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What role do Online Consultations (OCs) of the European Commission play in interest representation of civil society at the European level?

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Abstract:

This analysis aims to shed light on the role of online consultations in interest representation of civil society at European level. Consultations have the great potential to strengthen civil society and legitimize decision-making. But this can only happen, if participation is unbiased. Previous research found that OCs are highly business dominated. The analysis of 12.014 contributions to initiatives in four different topic areas from 2019 until 2021 aims at finding out more about user types and country of origin. Contrary to previous research, the data does not support the hypothesis of consultations being highly business dominated. In fact, citizens make up the largest share of participants. This suggests that participation has diversified over the years. Looking at the country of origin, this is not the case. Most participants are from richer, north-western European countries. Especially the newer member states still abstain from using this consultation tool. Public online consultations are a valuable tool to strengthen civil society and this research suggests that participation patterns have improved. Still, further initiatives and measures are needed in order to ensure that the public opinion portrayed in consultations is one, that not only includes many citizens, but also represents all member states.

1. Introduction

For the European Commission (EC), consultation has a “long-standing tradition” (European Economic and Social Committee 2017, p. 9) and takes place in various forms. For this paper, the research focuses on the online consultations and feedback. Whereas many formats, like a classical stakeholder conference, restricts their attendees, OCs don’t restrict access. OCs are a special format, because they ask for the participation of the general public. By allowing any kind of actor to participate, they can actively promote the public debate and the civil society participation at the European level. Even though the OCs can look back on almost 20 years of operation, the consultations didn’t lose their importance in regard to the research on the European civil society and democracy. Actually, democratic legitimacy and an open, inclusive and active civil society have only grown to be even more important. The EU has left the phase of blind support of member states and citizens a long time ago and some might consider the Brexit as a culmination of this. Nevertheless, the Commission has taken the critics very seriously. The implementation of the online OCs was aimed at including even more actors, stakeholders and citizens all the same, into policy debates at the European level (European Commission 2001). Later, the Better Regulation Agenda further developed and improved these ideas, seeking to create even more transparency and inclusiveness (European Commission 9/14/2016, 10/24/2017). Previous scholars have looked at the participation side of consultations (Quittkat 2011; Persson 2007; Klüver 2009; van Ballaert 2017) and provided interesting findings for the research field, but their data can be seen as somewhat outdated. In this study, I will provide an overview on who participates and further explain why, how and to what extent the OCs of the Commission promote civil society.

After looking at participation, another important question emerges: Are online consultations “mere box-ticking exercises” (Quittkat 2011, p. 654) or do they really give participants a voice? Unfortunately, measuring impact, and this probably holds true for any research field regarding interest representation or lobbying, is a very hard task and in most cases almost impossible. It is not surprising, that most scholars admit this and hence can’t say anything about impact (Binderkrantz et al. 2020, p. 10). Whenever a wider spectrum of actors participate, the debate is more balanced and reflects more interests, but we can’t say anything about how much the different voices are being heard. Unfortunately, this means that the research won’t be able to make any significant assumptions about the impact of contributions.

In the following, the concept of civil society and the understanding of the term used by the EC will be explained. After this, splitting consultations into their different aspects will help explain how, why and under which circumstances they can have an influence on civil society. For this, the literature, that has previously been published on this topic will be used and linked to the research question. Further, explaining how the consultation process works and quickly recapping its different generations will be the basis of the empirical research.

2. What is civil society?

Since the research question aims at the role OCs play in interest representation of civil society, the concept of civil society needs to be explained first. When comparing the different literature on this topic, it quickly becomes evident that defining the term is not an easy task (Eberly 2000, p. 5; Heinrich 2005, p. 212). Curtin describes the definition of the term as a “terminological jungle” (Curtin 2003, p. 56) with many different understandings of the concept. Whereas many scholars focus on civil society organizations and the question which organizations can be titled as a civil society organization (Kohler-Koch and Quittkat 2009, p. 20; Persson and Edholm 2018, p. 561), I don’t want

to restrict the research to the field of organizations only. I want to include a wider spectrum of actors, since the OCs are open to the general public as well. This also means including any kind of interest representation. While some approaches use a more normative driven concept of what counts as representing civil society and thus exclude certain actors like business associations (Heinrich 2005, pp. 212–213), the EC uses a wide and inclusive definition of the term. This means including think tanks, NGOs, citizens as well as businesses and organized industry (Mahoney and Beckstrand 2011, p. 1340).

Many scholars have also talked about the so-called “public sphere” (Bee and Guerrina 2014, pp. 32–33; Greenwood 2007, p. 334) or “public-space” (Armstrong 2002, p. 105; Eberly 2000, p. 4). This is important in regard to the research question, because this is precisely what this research aims at finding out. I want to research how much citizens actually participate in consultations and feedback opportunities and if a dialogue is happening at the European level.

3. How can OCs contribute to civil society?

This question can be answered by splitting it into more detailed questions: Which positive effect can consultations have on civil society? Are consultations too biased to be taken into account? Interests can be represented, policy decisions can be customized to the needs and wishes of those affected and citizens can voice their concerns. But this can only be the case, if representation is equally distributed (Quittkat 2011, p. 655). In order to find out how much these tools can contribute to civil society, it is important to look at the different components of consultation.

Previous scholars have shown that they all come with their own methodological issues and they have treated these issues differently. In the following, I want to explain what the different concepts mean and how I plan on dealing with them within this research.

3.1 Access

The feedback opportunities as well as the OCs technically provide an equal chance of access. Even though for the OCs the Commission specifies a targeted audience, it always calls on the general public and interested citizens as well. This means that no one is intentionally being excluded from the opportunity to provide feedback. Of course, only because access is technically granted to everyone, we can't assume this means equal chance for access is given. Actual access is influenced by various factors. In general, having more resources, no matter what type of actor you are, helps increase the chances of participation.

First off, potential participants have to know about the possibility of giving feedback. This is particularly interesting, if we study the participation of individual citizens. Citizens of a member state might prefer to contact their local institutions. The EC doesn't advertise their consultations and it would be interesting to find out more about how advertisement could potentially influence participation and its patterns. The OC on “Deforestation and forest degradation” provides some insights into this idea: The summary report on the responses states that over a million responses were counted, but most of them were submitted via a campaign of a team of NGOs. By providing “pre-filled questionnaires” (European Commission, p. 2) they cut down on the resources, especially the time, needed to fill out the OC. The NGOs also presumably have a wider range and they probably advertised the questionnaire on their websites or used other media channels as well. From approximately 1,200,000 submission only 1,150 were not being submitted via the campaign. Due to the obvious issue of comparability, the EC cut these submissions out of their summary report and promised to analyze them separately. Unfortunately, no separate analysis could be found. It would

be an interesting research topic for further studies to investigate cases like these. Does it mean that all these participants of the campaign have strong opinions on the deforestation or did they simply “click the button”? How should the EC count these submissions? Are they worth less than the regular submission, because the participants took less time and effort and don’t necessarily have to have an opinion on the questions?

Time, expertise and basic requirements such as internet access (Quittkat 2011, p. 660) are also a requirement. For citizens, it might be hard to deal with the technical nature of a lot of the consultations. In order to prevent language barriers, the feedbacks can be provided in any official EU language.

Unfortunately, the research data does not allow for an access analysis. We simply can’t find out how many participants would’ve participated, if they had had more resources or if they had known about the consultation.

3.2 Participation and actors

Previous research has provided a lot of findings on consultation participants (Quittkat 2011; Persson 2007; Klüver 2009; van Ballaert 2017). Most research has actually been aimed at the question of bias. Different types of bias can occur. Participation can be dominated by a specific type of actor. As discussed in the access chapter above, resources greatly increase the chances of a participation and this means, that consultations could in fact have way more business associations than NGOs participating. Another important factor is the country of origin. If the consultations were representative, the number of participants on any consultation should somewhat mirror the population or GDP of the member state. Policies, that affect certain member states more than others, pose as an exemption to this rule. This is the case in policy fields like for example maritime affairs and fisheries. Within the data used for the analysis, we should not expect specific member states to have a higher interest or dependance on the topic presented. When looking at the country of origin, another form of bias is possible. It is possible, that actors from newer member states participate less often, because they are not yet familiar with the practices at the European level. National NGOs might not have established a connection to possible European partners and their citizens might still feel new to the Union.

a. Participation bias: represented interests

Previous research has found ambivalent results regarding actor types. On the one hand businesses outnumber NGOs (Persson 2007, p. 230, 2007, p. 230; Quittkat 2011, pp. 653–654). But on the other hand, they agree to them having reached a broader audience as well (Binderkrantz et al. 2020, p. 14). Quittkat and Kotzian used a method in which they analyzed how often a certain participant provided feedback in order to find “one-time participants” (Quittkat and Kotzian 2011, p. 410). Online consultations register a great number of them, and they can thus be seen as a tool, that motivates people to contribute, that otherwise would not have contributed. Within the research, I expect business interests to contribute more often. This idea was also backed by research on the interest group population in the EU. Since business interests outnumber other interest groups, it should not come as a surprise, that they also participate more often (Wonka et al. 2010, p. 467). Hence the first hypothesis is:

H1: Participation will be biased in favor of business interests.

Interestingly, public authorities also participate fairly often (Persson 2007, p. 231). Since they differ in their function and resources from the other types of actors, I want to exclude them from the first hypothesis.

In my opinion, having a higher number of citizens participate enhances the civil society debate about policy decisions at the European level. This is because any civil society, that actively engages in a policy debate, is more valuable the more different actors are involved. Citizens, being a type of actor that is not usually included in consultation formats, can contribute via the OCs. I expect all different types of actors to participate more often, when topics are highly salient. But I especially expect citizens to participate in higher numbers, when the topic is being discussed publicly and enjoys media attention. To find out more about this, I decided to choose policy fields, that appear to be less salient versus fields that usually receive more public attention and expect the following:

H2: Participation will be biased in favor of salient topics.

H2.1: This bias will be stronger for citizens as opposed to other types of actors.

b. Participation bias: country of origin

Contributions do not equal the member states regarding their population or GDP (Persson 2007, p. 233). Research on the EU has also shown a significant “north-south divide” with northern member states being more involved and active in Union politics. This also holds true for the feedback opportunities (Quittkat 2011, p. 669). Post-socialist countries still have a culture of less political participation and their civil society is traditionally weaker (Fink-Hafner 1998; Mahoney and Beckstrand 2011, p. 1342; Petrova and Tarrow 2007, p. 76). Previous scholars have demonstrated this at the example of Poland. Even though Poland is home to one of the strongest economies among eastern European member states, their participation in European civil society is still comparatively weak (Wonka et al. 2010, p. 469). The differences in culture still influence the citizens of these countries, even though they have become Europeans. I thus conclude a hypothesis, that favors richer, and north-western European countries.

H3: Participation will be biased in favor of richer, north-western European countries.

c. Tradeoff: technical expertise versus broad participation

Another important aspect of consultations is the tradeoff between a high quality of contributions, containing a lot of technical expertise, and the broad participation of a wide spectrum of actors. It is not surprising, that the more standardized a questionnaire, the more actors participate and this has already been supported by the literature (Quittkat 2011, p. 665; Quittkat, Finke 2008, p. 209). The higher the complexity of the topic, the less citizens are able to contribute (Persson 2007, pp. 224–225). The more citizens are affected by the topic, the more problematic is this fact. Because complexity is hard to measure for me, I will not include this into a hypothesis.

4. Consultation process

All feedbacks on initiatives can be found on the Have Your Say website of the EC (European Commission) and there are filter options for the different topics, types of act and stages. To provide a better overview, the initiatives usually come with a timeline graphic. Whenever the EC publishes an initiative on this website and asks for feedback, the first step is feedback on either the **roadmap**, the **inception impact assessment** or the **draft act**. The roadmap is a document “aimed at substantiating the political validation of an initiative” and “inform[s] stakeholders about planned consultation work, impact assessments, evaluations, and fitness check (Alemanno 2015, p. 348). It is the basis for any further work, providing context and explaining what the initiative aims for, thus setting the course for the initiative. It is therefore not surprising, that “strategic lobbying advice” always recommends the “early lobbying” stage (Bouwen 2009, p. 25). Inception impact assessments are conducted whenever “the expected impacts of an EU law or policy are likely to be significant” (European

Commission). Being a more detailed version of a roadmap, they also include a preliminary assessment of expected impacts. For delegated and implementing regulations feedback can be provided on the draft text.

After this first feedback period, the EC publishes OCs as a follow-up for some initiatives in form of an online consultation. Whereas the first feedback period allows participants to “express general views”, the OCs are “based on specific questions” (European Commission). Some OCs also receive a summary report, which processes and analyzes all contributions, that were received. We can distinguish between three types of OCs: non-standardized, semi-standardized and standardized. Ever since the introduction of OCs in 2000, scholars have observed a shift towards the latter format (Quittkat 2011, p. 661). Previous research also discussed the existence of open, selective and closed OCs (Quittkat 2011, pp. 659–660), but the data that was used in this paper does not show any selective or closed ones. I assume this is the case, because the data was taken from different time frames. This might be connected to the research stating that what we see in the Commission’s consultation strategy can be roughly divided into three different generations: The first generation planned to meet the aspect of limited in-house expertise and resources by asking for the expertise of external actors in order to implement more efficient and fitted legislation (Binderkrantz et al. 2020, p. 3). The second generation, “beginning in the mid-1980s” shifted focus on the “growing concern with the broader public acceptance” (Binderkrantz et al. 2020, p. 3) and putting emphasis on the “social dialogue” (Quittkat, Finke 2008). What can be observed up until now, the third generation, was launched by the white paper in 2001 (European Commission 2001) and later supplemented by the better regulation agenda (European Commission 9/14/2016, 10/24/2017). It calls for more “transparency, participation and involvement” (Binderkrantz et al. 2020, p. 3) and strikes to “enhance the democratic legitimacy of European politics” (Quittkat, Finke 2008, p. 189).

When looking at this categorization we can see, that the consultation practices slowly shifted towards a less output oriented motivation and that the motivations for consultations have become more diverse. The Better Regulation Agenda clearly shows, that the EC takes its critics very seriously. The EC believes that enhancing the “forms of participatory democracy” can counteract the so-called “crisis of representation” (Saurugger 2007, p. 387). Less obvious, but not less important, is that having a large group of different actors answer to an OC strengthens the Commissions’ role when defending the proposal to the legislative (Bunea and Thomson 2015, p. 528).

5. Data and operationalization

The “Have Your Say” website of the EC lists all initiatives and was used as a data base for this research. The data set includes initiatives of the von der Leyen administration only, this means that data was taken from 01.12.19 up until 28.02.21. The website allows for filtering the feedback period, but I only used the start date as a filter. This is because filtering for an end date provided puzzling results. Some planned initiatives were excluded, but others were still available. To make sure, every initiative has data on available feedback, I included all those that already closed one feedback period. If only the first feedback period was finished and the online consultation was still open, these initiatives still landed in the data set. This will allow me to collect more contributions and since I don’t compare the feedback from the early period to the following online consultations, I didn’t need the initiatives to be completely closed.

To limit the available data and to be able to test hypothesis 2, I decided to pick four different policy fields and use initiatives from these only. I picked two, that supposedly have a higher salience, and two, that do not appear to enjoy a lot of public attention. For the initiatives that were listed under

various topics, I used the most prominent only in order to avoid counting initiatives twice. The topics I chose are:

- 1. Climate Action
- 2. Digital Economy and Society
- 3. Taxation
- 4. Competition

Within these categories, the initiatives were sorted into the different types of act, first (see figure 1).

Type of Act	Climate Action	Digital Economy and Society	Taxation	Competition
Act				2
Communication	4		3	5
Delegated Decision	1			
Delegated Regulation	6		2	
Implementing Decision	1			
Implementing Regulation	8		2	
Joint Communication			1	
Proposal for a Directive	3		2	8
Proposal for a Regulation	6		7	3
Proposal for a Decision				3
Recommendation				1
Regulation				2
Report			1	1
Staff Working Document			2	1
No information	1			2
Total	30	20	15	15

Figure 1

Because the feedback was given on very different types of act, I want to restrict the research to two types only: proposals for a directive and proposals for a regulation. This will allow for a more detailed comparison. Out of the 31 proposals, the EC published an OC on 26 of them. To analyze the contributions on the OC questionnaires, I either used the sometimes available summary report or downloaded the contributions from the website. Unfortunately, contributions were not available for every OC. Most of the missing data was due to the consultation not being analyzed yet. This particularly applied to the topic of taxation. Out of the eight initiatives six had an OC, but because the feedback period had been closed recently only one initiative provided data about the contributions to the consultation.

When submitting a contribution, the publisher gets asked if they want their contribution to be published alongside their personal information or not. In some cases, almost half of the contributions were submitted in an anonymous way. This means, that you can't access the user type of said contribution, which presents an issue to the research design. Within the summary report the EC publishes the user type for all contributions, because the types can't be associated with the individuals. When comparing the contributions, I found that most anonymous contributions are citizens. This does not come as a surprise. I wouldn't expect a NGO or business to publish their contributions anonymously and if they do, this should be an exception to the rule. This is why this analysis treats anonymous contributions as a citizens' contribution. For the country analysis, the anonymous contributions could not be interpreted. This led to a smaller n (n = 9.189). This could

potentially bias the data. But since the number of analyzed contributions is still high and the bias is unlikely to occur for specific states only, the data can still be used.

All feedbacks on roadmaps, inception impact assessments or draft acts are available on the initiative’s webpage. To analyze the contributions, a computer-based program¹, that collected the contributions and grouped them by user type and country of origin, was used. Because of the time frame, in some cases Great Britain is still part of the EU. It is unclear how to count this when the consultation period overlaps the official withdrawal from the EU. Since continuing participation of British actors is not part of this research, British participants were mapped in the non-EU category. The OC about the effort sharing regulation (climate action) received 45.403 contributions that were submitted via a web campaign. Organized by a group of NGOs, it allowed participants to fill in their name and submit a pre-filled questionnaire. Because filling in your name does not take the same time, effort and consideration as filling out a whole questionnaire and because answers were predetermined by an NGO and not a citizen, the positive outlier was excluded. In line with the Better Regulation Guidelines, the Commission segregated the web campaign from the other contributions as well (Directorate-General CLIMA 2021, p. 1). All other exemptions to the rule that needed to be made in order to ensure proper comparability are listed in the appendix.

Taking together contributions to OCs and all feedbacks to roadmaps, inception impact assessments or draft acts, a total number of 12.041 contributions and feedbacks were part of the analysis. 75% of the contributions are submitted via an OC. The distributions among the different topics can be seen in figure 2.

Topic	Number of Initiatives	Number of Contributions to OCs	Number of Feedbacks	Number of Contributions and Feedbacks
Competition	3	338	95	433
Taxation	8	37	206	243
Digital Economy and Society	9	5.270	567	5.837
Climate Action	9	3.452	2.049	5.501
Total	29	9.097	2.917	12.014

Figure 2

6. Findings

a) Participation bias: represented interests

The first hypothesis expects participation to be biased in favor of business interests. To get insights about this hypothesis, I decided to group the types of actors across the whole dataset (see figure 3). With 3.134 contributions, the EU citizens are the largest group of actor types. The second largest group is anonymous (2.711), followed by business associations (2.037) and company/business organizations (1.729). As discussed previously, the anonymous contributions can probably be counted as a citizens’ contribution. This means that half of the contributions were carried out by citizens (see figure 4). This finding by far exceeds the expectations and contradicts the first hypothesis. Even if only half of the anonymous contributions are actually submitted by a citizen, the

¹ This program was created by Robin Schmied for this specific purpose. It uses the same application programming interface (API) site as the feedback website. This allows for using the data from the website directly and processes them within the program.

group of contributions by citizens would still be larger than the company/business organizations and the business associations combined.

The second hypothesis stated that participation will be biased in favor of salient topics. As seen in figure 2, the number of contributions and feedbacks for the last two topics are much larger.

Type of Actor	Number of Contributions	Type of Actor	Number of Contributions
EU Citizen	3.134 (26%)	Other	322 (3%)
Anonymous	2.711 (23%)	Public Authority	308 (3%)
Business Association	2.037 (17%)	Non-EU citizen	287 (2%)
Company/ Business Organization	1.729 (14%)	Trade Union	98 (1%)
NGO	883 (7%)	Environmental Organization	84 (1%)
Academic/ Research Institution	343 (3%)	Consumer Organization	78 (1%)

Figure 3

This table has to be set into context in order to know which of these findings are actually significant. Competition only listed three initiatives, of which two also had an OC. Taxation had eight initiatives, but only one of these listed contributions to an OC. Because the eight initiatives featured a feedback period, taxation is the only category with a higher number of feedbacks than contributions to OCs. The low numbers of contributions to taxation thus do not mean that participation to initiatives on taxation is generally lower. Still, taxations’ only OC also marks the lowest turnout with only 37 contributions. Because there was just one OC with data, looking at the feedbacks might provide more valuable findings. With the 206 feedbacks on eight initiatives, taxation counts 22,8 feedback contributions per initiative. For competition this figure is slightly higher with 31 contributions per initiative. Digital economy marks 63 and climate action easily takes the lead with 227 feedbacks per initiative. What does this comparison tell us? Taxation seems to register the lowest participation numbers, but future research would need to prove the robustness of these findings.

Are citizens more likely to contribute to a salient topic than other user types? This was at the core of the hypothesis 2.1. If this hypothesis was true, the share of citizens should be larger when looking at salient topics. The data does not show a clear indication to prove this hypothesis. This could be due to the small data set of taxation. We clearly see that businesses dominate the consultations and feedbacks on competition. 57% of the contributions are submitted by business associations or company and business organizations. For digital economy and society and climate action the combined actor group of citizens and anonymous is the largest. This is especially true for digital economy, where the group accounts for 58% of all contributions. As mentioned above, I excluded the climate action initiative that featured a web campaign. If these 45.403 contributions would’ve been included, the share of citizens participating would’ve skyrocketed for this topic (to 89%).

Looking at the findings, one central question emerges: Why does this data contradict previous research and the hypothesis of business interests dominating the consultations? This could have various reasons. For one thing, this analysis – like any analysis – features some downfalls. Clearly, compromising citizens and anonymous contributions into one single group overestimates the share of citizens. The question is by how much. In order for citizens to still be the largest group, out of the 2.700 anonymous contributions only 600 would need to be by citizens. Looking at the data sets, where I had both a summary report and the contributions, this is definitely the case. I was also not able to account for double or blank submissions. Summary reports show that this is rare, but it does

happen occasionally. The biggest difference in this research compared to the ones in the literature is probably the most influential: the time frame. Whereas previous research was taken ten years ago, this data set featured initiatives from 01.12.19 up until 28.02.21. These findings could be an indicator of the change over time and more citizens participating nowadays. Future research should further investigate this and especially look for trends and possible explanations.

b) Participation bias: country of origin

The country of origin with the most contributions is Germany with 1.868, followed by Belgium with 1.779 contributions. The look at the sheer numbers does not provide the appropriate data to determine whether or not participation is biased in favor of richer, north-western European countries, since these countries are also among the most populated. Germany, a typical example for a rich, north-western European country, is the largest member state of the EU. France, being the second-largest member state, is third on the list with the most contributions. This is why I decided to calculate an indicator in relation to population. Data about the population was taken from the Eurostat website (Eurostat 2021). Because the number of contributions are very low in comparison to population size, the contributions per 1 million residents were calculated. Testing of this indicator showed that rounding errors are small enough to use this within the analysis. Belgium, being home to many of the European institutions is the country with the most contributions per residents by far. This is because many interest groups with an interest in representing themselves at the European level chose to have an office in Brussels. Many NGOs and interest groups with members across different member states also choose Brussels as their headquarter. For these reasons, Belgium can't be compared to the other member states. All other member states roughly divide into five groups. The hypothesis 3 expects most contributions from rich, north-western countries. But another distinguishing factor is the date of entry. Newer member states, especially those with a post-socialist background, might not be as accustomed to political participation. Bulgaria, Croatia, Greece, Hungary and Romania are at the bottom of the list with 2-4 contributions per 1 million residents.

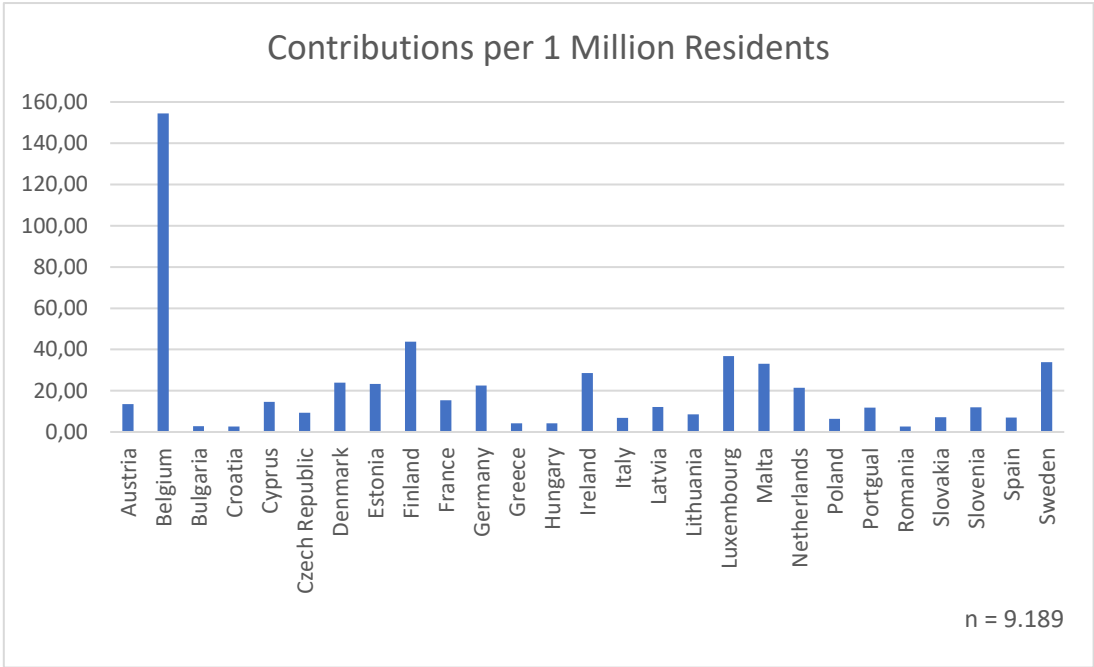


Figure 4

This group features the three youngest member states. The next six member states count 5-10 contributions: Czechia, Italy, Lithuania, Poland, Slovakia, Spain. Out of the ten states joining in 2010, five are part of the bottom two groups. Also, all countries with few contributions are located in Southern or Eastern Europe. This supports previous literature about post-socialist countries still

facing weaker political participation (Petrova and Tarrow 2007; Wonka et al. 2010). The group of Austria, Cyprus, France, Latvia, Portugal and Slovenia list 11-15 contributions. We would expect France to rank higher up. The data is not able to provide good results for smaller states, such as Cyprus, Latvia and Slovenia. Within the indicator small states can be part of the same group as France, even though France counted 1.038 contributions and they only counted around 20 contributions each. To find out more about participation of smaller states, future research would need to develop other measures and indicators. The countries in the top two groups support the hypothesis. With the exception of Malta, out of the nine countries left all are located in north-western Europe. With half a million citizens and only 17 contributions, Malta was part of the most-active states when it comes to participation in consultations. With ten million residents, Sweden needed a lot more absolute contributions to be at the top of the list (350). The hypothesis is further supported when looking at the interaction between GDP and participation. Because these findings essentially don't differ or show anything new in comparison to figure 4, they don't need to be shown in detail. The data supports the hypothesis, but some considerations need to be made. The analysis on country of origin was only able to include the contributions, that published their country alongside of it or were being analyzed in a summary report. This means that the actual numbers of contributions per country are higher. Future research could look at initiatives with a summary report only, but then this would exclude feedback opportunities before the consultation phase. It would also restrict itself to only those initiatives that already received more than average attention, ignoring the many initiatives with fewer feedback where single contributions might be more influential.

7. Conclusion

Whether or not OCs can enhance civil society at the European level is determined by multiple factors. The aim of this research was to find out who participates in OCs, because only if representation is not biased, public OCs can have a positive impact. Unbiased representation means that a broad variety of users participate. Previous scholars found that consultations are dominated by business interest. If this was the case, the consultations would mirror results of the various other consultation formats that are executed and further strengthen "stronger" interest groups.

From the 12 different user types most contributions were by citizens or business interests. Some of the other actors have a lot of chances to participate in decision-making processes at the European level. Future research should investigate why public authorities even participate in OCs when they have multiple chances to voice their opinion throughout the decision-making process. As discussed within the theoretical considerations, I believe that a higher participation of citizens is more important. Citizens can enhance the public debate by strengthening and legitimizing the decisions that are being made at the European level and promoting a European public sphere. Especially because citizens, who are not part of a NGO or membership organization, are not a typical invitee to a stakeholder conference. Of course, they can contact a directorate general or a decision making institution, but their voices might not make the greatest impact when being articulated by one single person. Questionnaires and feedback opportunities allow citizens to participate in broad numbers and thus increase their impact chances while also having a pretty low threshold. Extensive summary reports show how much the Commission values the received feedback. If citizens regularly participate in consultations, any summary report includes citizens' views. Contrary to the expectations and previous literature, the data shows that participation is not biased in favor of business interest. Instead, citizens make up the largest group among the participants. Why does this data contradict previous scholars? While research on public consultations is hard to find, it is also not very up to date. The data sets of any research on public consultations have been taken years ago. Since then the internet has become a bigger part of European citizens' everyday life, but the

Commission has also set the goal to improve consultation formats. Initiatives such as the Better Regulation Agenda specifically aimed at improving transparency and inclusiveness (European Commission 9/14/2016, 10/24/2017) and are still relatively new. A new webpage further simplifies participation and features a quick explanatory video to inform users about consultations. Even though citizens have increasingly used this consultation tool to express their views and to engage in a debate, there's still much room to improve. Especially the feedback periods for the less salient topics collected very few contributions and the mean number of contributions for an OC is only 454. The data only featured four topics, but this number is still very low compared to the 447 million inhabitants of the EU (Eurostat 2021).

Like with any European decision-making, it is also important to represent interests from all member states. This data set strongly supports my hypothesis of richer, north-western European countries participating more often. Within the lowest two groups, all countries are either a younger member state, from southern or eastern Europe or both. For the smaller member states, the data is not able to present meaningful results, because their numbers of contributions are so small. Future research should focus on developing better ideas to measure participation in smaller member states. A case-study of a few small member states could be a helpful way to find out more about participation across all different topics. Going forward, public online consultations should work on actively promoting participations in all member states, but especially in those that are not well represented yet. A European public debate can only work, if all member states are involved. Of course any participation is a good thing, but it is important to prevent that only a small number of states dominate the whole consultation process. Further initiatives or measurements should look for new methods to increase participation especially in newer, less economically developed and southern or eastern European states.

Overall, the data showed that participation seems to have diversified over time. Still, the Commission needs to upkeep and strengthen its work in involving as many actors as possible. Consultations have the great chance to connect various actor types all across Europe. They already present a European public opinion to decision-makers at the European Commission. Future initiatives need to work on further preventing any biases in order to ensure that the consultations show a public opinion that represents all different types of actors and member states and thus strengthen European democracy.

Publication bibliography

Alemanno, Alberto (2015): How Much Better is Better Regulation? Assessing the Impact of the Better Regulation Package on the European Union. A Research Agenda. In *European Journal of Risk Regulation* 6 (3), pp. 344–356. Available online at <https://www.jstor.org/stable/24769555>, checked on 26.01.21.

Armstrong, Kenneth A. (2002): Rediscovering Civil Society: The European Union and the White Paper on Governance. In *European Law Journal* 8 (1), pp. 102–132. DOI: 10.1111/1468-0386.00144.

Bee, Cristiano; Guerrina, Roberta (2014): Participation, Dialogue, and Civic Engagement: Understanding the Role of Organized Civil Society in Promoting Active Citizenship in the European Union. In *Journal of Civil Society* 10 (1), pp. 29–50. DOI: 10.1080/17448689.2013.861651.

Binderkrantz, Anne Skorkjær; Blom-Hansen, Jens; Senninger, Roman (2020): Countering bias? The EU Commission's consultation with interest groups. In *Journal of European Public Policy*, pp. 1–20. DOI: 10.1080/13501763.2020.1748095.

Bouwen, Pieter (2009): The European Commission. In David Coen, Jeremy Richardson (Eds.): *Lobbying the European Union. Institutions, actors, and issues*. Oxford: Oxford Univ. Press.

Bunea, Adriana; Thomson, Robert (2015): Consultations with Interest Groups and the Empowerment of Executives: Evidence from the European Union. In *Governance* 28 (4), pp. 517–531. DOI: 10.1111/gove.12119.

Curtin, Deirdre (2003): Private Interest Representation or Civil Society Deliberation? A Contemporary Dilemma for European Union Governance. In *Social & Legal Studies* 12 (1), pp. 55–75. DOI: 10.1177/096466390301200103.

Directorate-General CLIMA (2021): Summary Report. On the Public Consultation for the Review of the Effort Sharing Regulation. Ref. Ares(2021)2798342 - 27/04/2021. European Commission. Available online at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12656-National-emissions-reduction-targets-Effort-Sharing-Regulation-review-based-on-2030-climate-target-plan/public-consultation_en, checked on 5/15/2021.

Eberly, Don E. (2000): *The essential civil society reader. Classic essays in the American civil society debate*. Lanham: Rowman & Littlefield.

European Commission: Digital Services Act - deepening the internal market and clarifying responsibilities for digital services. Available online at https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12417-Digital-Services-Act-deepening-the-internal-market-and-clarifying-responsibilities-for-digital-services/public-consultation_en, checked on 16.05.21.

European Commission: Factual summary report on the public consultation on demand-driven deforestation and forest degradation. Ref. Ares(2021)432314 - 19/01/2021. Available online at <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12137-Minimising-the-risk-of-deforestation-and-forest-degradation-associated-with-products-placed-on-the-EU-market/public-consultation>, checked on 12.02.21.

European Commission: Food Safety. Consultations and feedback. Available online at https://ec.europa.eu/food/consultations-and-feedback_en.

European Commission: Have Your Say. Published Initiatives. Available online at <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives>, checked on 10.02.21.

European Commission: Law-making Process. Planning and Proposing Law. Available online at https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law_en#how-their-scope-is-defined, checked on 29.01.21.

European Commission (2001): European Governance. A White Paper. Language: English. In *Official Journal of the European Communities* 287, pp. 1–29. Available online at <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0428:FIN:EN:PDF>, checked on 9/29/2020.

European Commission (9/14/2016): Communication from the Commission to the European Parliament, the European Council and the Council. Better Regulation: Delivering better results for a stronger Union. COM (2016) 615 final. Source: EUR-lex.

European Commission (10/24/2017): Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Completing the Better Regulation Agenda: Better solutions for better results. COM (2017) 651 final, revised SWD(2017) 675 final.

European Economic and Social Committee (2017): EU public consultations in the digital age. Enhancing the role of the EESC and civil society organisations. Brussels: EESC, checked on 10.02.21.

Eurostat (2021): Population on 1 January. 2020. Available online at <https://ec.europa.eu/eurostat/databrowser/view/tps00001/default/table>, updated on 4/27/2021, checked on 5/12/2021.

Fink-Hafner, Danica (1998): Organized interests in the policy-making process in Slovenia. In *Journal of European Public Policy* 5 (2), pp. 285–302. DOI: 10.1080/135017698343992.

Greenwood, Justin (2007): Organized Civil Society and Democratic Legitimacy in the European Union. In *Brit. J. Polit. Sci.* 37 (2), pp. 333–357. DOI: 10.1017/S0007123407000166.

Heinrich, Volkhart F. (2005): Studying civil society across the world: Exploring the Thorny issues of conceptualization and measurement. In *Journal of Civil Society* 1 (3), pp. 211–228. DOI: 10.1080/17448680500484749.

Klüver, Heike (2009): Measuring Interest Group Influence Using Quantitative Text Analysis. In *European Union Politics* 10 (4), pp. 535–549. DOI: 10.1177/1465116509346782.

Kohler-Koch, Beate; Quittkat, Christine (2009): What is civil society and who represents civil society in the EU?—Results of an online survey among civil society experts. In *Policy and Society* 28 (1), pp. 11–22. DOI: 10.1016/j.polsoc.2009.02.002.

Mahoney, Christine; Beckstrand, Michael J. (2011): Following the Money: European Union Funding of Civil Society Organizations. In *JCMS: Journal of Common Market Studies* 49 (6), pp. 1339–1361. DOI: 10.1111/j.1468-5965.2011.02197.x.

Persson, Thomas (2007): Democratizing European Chemicals Policy: Do Consultations Favour Civil Society Participation? In *Journal of Civil Society* 3 (3), pp. 223–238. DOI: 10.1080/17448680701775648.

Persson, Thomas; Edholm, Kajsa (2018): Assessing the Effects of European Union Funding of Civil Society Organizations: Money for Nothing? In *JCMS: Journal of Common Market Studies* 56 (3), pp. 559–575. DOI: 10.1111/jcms.12636.

Petrova, Tsveta; Tarrow, Sidney (2007): Transactional and Participatory Activism in the Emerging European Polity. In *Comparative Political Studies* 40 (1), pp. 74–94. DOI: 10.1177/0010414006291189.

Quittkat, Christine (2011): The European Commission's Online Consultations: A Success Story? In *JCMS: Journal of Common Market Studies* 49 (3), pp. 653–674. DOI: 10.1111/j.1468-5965.2010.02147.x.

Quittkat, Christine; Finke, Barbara (2008): The EU Commission consultation regime. Edited by Beate Kohler-Koch, Dirk de Bièvre, William Maloney. Mannheim (CONNEX Report Series, Bd. 05).

Quittkat, Christine; Kotzian, Peter (2011): Lobbying via Consultation — Territorial and Functional Interests in the Commission's Consultation Regime. In *Journal of European Integration* 33 (4), pp. 401–418. DOI: 10.1080/07036337.2011.582280.

Saurugger, Sabine (2007): Democratic 'Misfit'? Conceptions of Civil Society Participation in France and the European Union. In *Political Studies* 55 (2), pp. 384–404. DOI: 10.1111/j.1467-9248.2007.00662.x.

van Ballaert, Bart (2017): The European Commission's use of consultation during policy formulation: The effects of policy characteristics. In *European Union Politics* 18 (3), pp. 406–423. DOI: 10.1177/1465116517702004.

Wonka, Arndt; Baumgartner, Frank R.; Mahoney, Christine; Berkhout, Joost (2010): Measuring the size and scope of the EU interest group population. In *European Union Politics* 11 (3), pp. 463–476. DOI: 10.1177/1465116510369267.

Appendix:

Some adjustments needed to be made in order to ensure proper comparability:

1. The summary report to the initiative “Digital Services Act – deepening the internal market and clarifying responsibilities for digital services” (European Commission) only listed relative numbers. I could’ve used the Excel contributions list, but this would’ve meant losing 1582 contributions to the anonymous category. This is why I decided to guess the absolute numbers. By guessing I was able to estimate 2852 out of the 2863 contributions in the summary report. The report also mentioned a few contributions by international organizations without naming the percentages. I chose to put the missing 11 contributions under “other”. Obviously, guessing is not the best option. Given the total number of contributions on this initiative, the percentages don’t give you a huge range of available numbers for one percentage. I felt like losing so much data to anonymous contributions would’ve been the worse option. I also tried to double-check my guesses with the contributions that contained personal contributions. Overall, I feel like the guesses were accurate enough to work with, especially given my overall number of contributions which was pretty high.

2. The initiative “EU Green Deal (carbon border adjustment mechanism)” did feature a summary report, but I decided not to use it. The summary report featured joint categories. For example, for the country of origin it only distinguished between four categories (EU, non-EU, bordering countries and EU including and European economic area including Switzerland and UK). For the user type, all actors that were not a citizen or a business interest were compromised into one “public authorities” category. Unlike in the case above, I felt like there was no reliable way to deal with this issue. This is why I decided to use the anonymous contributions only.

All data was collected in Excel sheets, which are available upon request.