizations is the chief institutional innovation of cohesion policy (...) [w]hile the Commission did not use the term "multi-level" governance to describe the 1988 reforms, multi-level governance was indeed the goal" (Hooghe and Marks 2001, 108, 107). Hooghe and Marks implied, mistakenly, that the EU was building an innovative type of political organization. However, as we will see in the section dedicated to the genealogy of the concept, partnership

[34] "Community operations shall be such as to complement or contribute to corresponding national operations. They shall be established through close consultations between the Commission, the member state concerned and the competent authorities designated by the latter at national, regional, local or other level, with each party acting as a partner in pursuit of a common goal. These consultations are hereinafter referred to as the 'partnership'". (Council Regulation (EEC) 2052/88 of 24 June 1988)

among the federal government, the states and the local governments has been a recurrent, long-debated theme in US federalism.

Seen in the context of already existing public policy practices, the introduction of the principle of partnership in the EU Structural Funds was, contrary to the hypothesis advanced by the multi-level governance scholars, the expression of an alignment of the EU to a spreading rationality of government which imposed a certain understanding of what constituted the conditions for a successful public policy aimed at development and growth. A closer look at how the reform of the Structural Funds came about brings more clarity to this distinction. The Commission pushed for partnership not so much to re-locate authority, but out of a conviction that it was putting into place an effective model of public policy.

In a 1983 Communication on ways of increasing the effectiveness of the Community's Structural Funds, the Commission argued that their effectiveness depended on their being "first and foremost *tools of development and structural adaptation*, rather than financial redistribution mechanisms" (Commission of the European Communities 1983, 7 italics in original). For both Hooghe and Marks, cohesion policy was primarily seen as a redistributive policy. However, the Commission insisted that the goal of the Funds was not the redistribution or the financing of national actions. In order to make sure this distinction was respected, the Commission claimed that the effectiveness depended on their objectives being defined by the Community itself and that "the member states must accept the Community as a partner in structural initiatives" (Commission of the European Communities 1983, 7). The Funds were to be turned into restructuring instruments, "part of a coherent program of reform" (Commission of the European Communities 1983, 10). The two priorities of the Funds, on the background of the economic crisis of the 1980s, were "the *development* and *structural adjustment* of the less-developed regions” and “the *conversion* of declining industrial areas” (Commission of the European Communities 1983, 11 italics in original). It was in this context that the Commission proposed to double the budget allocated to the Structural Funds and, already in 1983, acknowledged that the development, structural adjustment and conversion of the less-developed regions and the declining industrial areas required “the participation of private enterprise, the support of the various groups of people concerned and the effective cooperation of national and regional authorities” (Commission of the European Communities 1983, 15). The involvement of private actors, along the local governments, was part, since the early 1980s, of the design of the Community’s “development and structural adjustment policy” (Commission of the European Communities 1983, 15)

Additional arguments support the interpretation that the Commission used partnership out of the conviction that it was an appropriate, proven policy tool. Jacques Delors was particularly sympathetic to the idea of solving social problems through the collaboration of all interested parties. Delors was one of the promoters of a dialogue among social partners (employers and trade unions) at the EU level. More generally, he seemed convinced that the failures of the welfare state could be compensated by the private and the public sectors working together. As mentioned earlier, according to Barry, Delors was inspired by the works of the French sociologist Donzelot, an urban policy specialist and advocate of partnerships at local and regional levels (Barry 1993).

The principles of concentration, partnership and programming that were introduced by the 1988 reform of the Structural Funds were presented by the Commission more in terms of a management reform, as “optimizing management” than as Hooghe argued an effort “to institutionalize key principles of regulated capitalism in Europe” (Hooghe 1998, 459). Behind the 1988 reform was a certain understanding of development, as Mouradian, writing in collaboration with the Commission's DG for Coordination of Structural Policies, explained: "[p]artnership will make it possible to keep close to realities in the area instead of imposing policies from the high on the regions" (Mouradian 1992: 20). Partnership was promoted not because of solidarity or redistribution, but because it was supposed to lead to a better definition of development needs and increase the capacity to mobilize resources. The local and regional authorities were expected to know the conditions and needs better. The reasons for the 1992 reform, according to Mouradian, were to make "Community action more consistent, and therefore more rational and more effective" (Mouradian 1992: 7). The reform was even clearer in the sense of actively involving private actors, considered essential in revitalizing regions in decline. Development and growth were, in their turn, subsumed to the larger objective of completing the single market. The Commission regularly consulted business representatives in order to find out how their needs could be taken into account in the reform of the Structural Funds. The Commission believed that the role of the private actors, and business in particular, was essential to the revitalization of regions lagging behind (Mouradian 1992). Business representatives were interested in projects directed at improving infrastructure, ensuring qualified workforce, and improving research opportunities. This explains why most of the financial resources were dedicated to infrastructure projects, to vocational training programs that fit the needs of the job market, and to research aimed at facilitating the creation of partnerships between universities and industry. As shown below, the elements of this policy were based on a certain understanding of development and were inspired by the US experience and by economic theory.

When the Commission started using the concept, partnership as an effective tool of policy making was recognized by international organizations and within the member states with which the Commission was working. For example, in 1993, the European Foundation for the Improvement of Living and Working Conditions, an EU body, organized a joint conference with the OECD on the topic of urban partnerships (European Foundation for the Improvement of Living and Working Conditions 1995). Both organizations recognized that policies for social inclusion and development must be developed in partnership. There is a noticeable similarity between the OECD discourse and the one employed by the EU. Besides, the OECD representative (Brink 1995: 6) pointed out that, “[g]overnments are re-inventing strategies for governance under the new economic order (…) Experimentation with joint action and partnerships is widespread in OECD member countries”. Jensen-Butler (1995: 39), a political science professor present at the conference, argued that “[p]artnership is becoming the organizational key to success for cities in economic, social, environmental and even cultural terms”. These statements show the extent to which the discourse on partnership in the context of public policy was widespread well beyond the EU and how the appropriation of the concept by the European institutions took place in a much broader context. These examples contradict the image of the EU as an innovator in terms of governing, but confirm the perspective of it borrowing existing practices of government, by appropriating a specific governmental rationality.

3. Partnership, neo-institutional economics and economic governance in the EU

A second application of partnership by the EU coincided with the reflection on the economic governance of the single market. Here again, the EU was not an innovator, but relied on existing knowledge and expertise concerning the institutional requirements of effective economic governance. If, before 1992, the focus was on the completion of the single market, the subsequent preoccupation was with the competitiveness of the European economy in the context of globalization and demographic challenges. It has been a process punctuated with key documents such as the 1993 White Paper on growth, competitiveness and jobs, the 2000 Lisbon Council Conclusions which lay the foundation for the Lisbon Strategy, the 2003 Sapir Report, the 2004 Kok report, the 2005 renewal of the Lisbon Strategy and, even recently, the EU 2020 agenda. The reflection on European economic governance was conditioned by other major events such as the completion of the single market and the creation of a monetary union (see also the Sapir report 2003).

Initially, the Commission used the concept of partnership to monitor and reflect on the structure of the single market and formulate public policy recommendations based on studies of global trends. Partnership was also used to approach employer – trade unions relations. In 1985, Jacques Delors presented the program of the Commission to the European Parliament, with partnership used in two contexts. First, Delors talked about partnership as a type of relation between employers and trade unions that the Commission should encourage. Second, he used the concept to recommend public action directed at facilitating transnational partnerships among SMEs, as a key to boost competitiveness and complete the internal market. The role of public authorities in matchmaking events for SMEs became a recurring theme in the Commission's documents. For example, the Council Decision 89/490/EEC of 28 July 1989 on the improvement of the business environment and the promotion of the development of enterprises stated that the Community should encourage business cooperation and partnership through the Business Cooperation Network (BC-Net) or the "Europartenariat".

The Commission monitored the evolution of business models and market structures and of relationships between economic actors, especially the ones that promised to maintain or boost competitiveness of European firms in the global market. In 1991, the Directorate-General Telecommunications, Information Industries and Innovation of the European Commission published a study on “the Economic Effects of Strategic Partnerships and Technology Cooperation”. The study highlighted the multiplication, in the 1980s, of strategic technology partnerships among firms, in the context of the internationalization of markets, with the goal of maintaining competitiveness. The Commission kept a steadfast interest in how to stimulate research, innovation and transfer of technology in the single market as a key to its competitiveness and success. As it will be shown below, the 2000 Lisbon Strategy transformed this concern into a systemic preoccupation in which partnership was a key concept.

In the 1993 White Paper “Growth, competitiveness, employment. The challenges and ways forward into the 21st century”, the Commission analyzed the dramatic changes taking place in the global economy and the weaknesses of the European economy which was in danger of falling behind the US and Japan. The main changes in the global economy were in “production systems, methods of organizing work and consumption patterns” (Commission of the European Communities 1993a, 22). Important among these was the emergence of various partnerships among firms in production structures and methods as a new pattern of organization. The Commission urged Europe to adapt through specific transformations.

The main weaknesses of the European economy identified in the 1993 White paper were: the fragmentation of the market, the lack of sufficiently developed European networks (transport, energy, telecommunications), the insufficiently developed information society, the out-dated structure of European industry, the lower rate of employment. These all led to lower productivity of the European economy compared to the US and Japan. The recurrent solution, in the entire document, was the partnership between the public and private actors, whether it implied financial resources, strategic input, industrial structural adjustment, organizational methods or the improvement of labor skills and productivity. The catchphrase was to unlock private sector potential and resources.

The involvement of private actors to achieve long-term competitiveness was required in other areas as well: the creation of an information society, the reform of education and vocational training systems and the boosting of research activities. The Commission argued for the introduction of fiscal or legal incentives to increase the involvement of the private sector.

In 1997-8 the European Commission launched a debate on the benefits of public-private partnerships (PPP) in the European major infrastructure projects (Commission of the European Communities 1997c). In September 1996, at the initiative of Neil Kinnock, the EU commissioner for transport policy in agreement with the EU ministers of transport, a High-Level Group on Public-Private Partnership Financing of Trans-European Transport Network Projects convened for the first time.[35] The group drew members from both the private and public sectors and included representatives of ministers of transport, the European Investment Bank and the European Investment Fund. The Group produced a report that recommended the increased use of public-private partnerships in EU and member states transport policy. PPP was defined as "a partnership between various public administrations and public bodies on the one hand and legal persons subject to private law on the other, for the purpose of designing, planning, constructing, financing and/or operating an infrastructure project" (High-Level Group on Public-Private Partnership Financing of Trans-European Transport Network Projects 1997, 15). The report

[35]http://europa.eu/rapid/pressReleasesAction.do?reference=IP/97/785&format=HTML&aged=1&language=EN&guiLanguage=en

argued that the PPP have such advantages as ensuring supplementary finance, facilitating the transfer of skills and expertise from the private to the public sector and risk-sharing. Neil Kinnock, a strong supporter of PPPs, argued that public investment was limited and the success of projects depended heavily on mobilizing private resources (Kinnock 1998, 2). The private and the public sectors had complementary roles. The private supplemented the finance and contributed with project design and implementation expertise, while the public sector harmonized projects within an overall image of economic development and network integrity (Kinnock 1998, 2).

As mentioned above, partnership between public and private actors was also used in addressing the issue of the European economic governance in contexts such as the Lisbon strategy. The goal of the Lisbon strategy was to reform the European economy so as to catch-up with the US. The Conclusions of the Lisbon Extraordinary European Council (23–24 March 2000) set three objectives (economic growth, employment and social cohesion) which were to be achieved by a transition to an innovative and competitive model of economy, mainly by unlocking the potential of the private sector in the following areas: innovation, research, education and training, and financing.

In the Lisbon strategy, innovation and research hold a special place because of the conviction that the competitiveness of economies depended on their being able to produce high-technology products. As often advocated by the Commission, partnerships had the following dimension within the proposed innovation policy. First, partnerships among firms helped them pull together their innovative capacities. In this case, the role of Commission is to facilitate these partnerships: "foster networks, partnership events and clusters to assist entrepreneurs in building strategic partnerships, getting better access to knowledge and forging business links within and beyond the EU" (Commission of the European Communities 2004, 11). Secondly, innovation policy encouraged partnerships among firms and universities in order to ensure appropriate finance for research activities and link research with productive outputs. Again, the role of public authorities was to facilitate these partnerships: "private stakeholders are a vital element of an efficient innovation system and therefore need to be fully involved in political priority setting. Member states are invited to foster, where appropriate, public-private partnerships to better engage the private sector into education, research and finance" (Commission of the European Communities 2006c, 16). The Commission repeatedly stated that "[p]ublic authorities have a major role to play in promoting innovation in Europe, through partnership with business" (Commission of the European Communities 2000a, 27).

Besides relying on partnerships in relation to innovation, the Lisbon strategy used the concept to recommend a reform of industry-labor relations and a revamp of public administration to create more sensitivity to business models and needs. Moreover, in the Presidency conclusions of the 2000 Lisbon Council, it was decided that policies within the Lisbon strategy were to be directed towards the creation of a "regulatory climate conducive to investment, innovation, and entrepreneurship". To achieve these goals, the private sector was the most important resource to tap into and partnerships were the privileged format for engaging the private actors and driving the reform. According the Lisbon Council Conclusions, among the criteria to evaluate the performance of member states were the activation of public-private partnerships and the transparency between public and private sectors.

The reflection behind the Lisbon agenda was subsequently and repeatedly refined. Two important reports contributed to this refinement: the 2003 Sapir report and the 2004 Report from the High Level Group chaired by Wim Kok on “The Lisbon strategy for growth and employment” (the Kok report). In both recommendations, partnership had an important part.

The Sapir report started with a comprehensive description of the state of the EU economy, its weaknesses and challenges (globalization, a future enlargement which would increase its heterogeneity, demographic problems, etc.). It included an analysis of the Lisbon strategy and recommended ways of improving its effectiveness. The Report found that one of the major reasons why the European economy was lagging behind was the state of its economic institutions and organization: “it is this delay in adjusting our institutions, which accounts to a large extent for our growth deficit” (the Sapir report 2003: 29). The Sapir report acknowledged that preoccupation with economic governance in Europe was a new phenomenon and it insisted that “getting the governance right” was an important factor in improving the growth performance of the EU economy, especially in the context of the creation of EMU and of EU enlargement (the Sapir report 2003, 75). It also found that the focus on governance recognized that both public and private actors were critical to this process of reform.

The solution offered by the Report was to put in place the right institutions that could lead to “less vertically integrated firms, greater mobility within and across firms, greater flexibility of labor markets, greater reliance on market finance and higher investment in both R&D and higher education” (the Sapir report 2003: 123). The report directly referred to neo-institutional economics studies, inspired by Douglass North’s work:

> [a]s demonstrated by many studies (e.g. Easterly and Levine, 2002; Rodrik et al., 2002), the most important among these “non-standard” factors are institutions, including in particular the rule of law, property rights, and social capital. These studies have confirmed the earlier view by North (1990) that stable institutions, and in particular the rule of law and protection of property rights, are essential for establishing a favorable business climate and assuring investors that they can safely invest and retain the returns on their investment. The establishment of stable, high-quality institutions can be achieved only through a long term process of political interaction and sensible

national policies, buttressed and supplemented by appropriate policies and incentives from the EU (the Sapir report 2003, 104)

In particular, the report prescribed one important element of change: the increase of ownership of the Lisbon strategy by member states and their respective societies. To increase ownership, member states should act as partners, the EU being the facilitator (the Sapir report 2003, 126). The 2004 Kok report put forward similar recommendations. In particular, it advanced the idea that the success of the Lisbon strategy largely depended on its ownership by the member states and their societies, national parliaments, social partners and all stakeholders (the Kok report 2004, 40).

The recommendations of both reports, especially those concerning ownership and partnership, coincided with a broader discourse on growth and development policies already practiced by such international organizations as the World Bank, the IMF and the OECD. Partnership between governments and societies in development and growth policies has been a key feature of the good governance approach, in vogue since the early 1980s, fueled by the increased influence of neo-institutional economics, as already discussed in the governance chapter. The reports fed into the 2005 review of the Lisbon Strategy and, to no surprise, both ownership and partnership were key elements in the 2005 Renewed Lisbon Strategy for Growth and Jobs. Partnership was defined as "an effective governance structure for managing economic reform in Europe" (Commission of the European Communities 2006a, 8). In the 2006 Commission's Communication on the implementation of the Renewed Lisbon Strategy for Growth and Jobs, Jose Maria Barroso, President of the Commission, stated that "partnership designed to ensure real ownership of the strategy at all levels in Europe" is one of the two solid foundations on which the Strategic rested (Commission of the European Communities 2006d, 3).

A special relationship that needed to be adjusted in order to bring more flexibility in the labor market and the workplace organization was that between workers and employers/managers. An important component of the Lisbon strategy was to encourage partnership between trade unions and employers organizations – the social partners. This approach built on a vision already launched by Delors as early as 1985 as shown above. In 1997, the European Commission published a Green Paper on partnership for a new organization of work whose goal was to encourage partnership among workers and managers in the firm to lead to a "better organization of work at the workplace" and therefore, a higher level of both employment and competitiveness (Commission of the European Communities 1997a).

Social dialogue was an element in the Commission's vision of improved European governance, "a force for innovation and change" whose goals were to create trust, mutual understanding, compromise for better legislation and policy-making (Commission of the European Communities 2002). The partnership between workers and employers was appropriated in the Lisbon Strategy in terms of the "ownership of change". In the document detailing the strategic objectives of the Commission for the period 2005-2009, the Commission stated that "the Partnerships for reform and change announced by the European Council in 2004 are the best way to ensure ownership in making labor markets conducive to more and better jobs" (Commission of the European Communities 2005a, 7). Partnership, the Commission claimed, was also essential in the implementation of structural reforms in the enlargement countries. As shown below when tracing the genealogy of the concept, the partnership between labor and employers has been a recurring theme since the late 1800s. Partnership and ownership were advocated in order to decrease the likelihood of industrial conflicts that reduced productivity, but also to make workers feel they had a stake in their jobs more than the wage they were earning and therefore, perform at their best.

4. Partnership and the reform of the European governance

In the 2000s, the principle of partnership was brought to a new level in the EU and it was given a central place in the reflection on the reform of the broader, political European governance. The Commission and other European bodies appropriated the expression of multi-level governance and claimed that partnership was a distinct feature of the European governance. Partnership was used as a tool to create an active European citizenship and a more effective policy-making in the EU. The Commission assumed the role of an activator of networks, working in partnership with NGOs (Commission of the European Communities 2000c). The Commission argued that the ownership of policies by civil society brought compliance, effectiveness and better performance. The documents abound. In 2000, the White Paper on the reform of the Commission stated that the Prodi Commission decided to create "new forms of partnerships between the different levels of governance in Europe" with the goal of more effectively fulfilling policy goals (Commission of the European Communities 2000b). In the 2006 Communication on "A citizens' agenda. Delivering results for Europe", the Commission stated that "delivering a new policy agenda needs a new partnership" and "EU policy cannot work unless all actors are fully engaged" (Commission of the European Communities 2006b, 8).

In the 2001 WPEG, partnership was used in several dimensions, both as an effective and democratizing format of policy-making. The over-all justification for partnerships was that the EU could not work as a national government and had to meet policy objectives through a broad engagement of all actors (European Commission 2001, 32).[36] Partnership referred not only to the consultation of NGOs at the EU level, but also to the interaction between the supranational, national and subnational levels of government, bulding a “multi-level partnership” (European Commission 2001, 12).

The Barroso Commission continued to use the concept in its documents on EU governance. The strategic objectives of the Commission for the period 2005-2009 were subsumed under the title “Europe 2010: a partnership for European renewal, prosperity, solidarity and security” (Commission of the European Communities 2005a). Partnership meant consultation, participation and sharing of common among all stakeholders in the European Union, both public and private. In its legislative and work program for 2006 “Unlocking Europe’s full potential”, the Commission stated that “[p]artnership must be the instinctive reflex for the way the Union develops and implements its policies” (Commission of the European Communities 2005b, 4).

As mentioned above, the Commission used the concept of partnership in a specific context to speed-up the integration of European societies by bringing and making work together citizens, NGOs, schools and businesses from different member states. In order to achieve this transnational cooperation, the Commission made transnational partnership a requirement in the applications for project funding. The existence of a transnational partner was a very frequent criterion for all projects submitted for EU financing, a condition mentioned in virtually all public calls for proposals. The Commission even published guidelines on how to build partnerships, such as the “Comenius School Partnerships. Handbook for Schools” (Commission of the European Communities 2008). In programs directed to the funding of education projects, the

[36] “But the Union cannot develop and deliver policy in the same way as a national government; it must build partnerships and rely on a wide variety of actors. Expectations must be met in different ways” (European Commission 2001, 32).

Commission required joint projects "to be multilateral", involving at least three schools from at least three member states. The call for proposals for the Media II program, aimed at encouraging the development and distribution of European audiovisual works, stated that, in order to obtain funds, the applicants must prove the existence of cooperation among organizations from at least eight member states (Commission of the European Communities 2000d). Moreover, the Commission required proof of the existence of both public and private financing. In a 2008 call for proposal, partnerships were defined as types of eligible cooperation in the following way: "[t]he term partnership/partners implies full or partial active intellectual collaboration in the execution of the project. In no case will financial support alone (sponsorship) be deemed to constitute a partnership. However, any financial support accompanied by active intellectual collaboration in the execution of the project will be accepted as a partnership. In all cases, the purpose of partnership is to add value to the project." [37]

The preliminary mapping above shows the extent to which partnership has become pervasive in the discourse of the EU institutions, especially that of the Commission. In the following, a closer look at how the principle of partnership has been discussed in the EU studies reveals the limits of this literature and the necessity to look beyond it in order to understand the history of the concept and its use by the EU. A review of the broader, non EU literature shows the multiplicity of hypotheses that have been advanced to explain the emergence of the concept of partnership. The concept is present in virtually all the social sciences and is deeply entrenched in the current understanding of social reality and of what constitutes effective policy-making. The aim is to indicate some of the intellectual elements that supported the emergence of the

[37] Central call for proposals - DG COMM No < A2-1/2008 > Financial support for an initiative emanating from organisations with a significant trans-national dimension as provided by the European Commission's Debate Europe Communication, http://ec.europa.eu/dgs/communication/pdf/grants/debate-europe-call/Debate_Europe_call-1-Central_call_en.pdf

concept and which have been taken over by the EU once it adopted the concept. Last, but not least, the genealogy of the concept connects these dots and tries to give a more complete and coherent image of the evolution of the concept and of a specific rationality of government.

B. Existing explanations of the use of partnership by the EU

As already mentioned, the use of the concept of partnership by the EU has received considerable attention in EU studies, particularly from the part of scholars elaborating on the multi-level governance model, the Europeanization hypothesis, or ideological cleavages in the EU. The literature has presented all of these as innovative and unique to the EU; however, as we shall see below, they were not. For the most part, EU studies ignored the broader use of partnership in contexts outside the EU, possible sources of inspiration, and examined the principle as an EU specificity, particularly in the context of the Structural Funds (Marks, Hooghe). Therefore, the discussion on partnership was limited to whether the principle led to the emergence of an innovative policy-making structure in the EU, reflected in a decrease of the role of the national state in favor of subnational, supranational authorities or private actors.

The EU literature offers several explanations as to why the EU introduced the concept. The scholars tend to have a positive appreciation of the principle, as either a symbol of the EU model of regulated capitalism, of democratization, or of policy-making efficiency in a supranational context. The existing accounts for the introduction of the principle in the EU explain it as an ideological response to neo-liberalism; an attempt to relocate authority; an expression of the subsidiarity principle; the implementation of an administrative or management device; or a democratization mechanism in a supranational context. Most of these explanations ignore the context outside the EU and the variety of the areas in which the EU used the concept (e.g. little attention is paid to the use of the concept in economic governance). Moreover, as some EU scholars observed, the concept of partnership was “little explored and undertheorized” and “still widely unknown” (Scott 1998, 193; Brunazzo 2007, 12). This weakness in EU studies led to unawareness as regards a variety of normative assumptions regarding the proper functioning of society that supported the emergence and spread of the concept. It also led, in great part, to a an incomplete list of reasons why the EU adopted the concept.

Hooghe claimed that the 1988 reform of the structural funds represented the flagship of the regulated capitalism model in the EU and the defeat, at least temporary, of the neo-liberal forces that dominated the 1980s (Hooghe 1998, 469). She defined the neo-liberal model as the drive to insulate markets from political interference and the competing EU model of regulated capitalism as an attempt at market regulation, redistribution and “partnership among public and private actors” (Hooghe 1998, 458, 459). Hooghe’s argument implied that since the goals of cohesion policy could be interpreted as a redistributive policy, the mechanism of partnership also qualified as an element of regulated capitalism. However, the extent to which the Commission viewed the Structural Funds as a redistributive mechanism is disputed and, as shown below, the principle of partnership can very well co-exist with neo-liberal approaches. Both Reagan and Thatcher tried to transfer welfare responsibilities from the public towards the private sector (business and voluntary) and this transfer was often achieved through the activation of partnerships.[38] The neo-liberals thought the market and/or other private actors (voluntary, community organizations) should provide collective goods because they were better equipped to

[38] Muir (1992) thoroughly analyzed Reagan’s use of the notion of partnership and argued that Reagan succeeded in bringing about a major change in the way Americans perceived their society. The metaphor of partnership replaced the “winner-take-all competition” in that the free market was no longer seen as atrocious pursuit of self-interest, but as cooperation where everyone won. Salamon and Lund also emphasized the importance of partnership between public and private sectors in Reagan’s governance vision: “governing philosophies, institutions, and processes (…) are especially important in the case of the Reagan administration because it has made questions of governance - such as the roles and responsibilities of public and private institutions and of different levels of government – a central part of its program” (Salamon and Lund 1984:4).

ensure efficiency, quality, and responsiveness. One of the mechanisms to shift the provision of goods from public to private actors was through the creation of public-private partnerships, transferring the responsibility towards the private sector and the individuals. In fact, partnership is such a versatile, flexible concept that it easily crisscrosses ideologies, being used in arguments that appeal both to those who support social solidarity through public interventions and those who advocate the shift of responsibility from the public to the private sphere. As shown below, this is possible because the concept was not born within an ideology, but got its strength from a regime of truth that made it appealing and inevitable for all ideologies.

Another key element in Hooghe's definition of neo-liberalism is non-intervention. However, in practice, if one considers the cases of the Reagan and Thatcher governments, neo-liberalism went hand in hand with significant government intervention to restructure society, with the goal to create the conditions favorable to the functioning of the market. Partnership was one mechanism to achieve this, being a key element of both Reagan and Thatcher neo-liberal regimes. Besides, as Hooghe herself pointed out, the EU model of regulated capitalism was market-friendly and did not attempt to recreate the welfare state at the EU level (Hooghe 1998, 459). The model favored public intervention directed towards assisting the market and not towards responding to social entitlements. Hooghe also claimed that the effect of the cohesion policy for EU governance was "from public steering of social processes to self-governing networks of public and private actors", an effect which can very well correspond to a neo-liberal or conservative approach (Hooghe 1998, 460). Olsson, for example, argued that the concept of partnership reflected the institutionalization of the marketization ideas of the 1980s and argued that if democracy was to be preserved, the principle of partnership should be abandoned, or regulated and reformed (Olsson 2003, 291).

What is more important is that EU studies ignored an entire body of literature on the concept and principle of partnership. The concept has received extensive consideration in urban studies, legal studies, political science and economics. Almost each discipline came with its own definition and history of the concept. Paradoxically, while in EU studies partnership was largely considered an element of regulated capitalism, a defeat of neo-liberalism, in the broader literature, the concept of partnership was often associated with neo-liberal or neo-conservative practices. Jon Pierre, for example, argued that public-private partnerships increased in popularity in the 1980s, in the context of: "[t]he market-driven models of urban governance which rapidly gained ground in countries like Britain, the United States and the Scandinavian countries" (Pierre 1998, 4). Beauregard, on the other hand, fixed the origins of partnerships in the post-war period, an important point in their development being the 1970s when "in localities across the United States, seemingly novel relationships celebrated as public-private partnerships were forged among government, business, non-profit organizations and neighborhood groups" (Beauregard 1998, 52).

The broader literature on partnership shows both the variety and the sophistication of hypotheses formulated to explain the spread of the concept of partnership, something that is missing in EU studies. The main hypotheses formulated to explain the spread of partnership are, as seen below, the popularity of the privatization movement in the 1980s (supported in its turn by the emergence of economic theories that delegitimized the welfare state and subsumed politics to a type of economic behavior); the spread of communitarianism and the changing patterns of governance and management in the context of increased complexity and interdependence (be it at the level of the firm, society or international arena). This discussion serves as a context for a deeper presentation of partnership when tracing its genealogy. What is important to note when surveying this literature is the extent to which the US experience both policy wise and academic, broadly interpreted, contributed to the rise of the concept and its dissemination. Among the key intellectual elements that supported the rise of the concept are a conviction in the superiority of the private sector, a mistrust of public authorities and an overlapping between political and economic rationalities. If partnership constituted an innovation in the art of governing, it did so, just like in the case of transparency and governance, because of an overlapping between economic and political rationalities.

C. Existing explanations on the spread of partnership

1. Partnership and the privatization movement

Savas positioned the emergence of partnership within the rise and success of the privatization movement (Savas 2000). He argued that the expression “public-private partnership” was preferred as “a less contentious term than ‘privatization”, but that ultimately it was the same thing since it implied an “arrangement between a government and the private sector in which partially or traditionally public activities are performed by the private sector” (Savas 2000, 3). Public-private partnerships could be considered privatization insofar as privatization meant “reducing the role of government or increasing the role of the other institutions of society in producing goods and services and in owning property” (Savas 2000, 3).

For Savas, privatization, and implicitly, public-private partnerships, depended on a series of conditions coming together (Savas 2000, 5). The search for more cost-effective government (pragmatism) merged with the revival of a strong preference for free-market and minimal government intervention (philosophical position).[39] Added to this mix were the commercial interests of various private economic actors who found profitable business opportunities in the

[39] Savas argues that the idea of privatization originated in the works of such authors as Milton Friedman, Gordon Tullock, Anthony Downs, William Niskanen, and Peter Drucker (Savas 2000, xiv).

withdrawal of government from the provision of several goods and services. Savas argued that the public also supported the movement since favorable economic conditions made it more open to the idea of having the possibility to choose between public and private goods. And finally, the movement was strengthened by the rise of communitarianism which favored a return to community values and community provision of goods and services as opposed to both government and for-profit actors.

Several other authors established the link between the rise of “partnership” and the privatization movement, though they put different emphasis on various reasons behind the privatization drive. Linder and Vaillancourt and Carroll and Steane drew attention to the rising social expectations and disenchantment with the public sector in the 1970s and 1980s (Linder and Vaillancourt 2000, 4; Carroll and Steane 2000, 4). Carroll and Steane put emphasis on the rise of conservative governments and free-market ideologies (Carroll and Steane 2000, 42).

A different position was adopted by Henig who emphasized the role of American academics, in particular economists. Henig found that the privatization movement was preceded by a “hegemony of economic concepts” (Henig 1989, 653). A key development was “the replacement of the notion that economic and government behavior were distinct spheres of human interaction with a perspective that subsumed government dynamics as a subset of economic processes” (Henig 1989, 653). The analogy between government and markets was promoted by the work of such economists as Milton Friedman, George Stigler and public-choice economists such as James Buchanan and Gordon Tullock who studied the actions of public officials and governmental agencies as market players and self-interested actors. In Henig’s words this led to the “intellectual delegitimation of the welfare state” (Henig 1989, 653).

Henig discussed three themes introduced by Friedman that constituted the background for the privatization movement. First, Friedman compared the government with a monopoly in the market, thus associating it with "inefficiency, unresponsiveness, and waste" (Henig 1989, 653). By this, Friedman also provided the background for an economic analysis of public policies and expanded the use of economic concepts in the previously separated sphere of government action. In Henig's words "[e]conomists previously had based their claim to expertise upon the distinctiveness of the economic sphere; the analogy between government and private-service providers suggested the possibility that government and political action might be considered subsets of economic behavior" (Henig 1989, 653).

Henig argued that the success of the economic theory found support in urban policies in the 1970s: "[t]he early and crucial evidence that privatization allowed public goals to be achieved more efficiently and more effectively primarily came from studies of cities that had contracted with private firms to provide such traditional services as fire protection and refuse collection" (Henig 1989, 656). These experiments were continued through the support of two US administrations: Carter who "backed deregulation and emphasized a public-private partnership as a strategy to reverse urban decline" and of course, Reagan (Henig 1989, 661).

Henig traced the spread of partnership from economic theory to urban policy, articulating this evolution mainly in terms of a gradual legitimation of the private sector to the detriment of the public one, on the background of an overlapping between economic and political rationalities. Insofar as the EU adopted partnerships as a matter of public policy efficiency, far from being innovatory, it drew from the intellectual build-up described by Henig.

Starr also explained the privatization drive in terms of dominant social science theories (Starr 1988). He identified three theories behind privatization: laissez-faire individualism and free-market economics, communitarianism, and the one concerned with government overload (Starr 1988, 20). The property-rights theory contributed to legitimize the privatization drive because it assumed that private firms were a superior form of organization insofar as their property rights structure was more likely to offer incentives for the individual to maximize economic performance (Starr 1988, 21). Public institutions were seen as less efficient because their property rights structures were "more attenuated and diluted" thus limiting individuals' incentives to use the property efficiently. Based on these arguments, the public-choice theorists delegitimized government actions by claiming that: "1) that democratic polities have inherent tendencies toward government growth and excessive budgets; 2) that expenditure growth is due to self-interest coalitions of voters, politicians, and bureaucrats; and 3) that public enterprises necessarily perform less efficiently than private enterprises" (Starr 1988, 24).

Starr, like Henig, pointed to elements from economic theory that supported the privatization enthusiasm and implicitly, the spread of the partnership format. It is important to keep these details in mind when considering the reasons why partnership gain such a prominent role in EU discourse as well, especially when connected to the efficiency of management and public policy. The history of the concept brings together these various explanations, articulating a more complex view of the evolution of the concept.

2. Exporting the US model of partnership: from urban policy to the OECD recommendations

As mentioned above, there are various explanations for the emergence and spread of partnership in the broader, non EU literature. A perspective shared by several authors emphasizes the close link between partnership and the specificity of social relations and governing in the US. Salamon considered that partnerships had always been a specific feature of the US welfare system (Salamon 1995). He argued that the US, unlike the European welfare states, had a long tradition of relying on co-operative efforts with the private/ voluntary sector to deliver policies, in areas such as health care, education, research, housing, community development, etc. He referred to this tradition as “the distinctive American penchant for private solutions to public problems”, a “cooperative pattern of service delivery” (Salamon 1995, 1, 5). Salamon also invoked the US model of federalism (as discussed by Daniel J. Elazar) which encouraged partnership between states and federal executive as a mechanism of policy delivery (Salamon 1995, 42). He claimed that the American model was exported abroad from the 1990s on (Salamon 1995, 5, 11). One example was the attempt by François Mitterrand to stimulate the debate on the role of the voluntary sector in European societies by initiating a European conference on ‘social economy organizations’ and by reforming the legislation on charity in 1980s (Salamon 1995, 254).

Besides Salamon, several other authors indicate that the rise of partnership spread from the US and identify as sources either the urban policy of Jimmy Carter or the overall policy of Reagan (Linder and Vaillancourt 2000, 4, 8-9; Henig 1989, 661; Carroll and Steane 2000, 38, 45; Linder 2000, 19). Carroll and Steane also argued that the focus on partnership spread from the US to other OECD countries, the OECD thus being the channel through which the model transfer was possible (Carroll and Steane 2000, 42). It is important to recall the appreciative remarks of the European Commission on the US model of partnership, in the late 1980s when the Community started to use partnerships as a policy format. As seen later on, in the part consecrated to the history of the concept, scholars such as Elazar in the 1960s – 1970s presented partnership as the very characteristic of the US society and the US type of federalism.

3. Partnership and management reform

a) Management in network society

There are those who argue that, although, partnership spread in the 1980s during the privatization drive, it represented a different paradigm, that of management in the network society (Klijn and Teisman 2000). Kouwenhoven defined public-private partnerships as “a form of joint governance by public-private networks”, justified by the acknowledged interdependence between governments and businesses where partnerships are an attempt to manage uncertainty in turbulent and complex environments (Kouwenhoven 1993, 120, 121). This justification of partnerships is based on the literature that explains how organizations deal with interdependency and complex environments and it closely relates to the academic inquiry into the conditions of control in complex environments, as presented in the governance chapter.

The justification of partnership as the acknowledged mutual dependency between private and public actors is also supported by Kristensen who discussed partnership in relation to the rise of another concept, that of “corporate social responsibility” (Kristensen 2001, 33). According to Kristensen, the firm now portrays itself as a “socio-economic value community” embedded in society. The rise of “partnership” and that of ‘corporate social responsibility’ are interconnected. The phenomenon can be best understood as an overlapping between economic and social and political rationalities, as a reconciliation of two previously opposite principles of “economic competitiveness” and “social cohesion and solidarity’. Thus, Kristensen described the transformation of the welfare state into an welfare society through “the political delegation and reallocation of social responsibility to market actors, to civil society and to individuals” (Kristensen 2001, 21). Moreover, the rise of partnership marks a broader cultural phenomenon of averting conflict in all types of social relations. As a consequence, democracy is currently perceived as a regime that prevents conflicts, as opposed to a previous conceptualization of democracy as the most appropriate regime to deal with conflicts (Kristensen 2001, 36). Kristensen observes that the use of partnership as a mechanism that prevents conflicts is not new, being found in the expression of 'social partnership' that advocated the cooperation between workers and employers.

These insights present the general, cultural, academic, and ultimately policy environment in which the EU started to use the concept. Part of this background has already been presented in the governance chapter and it relates to the emergence of new patterns of control once social reality is increasingly portrayed as complex, made up of interdependent, yet autonomous subsystems. In this context, partnerships and networks substitute hierarchical control oriented towards substantive outcomes. Along this transformation is the blurring between public and private spheres, between economic and political rationalities. The consequence, in what concerns the art of governing, is once again, the possibility to transfer practices from the private sphere to the public one and to create a convergence of goals for governing in both spheres. An explicit attempt to do that was proven by the success of the New Public Management (NPM).

b) Partnership and the New Public Management

The core assumption of the NPM movement was that it was possible to increase the efficiency and effectiveness of public administration by introducing principles of market discipline and by the transfer of know-how from the private to the public sector (Linder 2000, 27). This was to be achieved by the creation of public-private partnerships. Public managers would learn by emulating their partners from the private sector in being more entrepreneurial and flexible. The argument was that the market represented a model of service and production efficiency and its competitive character stimulated innovation and creative problem solving in the public sector as well.

According to Linder, partnerships have been used as tools of management reform, of "problem conversion" by shifting governments' responsibilities to the private sector or of "moral regeneration" by encouraging "self-reliance, initiative, hard work, integrity, prudence" as Thatcher tried when she supported selling shares to the public to increase ownership and stake-holding, enhance entrepreneurship and dedication to the market (Linder 2000, 29). Partnership was also justified as an instrument of risk shifting, of restructuring the public sector and increasing the power of citizens by increasing their choices, as consumers, between public and private goods. The NPM movement was particularly influential in the US, the UK and the Scandinavian states and it is not unjustifiable to argue that its influence was felt in the EU context as well, especially in such documents as the 2000 White Paper on reforming the European Commission.

This review of existing explanations on the rise of the concept of partnership, in the broader literature, served several purposes. The first was to show the extent to which the EU literature on partnership missed important elements from the broader context in which the concept emerged. The main consequence of such oversight is to convey the wrong image of the EU as innovator, when the EU was only applying an existing tool of public policy. The second purpose was to set the stage for the following section of the chapter, the genealogy of the concept, by identifying the strands of thought that nurtured the rise of the concept. The following section is structured in two parts, based on insights from the preliminary mapping of the concept in the EU documents and the literature that explains the rise of partnership. The first part traces the evolution of the concept in economic thought and shows how the concept became a key element in theories on economic development and growth. The second part traces the evolution of the concept within the reflection on how social and intergovernmental relations in a federal system should be organized, how society can benefit from specific forms of the relations among various elements in society – public, private and voluntary.

When tracing the history of the concept, one finds that what is striking about partnership is that its meaning changed very little over the centuries. At its core is the idea of cooperation for common goals, a central meaning to be found in all approaches on partnership. What changed is the area of the application of the concept and the categories of partners involved. It is important to understand where this particular type of relationship emerged and to understand how it was disseminated, by which mechanisms and for what purposes, because this is how we can understand and judge its adequacy to the plethora of governmental activities to which is applied now.

D. The history of the concept of partnership

1. Partnership, economic relations and economic thought

For a long time, the concept of "partnership" was crystallized to capture a form of economic relationship. As seen above, current definitions of partnership, as the one found for example in Merriam Webster dictionary online, still maintain this first understanding of the concept as "a legal relation existing between two or more persons contractually associated as joint principals in a business". North and Thomas argued that partnership was one of the institutional forms that favored the economic growth of the Western world because it represented a form of risk-sharing that, in turn, stimulated entrepreneurship (North and Paul Thomas 1970, 7). Historically, partnerships as forms of economic organization replaced the "single proprietorship" and were, later on, in turn replaced by the joint stock company (Schumpeter 1947, 152-3; Tuttle 1927, 24).

Because of its importance as a legal form of an economic relation, in the past centuries, the concept of partnership received intensive elaboration in commercial codes and legal debates/cases, etc. Partnership law in the British Empire was a well-developed body of legislation which covered such questions as the juridical personality of a firm, the liability of partners and the rules of bankruptcy (Hogg 1918, 233). The British Empire played a major role in the diffusion of the concept, by exporting it to the colonies through its commercial codes (Hogg 1918). Legally, partnerships were, for example, defined as "an agreement that something shall be attempted with a view to gain and that the gain shall be shared by the parties to the agreement" (Sir Nathaniel Lindley quoted in Wharton Pepper 1898, 138). However, when larger types of economic arrangements such as companies and corporations increasingly replaced traditional partnerships, the use of the term in its basic commercial sense decreased. It was taken over, as shown below, to describe and promote a certain type of relationship between labor and capital, a new structure of capital-labor relationship in industrial organization.

The idea of cooperation, as opposed to conflict, between labor and capital found several types of supporters. On one hand, there were those who sought to create the conditions of "industrial democracy" by making workers participate in management and profit. In this case, the similarities with the original, commercial concept of partnership are evident: the idea of participation in gain. On the other hand, there were those who saw in the partnership between labor and capital a way to "pacify" industrial relations (for example, Waley 1867). For these supporters, the greatest negative factors that affected economic productivity and profitability were strikes and other types of industrial conflict. They wanted to make workers realize that they shared the same goals with the capital owners, that economic productivity was as much their concern as that of their employers. Both workers and employers were partners because of their predefined economic roles and the common goal of economic profitability should motivate partners to cooperate. The idea of profit-sharing or participation in management was received more reluctantly, while the idea that cooperation led to increased productivity was received enthusiastically. Moreover, it was believed that participation in ownership and profits would make workers give their best:

> A premise of all deductive economics is that self-interest is the chief motive in the creation of wealth […] a system that enlists self-interest more than the wages system enlists it ought to be more economical (Giddings 1887, 368)

And finally, there were those who advocated partnership with workers as a better management technique. They welcomed profit-sharing or participation in management as long as these mechanisms stimulated the sense of responsibility and the productivity of workers.

These positions briefly sketched above are only a part of what was a sophisticated debate on the merits and disadvantages of much more elaborate models of capital-labor partnerships. Some of the models were also tested in practice and the results of the various experiments further alimented the theoretical debate. At the time, American scholars and businessmen were much more reluctant to the idea of labor-capital partnership than their European counterparts. They perceived it as a matter of philanthropy more than a matter of business and believed that it would handicap their businesses in front of the competition (Monroe 1899).

However, WW II and the years after the war brought changes in this attitude of the US businessmen. This was due to the fact that during the war, a certain type of cooperation was forged, in the US, between business, labor and public authorities to organize the production of weapons and other equipment needed in the war. The cooperation proved a success. One important component of this cooperation was the management-labor partnership:

> [t]he war is uniting the two traditionally hostile groups in industry - management and unions - into a partnership. Out of this is coming increasing supplies of armaments for America's fighting forces, and, as this partnership becomes perfected and more widely recognized, total war production will be realized - provided, of course, that the necessary central national planning is quickly developed" (Golden 1942, 103) .

If the US was more reluctant to embrace previous ideas of partnership between labor and management, the war experience changed the perspective and showed the ways in which this cooperation could improve productivity.

Another component of the war cooperation concerned the government – business partnership in production. Newman gave the example of the Petroleum War Team and argued that "[t]he technique of successful government-industry cooperation should receive increasing attention in public administration" and be extended to other agencies (Newman 1946, 240). The consequence, from the perspective of the history of the concept, is that use of partnership was extended to describe, in the US, a desirable type of relationship between government and business and between management and labor.

However, the business-government cooperation and partnership were not received without criticism. The criticism tried to highlight the contradiction between the desirability of business-government partnerships and the ultimate conflict of interest between public authorities whose goals were public and business entities whose objectives were private. What was also contested was the idea of equality between public authorities and business entities that the concept brought about. Moreover, criticism was directed at the possibility of accountability in this type of relationship: "[w]e cannot accept a concept that carries with it the idea of an alliance between business corporations and the government as sovereigns of equal rank. No government can afford to permit its sovereignty to be challenged, whether in time of war or in time of peace" (Durr 1943, 51).

In the 1950s, the concept continued to be discussed in Europe in the context of industrial relations, with new models emerging in Germany (co-determination, John L. Thomas 1952). In the 1950s, there were also appraisals of the British experience with co-partnership and profit-sharing and joint consultation in industrial relations. Some concluded that the applications of those principles did not lead to the democratization of the industrial organization:

> The principal impact of partnership proposals is at the psychological level where the aim, from the standpoint of industry, is no less than the creation of a new industrial psychology. Objectively, it can be argued that the workers' share of profits and control in industry is more illusion than reality, but if workers embrace the illusion it can have profound political and social effects. It is almost axiomatic that any identification of interests between the workers and private enterprise is that much less an identification of interests between the workers and socialism, and ultimately, between the workers and the State". (Rogow 1955, 374)

Rogow argued that the ideas of partnership were attractive to the workers because of the "dignity and status" attached to the concepts of ownership and control (Rogow 1955, 375). The interests of the capital owners/employers, on the other hand, lay in the avoidance of socialism or worse.

The boom of partnership in the 1980s is mostly discussed in the literature in the context of Reagan and Thatcher's neo-liberal governments. As seen already in the review of the literature, economic thought contributed significantly to this evolution. To recall, Henig found that the privatization movement was preceded by a "hegemony of economic concepts", through the analogy between government and markets promoted by the work of such economists as Milton Friedman, George Stigler and public-choice economists such as James Buchanan and

Gordon Tullock who studied the actions of public officials and governmental agencies as market players and self-interested actors (Henig 1989, 653).

The boom of partnership in the 1980s can be explained not only in terms of neo-liberal regimes, but also as a period in which partnership among public, private and voluntary sectors became part of a new orthodoxy of models of economic development. A major role in this evolution was played by various think tanks and, of course, academics. It constituted a significant step towards the export of the concept to other political environments. One such think tank was the Committee for Economic Development (CED). In 1982, it published a document entitled “Public-Private Partnership. An Opportunity for Urban Communities” (Committee for Economic Development 1982). It defined public-partnership as “cooperation among individuals and organizations in the public and private sectors for mutual benefit” (Committee for Economic Development 1982, 2). It put emphasis on “initiatives which are designed and carried out locally” and claimed that the effectiveness of federal action depended on taking into account the local specificities (Committee for Economic Development 1982, ix). It detailed both the policy and operational aspects of partnerships and recommended building local consensus, establishing the institutional background, and focusing on stimulation of private initiatives and resources (Committee for Economic Development 1982, 2, 3). The CED emphasized that the potential of public-private partnerships depended on the rich associative social structure typical of the American society identified as “the civic foundations of effective partnership”. The OECD also started to pay attention to partnership. Fosler mentioned a conference organized by the OECD on public-private sector integration in 1982 (Fosler 1986, 365). All these arguments about the benefits of partnership arrangements are to be found in the EU approach to both structural policy and economic governance, as revealed in the preliminary mapping section of this chapter.

In the 1980s, there was a rich academic output on public-private partnership. Particularly well-documented is the New York City Partnership, established in 1979 and functioning from 1980, bringing together business, labor, and government to save the city from bankruptcy (MacChiarola 1986; Davis 1986). Other prominent case studies were the cities Chicago and Pittsburgh (Haider 1986; Davis 1986; Ahlbrandt 1986). The New York partnership was considered a success for a number of reasons, the most important one being the input of business skills and leadership (Davis 1986, 98). It was argued that public-private partnerships were often initiated by business leaders as they became more and more conscious that the social environment affected the success of their enterprises. Davis also remarked that partnerships extended to virtually all types of policies and received media and academic attention (Davis 1986, 3).

Another type of partnership that received attention was the university-industry partnerships carried out for research and technology development (Kysiak 1986, 48). Again this is an element to be found in EC policies both in the structural policy of the 1980s and the innovation policy that accompanied the elaboration of the Lisbon strategy in the early 2000s.

Probably a more significant role in the evolution of partnership was played by the appropriation in the 1990s of the concept by international organizations as a crucial tool of economic development policy, inspired by neo-institutional economics. The good governance concept of the World Bank is based on insights from neo-institutional economics, as discussed in the governance chapter. The requirements of accountability, rule of law, transparency, and participation/partnership are the reflection of the neo-institutional economics understanding of institutional criteria for economic growth and conditions of change. While some of the features of good governance stress the formal institutions – e.g. rule of law, property rights – some are directed to the transformation of the informal constraints or of belief systems. The focus on participation and on the involvement of civil society falls into this category. Behind these principles are North's ideas that change towards economically favorable institutions is possible when the organizations realize their benefits from change and engage in altering the existing inefficient institutions. Ownership and partnership serve as means through which belief systems change and social consensus towards practices favorable to economic growth is formed, as argued in the documents of the World Bank, the OECD and the IMF.

In the 1990s, partnership was used abundantly within the new development policies supported by several international organizations. Partnership was defined as cooperation at various levels of government: between central and local public authorities, between public and private actors (both business and voluntary) and, of course, between donors and recipients of development aid. The OECD's "Partnerships for rural development" quoted the Committee for Economic Development (1982) "Public-Private Partnership: an opportunity for urban communities" and put emphasis on public-private partnerships (OECD 1990). In the Foreword of a World Bank discussion paper of Robert Picciotto "Putting Institutional Economics to Work: From Participation to Governance", Ismail Serageldin noticed the importance of designing institutional arrangements that would take advantage of the "complementary roles of state, market, and voluntary sectors in providing development goods and services" (Serageldin 1995). In 1999, the World Bank adopted the Comprehensive Development Framework (CDF) in which the concept of partnership played a key role. The evolution of a new paradigm on development thinking of the World Bank is also visible in Stiglitz´s contributions (Stiglitz 1998; Stiglitz 1999). As argued in a 2004 World Bank document, "[b]uilding partnership between the government and other stakeholders in a country helps to mobilize resources for development and complement the limited capacity of the government itself. In most circumstances, the central government needs to develop a close working relationship with subnational governments and with civil society organizations, including private sector associations and CSOs [civil society organizations] involved in social service delivery" (World Bank 2004, 14).

Adopting a neo-institutional economic perspective, Paul Collier explained the background of the CDF in a 2000 World Bank Working Paper entitled "Consensus Building, knowledge and conditionality" as a shift towards acknowledging the crucial role of building the institutional structure conducive to economic growth (Paul Collier 2001). He argued that the building of consensus is a pre-condition for the building of the institutional structure. Partnership is crucial because it helped build this consensus: "empower the domestic constituencies for change through knowledge and participation" (Paul Collier 2001, 1). Conditionality as coercion fails because it does not produce ownership (Paul Collier 2001, 11). Let us recall in this context the emphasis put in the EU Lisbon strategy on ownership and partnership as conditions for the economic success of the European Union, as pointed out both in official documents and the Sapir and Kok reports.[40]

For a great number of reasons, mostly concerned with economic development and efficiency purposes, partnership gathered the consensus of the international community (see for example Liebenthal, Feinstein, and Ingram 2004, vol. 6). North defined partnership as "a collaborative effort by which we can create the conditions to improve performance" (North 2004, 3). His discussion on partnership as a tool of development fit into the wider approach of neo-institutional economics which emphasized the effect of political institutions on economic growth.

[40] For a more detailed justification of the use of partnership by the World Bank see also another World Bank Working Paper "Perspectives on Partnership" by Maxwell and Conway who argue that "without domestic ownership, reforms and investments are not sustainable (…) successful development requires partnership among government, local communities, the private sector, civil society, and development agencies" (Maxwell and Conway 2000: vii).

According to North, the institutions that create the appropriate incentives for economic activity never evolve naturally, but are established either by consensual or authoritarian polities. Partnership is a tool to build consensus around those institutions and rules that establish the appropriate incentives for economic growth.

In the 1990s, partnership also became a major tool in rethinking marketing (partnerships with customers) and management strategies. In management, there is a new vision that alliances and the exploitation of interdependencies between firms increase their effectiveness and competitiveness by producing strategic advantage/competitive advantage through flexibility, specialization, and flow of know-how (Bucklin and Sengupta 1993; Webster 1992, 1). Attention is given to the design of successful partnerships. Mohr and Spekman defined partnerships as "purposive strategic relationships between independent firms who share compatible goals, strive for mutual benefit, and acknowledge a high level of mutual interdependence" (Mohr and Spekman 1994, 135). In a literature review, Mohr and Spekman observed that partnerships were associated with a series of specific attitudes such as trust, commitment, information sharing, conflict resolution, joint problem solving as opposed to domination in conventional business relations (Mohr and Spekman 1994, 136). Another interesting article analyzes how and when it is economically sound for firms to develop partnership relations with their customers (Anderson 2002). Anderson used transaction costs theory and referred to partnership as "a form of governance/relationship" (Anderson 2002, 956).[41]

Partnership was central in the reflection on how to improve public management. It was embraced by the Clinton presidency and by other Third Way governments such as New Labor in

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[41] An interesting article documents how multinational corporations (MNCs) develop new strategies to enter fresh markets. London and Hart argue that MNCs are more successful in penetrating new markets if they build non-conventional partnerships with local actors, NGOs or community groups (London and Hart 2004). These partnerships provide the corporations with local knowledge and legitimacy (London and Hart 2004).

Britain to reform public administration. The Clinton administration introduced elements of NPM such as performance standards, cost-effectiveness, flexibility and bottom-up approaches (Galston and Tibbetts 1994). A book that popularized the concept and practice of partnership in this period was Osborne and Gaebler's *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector* (Osborne and Gaebler 1992). The public managers had to become "community builders" and one of their tasks was to "build partnerships and consensus" (Nalbandian 1999, 187). The NPM stressed the adoption of business-like techniques in public agencies, around the 12 core values of "openness, partnership, foresight, leadership, expertise, effectiveness, efficiency, propriety, commitment, integrity, courtesy, and responsiveness" (Lam 1997, 414; see also Nalbandian 1999, 195). But, as Lam remarked "none of these is related to the social values of justice, fairness, and equality, or the political values of liberty and freedom" (Lam 1997, 414).

The goal of this section was to show how the concept of partnership maintained its relevance in economic thought, despite of its repeated transformations, and how it echoed in several aspects of the EU discourse and policy. To sum up, partnership was first used as a legal format that enabled commercial activities, then as a format for industrial cooperation and, later on, as a type of relationship between public authorities and businesses or other voluntary organizations. All along, the rise of the concept was supported by its perceived economic benefits: risk-sharing, pacifying industrial relations and thus increasing productivity, stimulating the efficiency of public administration through the expertise and resources of the private sector, and ultimately, promoting effective economic institutions by facilitating the ownership of change throughout society, as prescribed by the new paradigm of development policies. The EU used the concept of partnership in all these aspects, whether it described effective structural policy, partnership among trade unions and employers or ownership of economic reform policies and the setting up of a proper institutional environment conducive to economic growth. The US experience and the academic contribution to theorize and transfer this experience were key elements in crystallizing this regime of truth. However, support came also from another body of literature – the one reflecting on social and intergovernmental relations in the US type of federalism. It is important to stress that these evolutions relied on each other and are presented here separately only for analytical reasons.

2. Partnership and the organization of social and intergovernmental relations

The concept of partnership also emerged as a way of characterizing the social architecture in the US, of coagulating principles on how various elements of society should interact with each other and what types of relations should be established between public authorities at local, state and federal levels. The idea of partnership was at the core of the renewal of the US model of federalism since the late 1960s – the debate on the proper division of powers between federal, state, and local levels. This reflection played a key role in the evolution of the concept. It ran parallel to the discussion on how partnerships between business and government could help economic development and complemented it by offering a projection of an integrated system in which partnerships characterized society at all levels: vertically, among public authorities at federal, local and regional level and horizontally, among public, private and voluntary sectors. These reflections and these debates are important to the argument in this chapter that shows that the EU model of governance which employs a very similar image of partnership among various levels of government and among various entities and groups in society was inspired by an already existing model of governing.

The use of partnership in the reflection on the federal arrangements in the US started arguably in the 1940s, in the wake of the New Deal: “[t]he first step in clarification of the differing duties and responsibilities of state and national governments, it seems to me, is to emphasize the essential idea of partnership that was so instrumental in the erection of the federal structure” (Patton 1944, 1132-3).

In the US debate on federalism, a significant contribution was brought by the Commission on Intergovernmental Relations, founded in 1953 with the goal of providing a report on the relations between the state and federal governments. Muskin commented on the working of the Commission on Intergovernmental Relations under the heading ‘partnership of federal and state governments’:

> To achieve the maximum goal of public welfare, there is need to utilize the services and the resources of every level of government, and in every part of the nation. . . . In every field then the question is this: What specific division of labor and what combination of national, state, and local authorities working together will produce the best results in administering the function without endangering the essentials of the United States constitutional system or sacrificing any other recognized national interest? (Muskin 1957: 337)

In the 1960s, the concept of partnership was at the core of the US debate on federalism. For example, a landmark book on the US federalism was Daniel J. Elazar’s “The American Partnership” (Elazar 1962). Elazar’s basic argument was that the US pattern of federalism had always been one of cooperation among the federal and the state governments as opposed to dual, competitive federalism (Thursby 1963). Elazar wrote “if for some outlandish reason, Americans were to ever adopt an ideologically correct salutation to parallel that of the communists’ “comrade”, they would be very likely to select the classic greeting of the cowboy, the archetypal American folk figure, “pardner” which conveys just the sense of independent interdependence that characterizes American federalism” (Elazar 1966: vi). Elazar also acknowledged the use of the concept to refer to the relations between public authorities and businesses or management and labor. Therefore, for Elazar, partnership understood as "cooperative arrangements" represented the core of the American federalism, characterizing not only political relationships between the state and federal authorities, but all social relations – "the guiding principle in most of the political relationships that tie institutions, groups, interests, and individuals together in the American political order, animating public-private as well as intergovernmental ones" (Elazar 1966, 2).

Partnership implied the distribution of authority among several centers that had to negotiate cooperative arrangements with one another in order to achieve common goals. Under the slogan of "creative federalism", the increasing demands of society were thought to be best addressed in a reconceptualization of the American system both in terms of sharing power among levels of government (federal, state, local) and by innovative public-private partnerships: "'Creative federalism' is not just a catchy slogan. It is the beginning of a theoretical formulation of intergovernmental and public-private partnership in approaching actions" (Carey 1968: 23).[42]

In the 1970s, the concept of partnership continued to dominate the US debate on federalism, both at theoretical and practical levels. Several authors drew attention to the economic crisis of the 1970s as a background for the re-evaluation of the US federalism. The debate on models of federalism achieved a more prominent role being embraced by the US presidents. President Carter used the formula of the "tripartite federalism" (federal, state, local) and also favored the increased role of the private actors (Stanfield 1978, 40, 44). During the Carter administration, the principle of partnership was used to address cities in distress, the federal government often by-passing states to deal directly with the local executives. The Carter

[42] See also David B. Walker, "A New Intergovernmental System in 1977", *Publius*, Vol. 8, No. 1, The State of American Federalism, 1977, (Winter, 1978), pp. 101 -116.

administration also encouraged involvement of private actors in public-private partnerships. It is important to stress that the goals of the intervention were directed towards stimulating economic activity and not as redistribution, just like in the case of the structural funds.

Lyall discussed the 1978 National Urban Policy and pointed to the economic crisis that pushed Carter to re-think federalism, with an increased focus on the local level and the need to attract private resources: "[p]ublic-private partnerships were seen not as a substitute for Federal initiatives and responsibility in such areas but as a new policy tool in the Federal portfolio for addressing domestic problems" (Lyall 1986: 5). This is how the author discussed the notion of partnership in the Carter years:

> The private sector is expected to create jobs and provide basic business-investment capital, but it is the role of the public sector to understand how business risks are assessed and to create incentives that change those risks in favor of urban redevelopment and investment (…) Thus the public sector is expected to change both its philosophy and its methods of assistance to accommodate more closely the established ways of guiding business investment. (Lyall 1986: 7)

One author described the fourth face of federalism as the characteristic of the 1970s: "a collection of private and semi-public groups and agencies that moved into a full partnership with the national, state, and local governments in administering federal policy. This fourth face of federalism emerged from the decade's new breed of intergovernmental grant programs" (Kettl 1981, 366).

The US debate on federalism produced a reconceptualisation of governing as cooperative arrangements at three levels vertically (federal, state, local, with sometimes the federal level dealing directly with the local one) and horizontally, involving private actors, both business and voluntary: "[f]ederal, state, and local governments should cooperate in developing the necessary management, planning, and evaluation skills that will enable all levels of government to manage more effectively and efficiently" (Burgess 1975, 706). This is precisely what the European Commission attempted to achieve with the subsequent reform of the Structural Funds in late 1980s and early 1990s.

In what concerns the public-private partnerships, the US experience and the academic input were also crucial. In the late 1950s, an innovative policy in the management of water resources was termed the 'partnership policy' (Seymour 1956, 521). It referred to a reduction of the role of the federal executive and the increased involvement of local partners, public or private with the goal of reducing the financial burden of the federal authorities. Bennett also discussed the partnership policy in water resources development, initiated by Eisenhower, quoting the president as saying "[t]he best natural resources program for America will not result from exclusive dependence on Federal bureaucracy. It will involve a partnership of the States and local communities, private citizens, and the Federal Government, all working together" (Bennett 1957, 722).

Public-private partnerships were conceptualized for the first time in the 1960s, in the US. Nieburg discussed the advantages and disadvantages of business-government partnership in research and development (Nieburg 1968). But, probably the most significant area in which private-public partnerships were discussed was in urban policy. Klaman argued that:

> What is needed, in essence, if we are successfully to revitalize the quality of urban life in America, if we are to find solutions to recurring mortgage and housing problems, is to establish a creative partnership between the private and public sectors of our society. Such a partnership would have its parallel in the "creative federalism" proposed between federal and state and local governments. Such a partnership would seek the realization of broadly accepted public goals through maximum reliance on private means. (Klaman 1967, 251)

This partnership meant that private resources supplemented public ones. The partnership would be accompanied by more stringent cost/benefit analysis in public finance and the “imaginative and the technical skills” of the private sector (Klaman 1967: 261). Klaman vigorously recommended “a voluntary public/private administrative network - at national, state, and local levels - in which public agencies and private groups jointly plan, develop, and implement programs and policies for urban rebuilding” (Klaman 1967: 265). This is very similar to the use of the concept of partnership by the European Commission in the reform of the Structural Funds, as seen in the preliminary mapping section.

The articles on this topic abounded in that period. One particular article which deserves mentioning is Reich’s “Social Welfare in the Public-Private State” (Reich 1966). He argued nothing less than the fact that “[t]he emerging model of our society is that of a public-private partnership” (Reich 1966, 486). He pointed to the “blurring of the line between "public" and "private," both in the political sense and in the legal sense” (Reich 1966, 489).

The significance of this quote is that it points out that already in 1966, there is, in the US, a debate and a vocabulary on the benefits of the cooperation between public and private actors, on the blurring of the public and private realms and the mutual dependency between the two sectors. It went so far as to project that “[t]he emerging model of our society is that of a public-private partnership”. Similarly, the Committee for Economic Development, a prestigious US think-tank, observed, in the 1970s, that:

> this emerging partnership is more than a contractual relationship between buyer and seller of services. Fundamentally, it offers a new means for developing the innate capabilities of a political democracy and a private enterprise economy into a new politico-economic system capable of managing social and technological change in the interests of a better social order…the government-business relationship is likely to be the central one in the last third of the twentieth century” (Committee for Economic Development quoted in McGill and Wooten 1975, 446)

It will take at least 20 years until the projection of that think-tank translated into an inevitability of public policy in the EU and elsewhere and academics such as Jensen-Butler would say "[p]artnership is becoming the organisational key to success for cities in economic, social, environmental and even cultural terms" (Jensen-Butler 1995: 39).

In the 1980s most academic appraisals of partnerships were positive, direct forms of criticism were marginal. Criticism focused on the vagueness of the roles of public and private actors in partnership arrangements and the elusiveness of the goals. It is similar to earlier warnings that the support for partnerships runs the risk of creating confusion between public and private goals (Woodside 1986: 151). This criticism, however, testifies of the point of maturity of the debate reached in the US, while the concept was embraced enthusiastically in Europe.

E. Conclusions: Partnership, not a EU innovation, but a recurring pattern

The history of the concept makes it very difficult to accept that the principle of partnership introduced by the 1988 reform was an EU innovation or specificity. From the 1980s on, the principle of partnership emerged as the object of a consensus as fundamental tool of public policy directed toward structural reform and economic development. The roots of these developments rest in both economic theory and the US specific forms of intergovernmental and social relations. The similarities of problems, of vocabularies and solutions justify the claim that most probably, the concept of partnership reached the EU from the US, both directly and through the intermediary of other international organizations such as the OECD and the World Bank.

In addition, what the history of partnership shows is that, just like in the case of governance and transparency, economic considerations played a consistent role in the rise and spread of the concept. This is visible both in the justification of public-private partnerships and the emphasis put by the new development policies on partnership and ownership of policies aimed at economic restructuring. The currently claimed benefits of partnership and ownership echo the debates at the beginning of the 20th century on how to prevent industrial conflict and ensure the maximum productivity of workers. The fact, however, that at present, it has become a ubiquitous tool of government raises interesting questions on how the goals and means of governing have been transformed.

V. Conclusions

The trajectories of the three concepts show many similarities and few significant differences. Their histories show that they owe their current significance to the intellectual support they received in the economic theory field, being later promoted by international economic organizations such as the World Bank, the IMF or the OECD. Secondly, a characteristic of the development of the three concepts is that they applied indistinguishably to both the private and the public realms and thus contributed to easing the demarcation line between the two. Thirdly, by spilling over from economics to other social sciences and into the policy making arena itself, they contributed to a gradual overlapping of economic and governmental rationalities. All the above mentioned elements are relevant because they still characterize our current rationality of government. All three concepts enjoy unprecedented stability and acceptance having become part of everyday language of government and politics.

The many links between the concepts and the fact that they basically emerged together, that they triggered one another and mutually support each other prove that these are not isolated concepts, but part of a new vocabulary of governing, pieces of the same puzzle. This observation can only strengthen the idea that we can talk about a new rationality of government, made thinkable and possible through a new vocabulary.

The rise of the concept of governance began when economists put forth the understanding that the market was not the only form of organization that could lead to economic growth, but that hierarchies and networks could constitute, in certain conditions, alternative organizational forms that can maximize economic performance. The idea encouraged and still encourages economists and policy-makers to juggle with organizational forms and institutions in order to achieve increased efficiency and effectiveness. In this type of reflection, however, political institutions are primarily evaluated as means to enhance economic performance and not as means to pursue broader social objectives such as the freedom of individuals, equality or justice. In other social sciences, the concern with organizational forms of governing combined with the embracement of insights from systems theory, justified a retreat in the ambitions of government from achieving substantive goals to presiding over the self-regulation of existing organizations.

The history of transparency, a concept describing the availability of information, shows how the rise and spread of the concept was facilitated again by its use in economics. In economic theory, the availability of information in the market emerged as a condition to maximize consumers' and producers' awareness of choices, protect the good working of the price mechanism and, thus, ensure competition and the proper functioning of markets. Moreover, the transparency of political decision-making is required for the constitution of "credible commitment" by which economic actors get the assurance that political actors will not alter the rules of the game and will remain dedicated to economically beneficial institutions and policies. However, what the rise of transparency also does is to replace the older concept of publicity. Publicity justified the availability of information in order for citizens to exercise their critical scrutiny on public affairs. Publicity aimed to feed information into public debates, an element which is no longer implicit in the concept and justification of transparency.

Economics also played an important role in rise of the concept of partnership. If, initially, partnership referred to a specific type of business relationship, legally defined, later, the concept described a desirable format of cooperation between labor and capital/management that would settle conflicts, make parties realize their shared economic goals and thus lead to improved economic performance. The idea of partnership as a means to make people own the same goals may be valuable in economic life, especially if the goals build around the ideal of economic growth. However, partnership can prove counter-productive if uncritically extended as a principle of government because it is biased towards the emergence of cooperation and the existence of common goals and may block the potential creative forces of conflict, contestation and diversity.

As mentioned above, the histories of these concepts also converge in showing how they contributed to easing the distinction between governing in the private and the public spheres. Governance is probably the best example as it emerged to describe government in the private sphere (corporation, university), was taken over by economists to help them analyze the economic implications of institutional arrangements and returned to the public sector in the intellectual effort to solve the organizational and institutional deficiencies of the welfare state. Transparency, unlike its precursor "publicity" is not confined to the public sphere, but characterizes several aspects of the market and the private sector. Finally, partnership has an even more direct impact by emphasizing the benefits and common interests the private and public sectors have in working together. The observation that the line between public and private sectors is blurred is not a new finding, as it has been pointed out by numerous studies. What this thesis shows, however, is that the blurring between private and public sectors is also a choice justified and operated by the social sciences, and therefore it is not necessarily dictated by inevitable constraints such as the incapacity of states to govern complex societies. The blurring of the line between governing in the private and public sectors can raise important issues, one of them being to what extent the promotion of similar means of governing affects the goals of government in the public and private spheres. What we may experience is a retreat of public goals or the finding of the lowest common denominator between the goals of the two sectors. Further inquiry is needed on the ways to preserve or re-assert the differences between the goals of public and private government.

Finally, the fact that all three concepts were taken over by other social sciences and in the policy-making arena led to a gradual overlapping and substitution between governmental and economic rationalities whose consequence was to alter the way questions on who should govern, what are the goals of government, how government should take place, and over whom are answered. As to the goals of governing, the overlapping between economic and political rationalities led to the fact that, in recent decades, reflection on government focused on priorities such as the conditions for economic growth and the efficiency of public intervention. Deliberations on more traditional political values and concerns such as justice, freedom, equality were not central to recent innovations in government.

Changes in the representation of society, in the goals of government and the easing of distinction between private and public spheres also led to a transformation in the objects and subjects of governing. The image of society as complexity, with the presence of multiple self-governing, autonomous entities switched the object of governing from the individual to intermediary organizations. Moreover, based on the characteristics of these organizations (autonomy, self-regulation), the *how* of government is also altered and takes the form of the control of self-regulation.

The objective of this dissertation was to provide a fresh inquiry into the sources and processes of innovation in government. It showed that social sciences contributed to the emergence of new modes of governing by providing conceptual redefinitions of social and economic conditions. Thus, one of the main achievements of this research is to have revealed the intellectual circuits that connect current practices of government with past and ongoing developments in the social sciences.

To a certain extent, this could be good news because it confirms that practices of government are not simply ad-hoc, arbitrary activities, but are embedded in a specific rationality, an effort to justify the goals and means of governing, submitted, in this case, to the requirements of the social sciences methodologies and peer-review processes. Moreover, the idea that developments in the social sciences contribute to actual practices of government, can open up a space for a more pro-active role of social scientists in promoting new visions and understandings of government.

On the other hand, the idea that social scientific theories and output influence practices of government considerably raises the level and range of responsibility for social scientists. To respond to this level of responsibility, social scientists must become more aware and, at the same time, more critical of the origins and societal implications of the theories they help build or consolidate. In order to achieve this goal, a more proper and diversified training of social scientists must be ensured. This could include a more prominent role for political theory training in university curricula, including for economics degrees. An advantage of such a political theory background would help social scientists connect their work with key questions concerning the why and how of government, preventing them from losing sight of central values and ideals. Another way to achieve these goals is to encourage research projects inquiring into the impact of social sciences in the governmental field in order to raise awareness and suggest ways to minimize potential negative effects. Finally, a diversification of methodological training for social scientists that should encourage a more critical reflection on what can be, should be and cannot be achieved in social sciences could also contribute to more reflexive research.

By tracing the evolution of the three concepts, the goal of the thesis was also to intervene in the ongoing debate over the nature of government in the EU, on whether it is an innovative, *sui generis* form of government or a political system similar to those found in the member states. The thesis showed that the rationality that upholds government in the EU is based upon concepts borrowed from an already innovated way of thinking about the goals, means and objects of government.

In what concerns the EU studies, one of the main conclusions of this thesis is to point to some of the implications of their "provincialism". Important developments of the three concepts, especially regarding "transparency" and "partnership" were missed in the EU studies because scholars too rigidly delimited their area of concern to the EU. While more recent research (for example, the contributions by Simon Hix) strive to connect the EU studies with broader fields of inquiry (such as comparative politics), more remains to be done. An important methodological improvement in the EU studies would be to no longer have as a starting point the idea of the exceptional character of government in the EU. On the contrary, research hypotheses should be constantly checked against this assumption.

One of the most important limitations of the research is that it cannot fully develop the implications and contradictions within the rationality of government that it delineates. However, the limitations can be transformed into promises of further research, as outlined below. Thus, three lines of further inquiry can be pursued. Firstly, at the methodological level, there is need for refinement of the synthesis of genealogical and conceptual history tools because they are capable of generating a vast range of insights into practices of government. Secondly, in what concerns EU studies, there is a need to abandon the understanding of its government as *sui generis* in order to undertake a more productive inquiry into the premises and manifestations of governing in the EU. Thirdly, it is important to further explore the consequences associated with the predominance of economic themes in the current reflection and practices of government.

The thesis embraced the idea that governmental rationalities are historically contingent and they evolve constantly, within the regimes of truths of their times. From this perspective, the above mentioned innovation in government would not be problematic – past centuries had their own regimes of truths, our times have a different one. However, another ambition of this thesis was to uncover some of the "silent conditions" that make possible our current forms of government, to embrace the idea of choice, of being aware of what choices have been made and what the choices are. From this perspective, tacit innovations in government are problematic if they are not brought up in the open and discussed. That is why a critique of government must start with a critique of the knowledge that informs it and makes it possible.

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