

## The EU Commission consultation regime

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# Chapter 8

## The EU Commission Consultation Regime

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### Introduction<sup>1</sup>

The European Commission (hereafter European Commission or Commission) has traditionally sought to consult external experts and interest groups to safeguard the support of stakeholders for its legislative initiatives. Yet, consultation strategies have varied over time with the evolvement of different stages of European integration and shifting political objectives.

Changes in the consultation regime of the Commission are well captured in the concept of *generations* because the term underlines the coexistence of change and continuity: Not only is each generation built on the achievements of the former and, nevertheless, adds new components; several generations also live and develop *parallel* to each other; *together* they form a family, though each generation has a distinctive profile. Therefore, the concept of *generations*

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<sup>1</sup> We thank our discussant Frank Vibert, as well as Beate Kohler-Koch and Carlo Ruzza for valuable comments.

allows us to point out new nuances in the Commission's complex consultation regime,<sup>2</sup> which otherwise might easily be overlooked in their novel quality.

From the analysis of Commission documents and from our knowledge of the European Union, we can distinguish two generations of Commission - civil society relations in the past, as well as the emergence of a new, third generation consultation regime (see chapter 2).

The present consultation regime of the European Commission is marked by the role the Commission assigns to non-governmental actors or civil society organisations (CSOs). The Commission's documents on its policy of consultation and cooperation with external non-governmental actors reveal that a reflective approach has emerged during the 1980s, referring to a more elaborate concept of 'good governance'. The gradual extension is most noticeable in the change of terminology, from 'consultation' (1960/70s) to 'partnership' (1980/90s) and 'participation' (1990s/2000). This trend was fostered by the recognition of 'civil society' as addressee of the Commission's consultation policy and potential source of democratic legitimacy. Yet, does today's consultation regime of the European Commission enhance democracy through participation?

Some will argue that the pertinent question is whether participation does improve the working of democracy. We are well aware that different normative models of democracy are more or less demanding with regard to active citizenship and expect different functional effects from participation. In our research project *Democratic Legitimacy via Civil Society Involvement? The*

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<sup>2</sup> We call it a 'regime' because it is a formalized relationship with a specific set of principles, norms, rules and procedures around which actors' expectations converge (see the famous regime definition by Krasner (1982: 69)). For a more extensive elaboration of the regime character of the Commission's consultation policy see Kohler-Koch/Humrich/Finke 2006.

*Role of the European Commission (DemoCiv)*, from which this paper is emanating, we chose to use a *functional* conception of participation and to relate it to the theory of *deliberative democracy*.<sup>3</sup> However, criteria in line with this conception of participation are difficult to delineate. They need to grasp processes of high complexity in order to assess the contribution of specific modes of participation to the democratic enhancement of EU politics. From the standpoint of deliberative democracy, participation must be evaluated by investigating the plurality of voices, the quality of communication, and the emergence of a European public space (Kohler-Koch/Finke 2007: 11f).

For the purpose of this chapter, our analysis will be limited to various consultation instruments used by the Commission and to the question whether the Commission's participatory strategy succeeds in bringing into the open a maximum range of (authentic) voices at EU level.<sup>4</sup> Concerning the question whether the EU Commission's consultation regime enhances participation (and hence democracy), qualitative and quantitative aspects are of interest: With regard to *qualitative* aspects, the core question treated in this chapter is in what way the diverse consultation instruments are used by the European Commission. Are consultation instruments, that address civil society, only oriented towards the mobilisation of input and support, or do they allow for participation in the process of policy making?

Regarding the new instrument of 'online consultation', the question of quality is even more pressing. Online consultations, placed on the Commission's homepage and accessible via the Internet, are an instrument to

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<sup>3</sup> See Kohler-Koch/Finke 2008 for the distinction between a functional and a principled conception of participation.

<sup>4</sup> Another pertinent question with regard to deliberative democracy, the DemoCiv project addresses, is the impact of political issues addressed in EU consultation on the public reception. Do participatory procedures actually allow for the spread of issues and arguments (as articulated in EU consultations) into the media at different levels of the EU multi-level system? Unfortunately the data is not available yet.

ask stakeholders and citizens about their opinion and input on specific topics, issues or policies. But how are online consultations applied by the Commission? Are they reduced to simple opinion polls, organised as multiple-choice questionnaires not even leaving a leeway for deviant opinions? Or are they an instrument which allows stakeholders and the wider public to participate in policy formulation?

The question of *quantity* focuses on participation of CSOs in the Commission's consultation regime. How are those instruments which are geared toward the wider public, especially online consultations and conferences, accepted by the addressees, i.e. how many different participants do conferences and online consultations attract? The empirical analysis of this question allows us to make a first assessment about the openness and inclusiveness of the European Commission's consultation regime to European, national and sub-national public actors and to associations of different territorial and functional origin. Only if we find a high diversity of civil society organisations, a precondition for deliberative democracy is met.

The next chapter delineates the evolvement of the three generations of EU-society relations. Chapter three concentrates on the empirical analysis of the present Commission consultation regime, focussing on the variety of consultation instruments used, highlighting the application and participation characteristics of online consultations, and finally presenting data on the pattern of CSO-participation in the Commission's consultation regime. In the last chapter we will summarise our findings and questions arising from our empirical results.

### Three Generations of EU-Society Relations

Drawing on the logics of different stages of European integration, on the one hand, and on the emerging debate on legitimacy, on the other hand, we have identified three generations of consultation instruments (see Finke/Jung/Kohler-Koch 2003; compare Bignami 2003). Instruments which have been developed in different stages of the European integration process are guided by different ideas and principles. Yet, they co-exist side by side and establish a time- and policy-specific mix of instruments.

*A first generation* of instruments was established in the context of European economic integration. It was dominated by ideas of output legitimacy and efficiency and aimed at the involvement of economic experts and powerful business actors whose consent was perceived a necessary prerequisite for the efficient implementation of Community policies. To achieve these objectives, the Commission established close relations with the European federations of associations of trade and industry, of farmers, of the diverse professional interests, of employers and the trade unions.

This type of consultation can be characterized as rather intense, yet informal, irregular and adhoc dialogue addressing a comparatively selective circle of societal actors. Typical consultation instruments of this generation are bilateral contacts, multi-lateral meetings and issue-oriented hearings with experts and stakeholders. There was hardly any dispute concerning the benefits of cooperation, and procedures were mostly informal, allowing the Commission the largest possible degree of discretion in the exchange with societal actors.

The transition to a *second generation* of consultation policy can be traced back to the mid-1980s, when the Commission became more persistent in pursuing the social dialogue and started to promote the principle of 'partnership' in EU

policies. The idea to establish a dialogue with the European social partners was vitalized by the Delors Commission in 1985, when it organised the 'Val Duchesse Meeting' with European social partners to discuss the social dimension of the internal market. One of the results was an official mandate to develop and institutionalize a European Social Dialogue, which was included in the Single European Act in 1987 and officially introduced in the Maastricht Treaty in 1992.

At the same time, consultation instruments were institutionalized and opened to general interests, namely NGOs in the field of human rights and women's rights, environment and consumer's concerns. Facing increasingly critical stances in the member states which became obvious with the failure of the Maastricht Referendum in Denmark, the Commission was no longer exclusively focussing on the factual quality of its policy proposals but became concerned with a broader public acceptance of EU politics in the member states.

This concern was reflected by the opening of the dialogue for general interest representatives and the implementation of funding programmes for NGOs. One of the results was the introduction of a 'Civil Dialogue' in the field of employment and social affairs in 1996. In order to establish representative partners for consultation and to advance transparency, the Commission encouraged networking amongst NGOs and supported the establishment of multi-stakeholder forums such as the *Platform of European Social NGOs* (Social Platform). The Social Platform has become the privileged consultation addressee of the Commission and has organized the *European Social Policy Forum* as a public event every two years since 1996 (see Smismans 2003; Geyer 2001).

This second generation of consultation policy is characterized by the broadening and deepening of societal involvement. Existing instruments such as consultation and funding have been adjusted to new political objectives and extended to new actors. In selected policy fields, a considerable degree of institutionalization has been achieved and a broad range of societal interests beyond both sides of industry have been accepted as ‘partners’ of EU institutions. This trend was escorted by system-wide efforts to increase transparency and access to documents in all stages of the policy process, which has enhanced the general conditions for civic engagement in EU politics (see de Leeuw 2003; Peers 2002).

We would argue that today we witness the emergence of a *third generation* of instruments developing in the context of the Commission’s White Paper on European Governance. The already discernable trend towards more openness and transparency has been given a new momentum: ‘Participatory democracy’ – put into practice through partnership with ‘civil society’ – became a model to enhance the democratic legitimacy of European politics. This trend is associated with the accession of the Prodi Commission in 1999, which had to deal with a general sense of crisis after the resignation of the Santer Commission. This additionally fuelled the debate on the legitimacy deficit of the EU.

The Commission responded by extending the scope and variety of consultation instruments. The newly introduced ‘Online Consultations’ deserve our special attention in this context because they have broadened the range of civil society organizations from the different levels of the EU multi-level polity and included individuals in the consultation process. The importance of ‘civil society’ was further underlined by introducing the ‘Principle of Participatory Democracy’ in the draft of the EU Constitutional

Treaty (Art. 47). Yet, it needs to be pointed out that this upgrading of societal participation falls short of any legally binding provisions which could be judicially enforced by third parties (Bignami 2003: 17). And while third generation consultation instruments, such as the online consultations, may in fact broaden the range of voices *heard* in the EU policy process (see the third part of this chapter), their *impact* on the formulation of EU policies remains to be investigated separately.

### **The European Commission's consultation regime**

Although the European Commission has published a series of documents since the 2001 White Paper on European Governance, which underline the Commission's strive for openness, transparency, inclusiveness and accountability, we cannot be sure these documents flow into a new quality of EU-society relations unless we find empirical evidence. Thus, we will analyse the European Commission's consultation regime with regard to its instruments and its success in broadening participation.

For our empirical analysis, our focus is on DG Employment and Social Affaires (hereafter also DG Employment), assuming this DG to be particularly open to societal actors and, therefore, offering an 'ideal' case of civil society involvement.<sup>5</sup>

### **Methodological remarks**

For our empirical analysis we constructed a database (hereafter DemoCiv database), including all consultation instruments addressing (*inter alia*) CSOs and including all institutional and organisational participants of these

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<sup>5</sup> It should be noted that being well aware of differences between various DGs, the DemoCiv project will extend its analysis to other DGs as soon as data collection is completed.

consultations. For data collection we rely on the information provided by the Commission's homepage. Focussing on instruments directed towards CSOs, we started off with two links at the DGs' homepages: 'events' and 'consultations'. The cut-off date for our database and our empirical analysis is 30<sup>th</sup> July 2007.<sup>6</sup> The two www-links 'events' and 'consultations' do not offer any clear picture of *all* consultation instruments used by the European Commission, but they list especially those activities which are geared towards wide participation, like online consultations, conferences or policy forums.

In the case of DG Employment, however, some consultations were excluded from the database. This holds true especially for seminars and conferences organised in the context of the Social Dialogue<sup>7</sup>, in the framework of the

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<sup>6</sup> The oldest event listed on the DG Employment and Social Affairs homepage and included into the DemoCiv data base is the EU Multi-Stakeholder Forum on Corporate Social Responsibility (2002-2004), the oldest conference dates back to May 2004, the first online consultation of DG Employment and Social Affairs ended in December 2001.

<sup>7</sup> The Social Dialogue stands out from the rest of EU-society relations as the consultation of the social partner organisations at European level is legally obligated: Article 138 of the EC Treaty provides for the – compulsory – consultation of social partner organisations at European level on a range of issues concerning employment and social affairs set out in Article 137 of the Treaty.

With regard to the debate on enhancing democracy at EU-level through CSO-involvement, the Social Dialogue is still of interest as the European social partner organisation's right to be consulted by the Commission is based on the European organisation's representativeness: 'In order to be recognised as European social partners and consulted by the European Commission, the social partner organisations must: - act at a cross-industry level, or relate to specific sectors or categories and be organised at European level; - consist of organisations which are themselves an integral and recognised part of Member States' social partner structures and with the capacity to negotiate agreements, and which are representative of all Member States, as far as possible; - have adequate structures to ensure the effective participation in the consultation process.' ([http://ec.europa.eu/employment\\_social/social\\_dialogue/represent\\_en.htm](http://ec.europa.eu/employment_social/social_dialogue/represent_en.htm); as at 21.09.2007). Thus, the European Commission has commissioned studies on the representativeness of the European social partner organisations to independent experts (Université catholique de Louvain (1999-2006) and the European Foundation for the Improvement of Living and Working Conditions (from 2006 onwards)), but interestingly underlines: 'The content of the present publications does not necessarily reflect the opinion of the Directorate-General for Employment, Social Affairs and Equal Opportunities of the European Commission. These studies have been carried out by independent experts (...) and their content, in no way, commits the responsibility of the Commission. Nevertheless, the European organisations concerned have had the opportunity to comment on the content of the studies, prior to the drawing up of the definitive versions.' ([http://ec.europa.eu/employment\\_social/social\\_dialogue/represent\\_en.htm](http://ec.europa.eu/employment_social/social_dialogue/represent_en.htm); as at 21.09.2007).

Open Method of Coordination (OMC), and in the context of international relations, like bilateral meetings of administrative experts from the EU and, for example, China, the USA, or Japan, are excluded from our analysis. These consultations all take place in very specific contexts addressing very specific actors and would, therefore, distort our findings. Overall, 31 consultations of DG Employment and Social Affairs were included into the DemoCiv database.

It should also be noted that while the ‘consultation link’ of the Commission’s DGs usually presents a quite orderly list of online consultations (see below), unfortunately, the ‘event link’ sometimes also includes conferences and seminars which are related to DG’s policy activities but which are organised by other European organisations, like the OECD, or by the country holding the Presidency of the Council, or by (European) non-governmental organisations. As the event list offered by a DG’s homepage by no means can be considered as systematic, it is only used as a starting point for a more thorough analysis of the DGs’ consultation instruments to be found on the homepage.

Our analysis will start with systematising the whole variety of consultation instruments applied by DG Employment. What is of interest is how and in which combination diverse instruments are used. Our second point of analysis will be on online-consultations, as they are an utterly new consultation instrument. How are they applied and what are their characteristics? Finally, the participation in diverse consultation instruments is of interest, as they allow us to assess whether participation is possible for a diverse spectrum of CSOs.

## DG Employment and Social Affairs' consultation instruments

Systematising all events from the DG Employment homepage, we find a variety of consultation instruments ranging from the call of exclusive expert groups or expert seminars to the organisation of encompassing conferences and online consultations.

Arranging all consultation instruments organised since the turn of the century and listed on the 'event-list' by DG Employment and Social Affairs, firstly it becomes obvious that four issues are at the centre of the DG's working programme:

- Corporate Social Responsibility (CSR),
- Demography,
- Equality (gender and disability),
- Labour market (including labour law).

Secondly, we see that conferences, online consultations, expert groups, expert seminars, or policy forums are part of the DG Employment and Social Affairs consultation regime. Ordered by date, the examples of the issues *Corporate Social Responsibility (CSR)* and *demography* also show that the DG Employment's consultation regime is marked by a complex, yet structured interplay of various consultation instruments. Once an issue is on the agenda, DG Employment uses online consultations at a rather early phase of policy formulation. The further process of policy formulation is accompanied by conferences on more specific facets of the issue at stake. An important supplement to stakeholder and/or public involvement is expert input through expert seminars or expert groups. In the cases of CSR and demography, the Commission also established a policy forum, but not so for the issues of equality and labour market.

## CSR

*Online consultation* on Green Paper 'Promoting a European Framework for Corporate Social Responsibility' (12/2001)

EU multi-stakeholder *forum* on Corporate Social Responsibility (2002–2004)

*Conference* 'Responsible Consumption' (09/2005)

*Conference* 'Responsible Competitiveness' (09/2005)

*Conference* 'Responsible Sourcing' (11/2005)

*Conference* 'CSR in Enlarged Europe' (02/2006)

*Conference* 'Responsible Reporting' (04/2006)

*Conference* 'Promoting decent work in the world. The contribution of the EU' (12/2006)

*Expert Group* 'Responsabilité sociale des entreprises' (Composition: NGOs, unions (employer, worker, etc.), national administrations)

## Demography

*Conference* on the green paper 'Confronting demographic change' (07/2005)

*Online consultation* on green paper 'Confronting demographic change' (10/2005)

*Conference* 'Informed Choices: Retirement and Savings' (11/2005)

Demographic *expert seminar* (01/2006)

Demographic *expert seminar* (03/2006)

First *Forum* on Europe's Demographic Future (10/2006)

*Expert Group* 'Démographie et Familles' (Composition: governmental and private experts)

*Expert Group* 'Observatoire européen de la situation sociale, de la démographie et de la famille (SSO)' (Composition: Academics and scientists)

Looking more closely at the various consultation instruments used by the Commission, we can distinguish between three main groups with regard to the consultation addressees: expert consultation, stakeholder consultation, and public consultation.

## Expert consultation

### *Expert seminars and expert groups*

Many consultation instruments of the European Commission are input-oriented and quite a number of instruments are still limited to the consultation of experts. DG Employment and Social Affairs, for instance, in some cases organises seminars attended by the Commissioner himself and a few, often high-ranking collaborators, aiming at retreating expert knowledge on the 'state of the art' of a specific issue. On the DG Employment homepage (as of 30.09.2007) we find two *Demographic Expert Seminars*, which are also referred to as 'Experts' Hearings' and at which Commissioner Spidla attended (11.01.2006: 4 academic experts; 13.03.2006: 5 academic experts). We also find one *Expert Seminar on Flexicurity* which was held in Brussels, where Commissioner Spidla again hosted three academic experts (18.05.2006: 3 academic experts).

Experts are further consulted in the form of *expert groups*. Åse Gornitzka and Ulf Sverdrup have found that a gradual growth of the use of expert groups since the 1970s 'has been replaced by a more rapid and radical increase during the last seven years' (Gornitzka/Sverdrup 2007: 11). Thus, albeit expert groups not being a new consultation instrument, we witness a considerable raise in their use. But from the ongoing research it is not clear yet, why the use of expert groups has increased (Gornitzka/Sverdrup 2007; Coen 2007; Broscheid/Coen 2002). On first sight, one might be inclined to link the increase in expert groups to the Commission's attempts to involve

stakeholders into the process of policy making. DG Employment however applies the term 'expert' in a rather traditional way, limiting its use to expertise attained through academic and professional involvement. Thus, expert groups are directed towards profiting directly from expert knowledge presented by representatives from research/academia and national administrations, and only in few cases from CSOs, which then are dominantly trade unions and business associations.

With regard to the third generation of EU - society relations, we can observe that compared to the late 1990s, *transparency* of expert consultation has increased considerably. Information on expert seminars and their participants is available on the internet and, even more important, a *Register of Expert Groups* has been set up as a result of a commitment made by the Commission President Barroso to the European Parliament in November 2004. The register lists formal and informal advisory bodies established either by Commission decisions or informally by the Commission services, and provides key information on those groups, such as the lead service in the Commission, the group's tasks, as well as the category of participants.

The aim of the Register of Expert Groups to give a transparent overview of the advisory bodies that assist it and its services in preparing legislative proposals and policy initiatives, is to a certain extent achieved. What remains opaque is the *selection* of expert group members. Further, in some cases, missing or belated updating of data in the register itself also reduces transparency. An example is the Stakeholder Involvement - Peer Review Group, set up by DG Health and Consumer Protection (SANCO) to review the DG's experience as regards stakeholder consultation and in identifying best practices and loopholes in the existing consultation system. Although already available on the internet (<http://www.sanco->

stakeholderinvolvement.eu) and although the Expert Groups Register provides for the possibility to include internet links, no information on the results of the group's work can be retrieved directly from the register.

## Stakeholder consultation

### *Forums*

An often cited instrument of the European Commission connected to consultation, deliberation and decision making are *forums*. Looking at all those events at the DG Employment's homepage labelled forum, it becomes clear that the term is applied in two very different ways by this DG.

We find quite a number of forums on the DG's homepage which are *workshop-conferences*, focusing on the exchange of analyses and good practices.<sup>8</sup> Very often being part of the Open Method of Coordination and linked to the Lisbon Strategy, these forums are no genuine EU-level consultation instruments of the European Commission due to the specific role of the Commission in the OMC as a coordinator.

Very different from these 'Lisbon Strategy forums' are those *policy forums* which came into use in the EU in the 1990s. Looking at the policy forums established by DG Employment, we see that these are working groups with an official mandate from the European Commission, as two recent examples show. The *Pension Forum* was mandated through a Commission Decision and may be consulted by the Commission 'about any problems and developments at Community level affecting supplementary pensions. The pension's forum shall assist the Commission in particular in finding solutions to the problems

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<sup>8</sup> Examples are the 'Restructuring Forum', its full name being 'Restructuring and employment - Anticipating and accompanying restructuring in order to develop employment' (June 2005); the 'First Forum on Europe's Demographic Future' (October 2006); or the 'Social Agenda Forum' (announced for 2007 on the website of the new Community Action Programme PROGRESS; 25.09.2007).

and obstacles associated with cross-border mobility of workers in the area of supplementary pensions.’ (Commission Decision 2001/548/EC of 9 July 2001, Article 2.1). The *European Multi-Stakeholder Forum on Corporate Social Responsibility* (CSR EMS Forum) was mandated via the Commission’s CSR Communication (COM(2002)347), adopted on 2 July 2002, and aims at the promotion of CSR through ‘raising the level of understanding of CSR, and fostering a dialogue between the business community, trade unions, civil society organisations and other stakeholders’ ([http://circa.europa.eu/irc/empl/csr\\_eu\\_multi\\_stakeholder\\_forum/info/data/en/CSR%20Forum%20Rules.htm](http://circa.europa.eu/irc/empl/csr_eu_multi_stakeholder_forum/info/data/en/CSR%20Forum%20Rules.htm) accessed 17.09.2007).

With regard to CSOs, both policy forums are mainly composed of EU-level organisations. In the case of the *Pension Forum*, all organisations represent the social partners or economic interests with the exception of AGE (the European Older People’s Platform). In the case of the *CSR EMS Forum*, the variety of general interests represented is wider. As laid down in Point 5 of the CSR EMS Forum Rules, the Co-ordination Committee which is responsible for the preparation of the Forum meetings and Round Tables, was to include representatives from the Commission and from participating organisations:

- ‘Up to a maximum of two representatives nominated by the European Trade Union Confederation (ETUC) co-ordinating the point of view of trade unions;
- Up to a maximum of two representatives nominated by the Union of Industrial and Employers’ Confederations of Europe (UNICE) co-ordinating the point of view of employers;
- Up to a maximum of two representatives nominated by the European Business Network for Corporate Social Responsibility

- (CSR Europe) co-ordinating the point of view of business networks active in the field of CSR;
- Up to a maximum of two representatives nominated by the Green G8 and the Platform of European Social NGOs co-ordinating the point of view of civil society organisations.’ ([http://circa.europa.eu/irc/empl/csr\\_eu\\_multi\\_stakeholder\\_forum/info/data/en/CSR%20Forum%20Rules.htm](http://circa.europa.eu/irc/empl/csr_eu_multi_stakeholder_forum/info/data/en/CSR%20Forum%20Rules.htm); 11.09.2007)

Analysing the appearance of forums on the EU-level, Andreas Broscheid and David Coen looked at the relationship between business and EU institutions in their paper ‘Business Interest Representation and European Commission Fora: A Game Theoretic Investigation’. They argue that the growth of forum politics was the direct consequence of the unprecedented boom in economic and public interest lobbying in the early 1990s:

‘While the increase in European interest representation provided greater legitimacy for the European integration program, it put a strain on the existing open pluralist European business-government relationship. One of the European Commission’s (EC) informal solutions was to create restricted-entry policy fora and select committees, which it hoped would provide fast and reliable decision-making.’ (Broscheid/Coen 2002:1)

From their analysis Broscheid and Coen conclude that in the process of establishing selective-entry forums for interest representation, the European Commission acted not only as policy entrepreneur, but also as a political entrepreneur, fostering collective action:

‘The interesting point is that the Commission influences collective action not only by directly fostering interest associations, but also by manipulating the strategic environment in which these associations, and other direct interest representatives, interact. In other words, the Commission uses institutional engineering in the service of political entrepreneurship.’ (Broscheid/ Coen 2006: MPIfG Working Paper 02/7, July 2002, p. 17)

However, as in the case of expert groups, the problem of policy forums is that – in general – it is by no means transparent *how the process of participant selection* is organised, although we find ample information on the DG Employment's homepage on the forum's composition, events and documents. Thus, from our perspective and regarding the question whether the Commission's consultation regime enhances democracy, the evaluation of policy forums is less straight forward. The use of an instrument which funnels participation of interest groups (or CSOs) without revealing the selection criteria of participants, does not meet the Commission's self imposed requirements of openness, transparency, inclusiveness and accountability.

#### *Structured relations with selected CSOs*

An additional consultation instrument of DG Employment and Social Affairs focussing on stakeholders, are regular contacts with selected CSOs other than the social partners. It shows that gradual differences with regard to Commission-CSOs contacts exist between various CSOs and they are certainly worth being analysed more deeply. Although, for the time being, DemoCiv has not focused its research on this point, some first insights can be gained from our data.

The most outstanding and complex role in the relations between DG Employment and CSOs can be attributed to the already mentioned Social Platform (see part 2 of this chapter).<sup>9</sup> Not only is the financial support for the running costs of the Social Platform provided by the Commission under the Community Action Programme to promote active European citizenship (a yearly amount of 660 000 for the years 2004 and 2005;

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<sup>9</sup> Created in 1995, the Social Platform has 39 member organisations operating in the social sector, representing a wide range of civil society like women, older people, and people with disabilities, people who are unemployed, migrants, people affected by poverty, gays and lesbians, young people, children and families.

[http://ec.europa.eu/employment\\_social/fundamental\\_rights/civil/civ\\_en.htm](http://ec.europa.eu/employment_social/fundamental_rights/civil/civ_en.htm); 20.09.2007). The Social Platform is also listed as a *consultative body* in the CONECCS database. And finally, the anti-discrimination unit of DG Employment organises since 2005 ‘jointly with the European Platform of Social NGOs bi-annual meetings where NGOs are invited to discuss different Community matters. NGOs are given an opportunity to comment on ongoing issues and the Commission also announces new initiatives. The anti-discrimination unit also organises ad hoc meetings as needed.’ ([http://ec.europa.eu/employment\\_social/fundamental\\_rights/civil/civ\\_en.htm#struc](http://ec.europa.eu/employment_social/fundamental_rights/civil/civ_en.htm#struc); 21.09.2007).

The Social Platform is not the only EU-level network of CSOs to have a special position in the DG Employment – civil society relations. Under the *Community Action Programme to combat discrimination*, the Commission funds four European umbrella NGO networks representing and defending the rights of people exposed to discrimination (one per ground of discrimination):

- AGE (The European Older People’s Platform);
- ILGA Europe (International Lesbian and Gay Association – Europe);
- ENAR (European Network Against Racism);
- EDF (European Disability Forum).<sup>10</sup>

Similarly, the Action Programme also supports the operating costs of five smaller European-level organisations that represent and defend the rights of disabled people, and which are also listed on the DG Employment’s homepage:

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<sup>10</sup> ‘Together these four umbrella organisations are being granted a total of 3 000 000 (out of a Programme’s annual budget of 19 000 000 ) per year towards their running costs up to the end of April 2007.’ ([http://ec.europa.eu/employment\\_social/fundamental\\_rights/civil/civ\\_en.htm](http://ec.europa.eu/employment_social/fundamental_rights/civil/civ_en.htm); 19.09.2007).

- European Blind Union
- European Union of the Deaf (EUD)
- Inclusion Europe
- Autisme-Europe
- Mental Health Europe.

While Commission funding of CSOs is neither exclusive to these networks and/or CSOs, nor new, the just mentioned organisations are the only ones listed on the DG Employment's homepage. However, they are not systematically more often involved in DG Employment and Social Affairs consultations. From the DemoCiv database, which includes in the case of DG Employment 31 consultations, we know that only the Social Platform (14), the European Disability Forum (11) and the European Older People's Platform AGE (5) show a rather high participation record. The other CSOs listed on the DG Employment's homepage participated only twice (Autisme-Europe and Mental Health Europe), once (European Network Against Racism, International Lesbian and Gay Association – Europe, European Blind Union, Inclusion Europe) or not at all (the European Union of the Deaf) in the DG's consultation instruments.

What remains to be analysed is why some of the above mentioned CSOs seem to limit themselves to bi-lateral contacts with DG Employment, while others are very present in the Commission's consultation regime. It is plausible to assume that the constraints of limited resources are one answer to this question. Yet, the spectrum of interests represented by a CSO and/or the conflict potential of the issue at stake, probably also account for the different degree of consultation involvement.

## Consultation of the (wider) public

As regards its addressees, the consultation of the wider public through conferences and online consultations presents a third category of consultation instruments. It is clear from the outset that both these consultation instruments can also have a much narrower focus, addressing only the ‘informed public’, specific stakeholders or specialists (see below). Online consultations were introduced with the intention to attract representatives of different types of interest groups and to lower the threshold for individual citizens to access EU level consultation processes; conferences also aim at the wider public, albeit a well informed public, mostly represented by civil society organisations.

### *Conferences*

With regard to their ‘consultation quality’, it is obvious that conferences are mainly oriented towards the collection of input and support in order to improve the quality of European regulations and the efficient implementation of Community policies. What is worth noting, however, is that DG Employment conferences usually are free of admission charges and open to anybody interested in the subject. Thus, with regard to civil society, they can in principle be attended by interested individuals and – more commonly – by civil society organisations. Resources may of course constrain conference participation due to limited (personnel) capacities and/or a financial budget not allowing for travelling expenses.

Conferences are indeed the most used consultation instrument of DG Employment and Social Affairs. For our empirical analysis we included 24 conferences organised by DG Employment (and listed on the ‘event-list’) in our DemoCiv database. All these conferences are related to one of the four major policy issues of DG Employment – CSR, demography, equality and

labour market. As already shown above, conferences organised by DG Employment are one consultation instrument among others, grouped around a specific issue. Conferences here can be considered as part of a strategy to extract ideas from and exchange ideas with various stakeholders for the policy making process. They allow for the exchange with a well informed, but by no means homogeneous public.

Looking at the participants in these conferences, we find a wide distribution of actors by geographical origin, as well as by institutional background. 705 (public or private) institutional/organisational representatives participated at the whole of the 24 conferences of DG Employment, the largest groups being associations/CSOs (44,00%), companies (29,75%), and public authorities (17,42%). The participants' geographical distribution is extremely wide, representing all regions of the world, although public and private actors from EU member states (61,47%) and from the EU-level (15,58%) constitute the biggest groups.

Looking at the networking-function of conferences, we find that the vast majority of CSOs only participated once (80,65%) and some twice (14,52%) in the 24 conferences of DG Employment,<sup>11</sup> while 1,61% participated in three to nine conferences. The European Trade Union Confederation (ETUC) – the sole CSO being this present – participated in eleven DG Employment conferences. Thus, although Commission conferences offer a possibility to exchange ideas and views with a wide range of different actors they do not have a pronounced networking-function for CSOs.

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<sup>11</sup> It should be kept in mind that these numbers probably underrate multiple participation because for some of the 24 conferences only the list of contributors but not the list of participants is available on the web.

*Online Consultations*

In contrast to conferences, online consultations present a wholly new kind of consultation instrument, only made possible with the wide spread of new technologies. Online consultations became a more than single event instrument in 2000, when used by DG Environment (1), the Secretariat General (1), DG Agriculture (1) and DG Health and Consumer Protection (6).<sup>12</sup>

Today, online consultations are accessible via the Commission's internet portal *Your Voice in Europe*, which itself is part of the new consultation regime of the European Commission, being set up in the context of the Interactive Policy Making (IPM) initiative. In the Commission's words 'it aims at improving European governance and introducing better regulation' as part of the Commission's minimum standards on consultation. ([http://ec.europa.eu/yourvoice/index\\_en.htm](http://ec.europa.eu/yourvoice/index_en.htm); 05.10.2007).

It should be noted that the 'Minimum Standards'<sup>13</sup> do not ensure a systematic use of the *Your Voice in Europe* portal, nor is the portal itself very transparent.

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<sup>12</sup> The website of DG Health and Consumer Protection (Food Safety) lists a 'Consultation on the preliminary opinion on the safety of dicalcium phosphate precipitated from ruminant bones and used as an animal feed additive, Scientific Steering Committee' from Mai 1998; yet it remains unclear whether this was an online consultation, i.e. announced on the web portal and allowing for answers by electronic mail.

<sup>13</sup> See the communication from the Commission 'Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission', COM(2002) 704 final from December 2002: C. PUBLICATION  
The Commission should ensure adequate awareness-raising publicity and adapt its communication channels to meet the needs of all target audiences. Without excluding other communication tools, open public consultations should be published on the Internet and announced at the 'single access point'.  
For addressing the broader public, a single access point for consultation will be established where interested parties should find information and relevant documentation. For this purpose, the Commission will use the 'Your-Voice-in- Europe' webportal.  
However, at the same time it might be useful to maintain more traditional alternatives to the Internet (e.g. press releases, mailings). 'Where appropriate and feasible, the Commission should provide consultation documents in alternative formats so as to make them more accessible to the disabled.' ([http://eur-lex.europa.eu/LexUriServ/site/en/com/2002/com2002\\_0704en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2002/com2002_0704en01.pdf); 9.9.2007)

It offers links to each DG's consultation website, as well as a list of recent public consultations. The latter, however, 'represent only a selection of consultations addressed to the broader public' without mentioning the selection criteria, and including 16 online consultations (31.07.2007) which can not be found via the DGs' consultation websites ([http://ec.europa.eu/yourvoice/consultations/index\\_en.htm](http://ec.europa.eu/yourvoice/consultations/index_en.htm); 09.09.2007).

Controlling for this inconsistency and analysing all online consultations to be found either directly on the *Your Voice in Europe* web portal, or – via the link – on the DGs' consultation websites, we can observe an increase of online consultations (see Table 1).

**Table 1: Use of Online Consultations by the European Commission**

Year	2000	2001	2002	2003	2004	2005	2006	1-6/ 2007	Total
<b>Number of Online Consultations<sup>14</sup></b>	9	26	41	69	95	100	130	74	544

Online consultations have become a regular instrument of consultation, introduced by nearly all DGs. The most active DGs with regard to online consultations are DG Enterprise and Industry (2000–2006: 83), DG Internal Market (2000–2006: 69), DG Health and Consumer Protection (2000–2006: 56) and DG Environment (2000–2006: 51). Although subject to annual fluctuations, the overall picture for these four services shows an upward trend (see Figure 1) which – on a lower scale – holds also true for most of the other DGs.

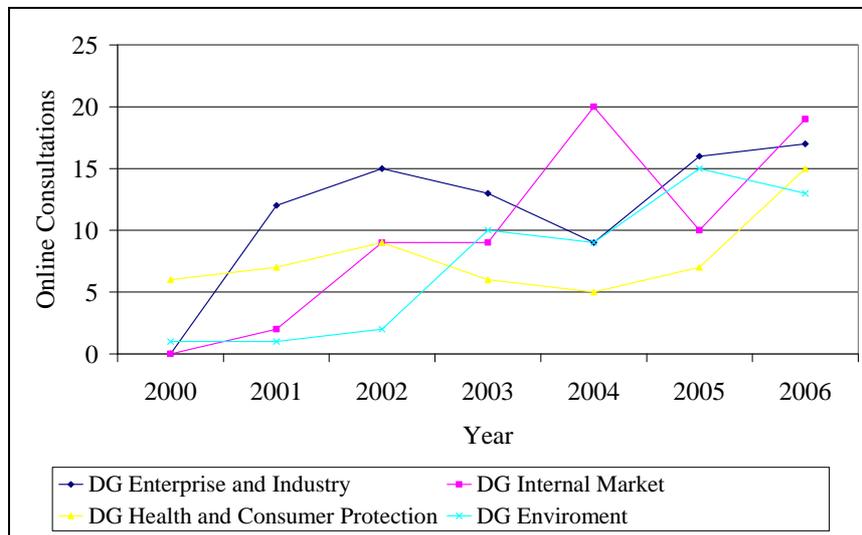
But we also find Commission services which do not – or very seldom – use online consultations. This is the case for all internal administrative services as

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<sup>14</sup> Excluded are those online consultations which do not show a date (9 online consultations) as well as one Consultation from 1998.

well as for financial control (DG Budget (0), DG Economic and Financial Affairs (0)) and for those services related to the sensitive field of diplomacy (DG External Relations (0), DG Enlargement (1)).

**Figure 1: The most active DGs with regard to online consultations**



With regard to their addressees, three groups of online consultations can be differentiated. (1) The vast majority (ca. 2/3 to 3/4 – quantitative analysis still needs to be done by DemoCiv) of online consultations is oriented towards the wider public and allows also for individuals to participate. Their target group is mainly anybody (feeling) concerned, the target group description usually being ‘public’ or ‘stakeholder’, sometime cumulating various groups, rarely additionally pointing out specific stakeholder groups.<sup>15</sup> (2) The second largest group constitutes online consultations limited to organisations and

<sup>15</sup> Examples of target group definitions applied to a wider public are: \* Public, stakeholders; \* Interested parties; \* Public, experts; \* Stakeholders, citizens; \* Consumer; \* Public, farmers; \* Member states, civil society, citizens, NGOs; \* Public and private sectors, interested persons; \* European, national, regional actors, citizens.

institutions.<sup>16</sup> (3) Finally, a few online consultations are open only to clear-cut, well defined groups. Such online consultations are usually marked by very technical issues treated by DG Taxation and Customs, DG Enterprise and Industry, and in some cases by DG Health and Consumer Protection (DG SANCO) and DG Environment.<sup>17</sup>

Albeit these variations, online consultations are the most prominent instrument introduced by the Commission with regard to giving ‘voice to the people’ and, accordingly, opening to a broad involvement of civil society by lowering the thresholds for participation. But do they really attract high participation rates? From the literature, the extreme example of the online consultation on REACH (Registration, Evaluation and Authorisation of Chemicals) with some 6400 contributions, is well known (see for example Persson 2008). Usually, participation is lower but – on first view (empirical data being not yet fully collected by DemoCiv) – several hundred contributions in online consultations open to the wider public, are not rare. Which factors influence online consultation participation: the age of the instrument, its format, and/or the issue treated?<sup>18</sup> Although no general picture

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<sup>16</sup> Target groups of the second category would be defined for example as: \* Industry participants, retail banking customers, interested parties; \* EU institutions, member states, social partners, business, public authorities, NGOs; \* Interested organisations.

<sup>17</sup> Examples of target groups of the third category are: \* Economic Operators; \* Tax and accounting academics as well as professionals, SMEs and industry, tax administrations; \* Consumer organisations, industry and enterprise organisations, trade associations, individual enterprises, professional representation organisations, certification industry, accreditors, national authorities; \* Stakeholders in civil protection/disaster prevention; \* Advisory Group on the Food Chain and Animal and Plant Health, Competent authorities of the member states, consumer organisations and NGOs, 3rd country authorities; \* Food business operators who operate in the EU and who label their products.

<sup>18</sup> Another variable which should influence participation rates is the duration of the online consultation itself. It can be assumed that the longer an online consultation is open for answers, the higher the participation rate. Indeed, it is an often repeated demand of CSOs to allow more time for online consultation participation (see for example Fazi/Smith 2006). The original minimum consultation period put forward in Standard D has been prolonged from six to eight weeks as a result of the consultation process establishing the Minimum standards for consultation.

on participation of online consultation is available by now, online consultations from DG Employment offer some insights to this question.

Out of seven online consultations of DG Employment, five provide a list of participants. These five online consultations are directed towards stakeholders and the wider public. The example of DG Employment and Social Affairs shows that although online consultations are inseparable from the arrival of the use of personal computers and the internet, the *age* of this instrument has no clear influence on the number of participants, i.e. participation in online consultations did not increase over time from its first use by DG Employment in 2001 to its latest use in 2007.

This is different concerning the *format* of online consultations: multiple-choice questionnaires, as in the case of the online consultation on the green paper 'Equality and non-discrimination in an enlarged EU' (06-08/2004), seem to have the highest response-rate, especially with regard to individuals (1049). Online consultations with a semi-standardised questionnaire, i.e. providing structured, yet open questions, again end up with considerably more participants than online consultations with a fully open format, most participants using the questionnaire, others – mainly institutional actors or CSOs – only using the questionnaire as a grid to structure their letters. Finally, the group of online consultations asking for opinion in more general and open terms, usually has a rather low but varying participation rate, probably depending on the *issue* of the specific online consultation. In the case of DG Employment, the earliest more general online consultation was on the green paper 'Promoting a European Framework for Corporate Social Responsibility' (12/2001; 15 individuals) which received 253 letters, the latest open format online 'Consultation on action at the EU level to promote the active inclusion of the people furthest from the labour market' (4/2006; 2

individuals) received only 75 letters, while the 2005 online consultation on the green paper ‘Confronting demographic change’ (10/2005; 64 individuals) received 152 letters. Thus, from the example of DG Employment we can assume that both, question format and issue, are the most relevant intervening variables with regard to participation rates.<sup>19</sup>

### Participation of CSOs in the DG Employment’s consultation regime

In accordance with our initial intention to analyse not only the Commission’s consultation regime itself but also the success of the Commission’s participatory strategy, we now turn to the analysis of the involvement of associations of different territorial and functional origin into DG Employment consultation regime.

Concerning the methodology, we need to keep in mind that (1) all DG Employment online consultations were addressed towards stakeholders and the wider public, so that we can expect a rather wide range of participants;<sup>20</sup> (2) it should also be noted that not all lists of participants from DG Employment conferences are available; thus, in some cases only the paper givers of a conferences were included in the database; (3) finally, it is relevant that for the CSR EMS Forum only the ‘core’ (29) participants are included into the DemoCiv database, as no other meaningful list is available (yet, it is quite clear that the number of participants in the diverse conferences and round tables of the CSR EMS Forum was much higher). Due to the

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<sup>19</sup> Variations in participation rates depending on the online consultations’ format raise normative concerns which might need further investigation: Does the Commission use varying formats strategically, depending on its own interests in a specific issue at stake, in order to control the outcome of a given consultation?

<sup>20</sup> The analysis of the diversity of participation needs to be complemented with an analysis regarding the question, whether online consultations are a forum in which deliberation takes place; this will be analysed by DemoCiv through a case study.

methodological problems (2) and (3), for our analysis we do not distinguish conferences and policy forums, in order to avoid distorted results (and misled conclusions).

As a starting point it is of interest that five online consultations with 1050 different institutional or organisational participants (and additional private/individual participants) easily outplay the remaining 26 consultations (24 conferences and 2 policy forums) with 741 institutional or organisational participants.<sup>21</sup>

Comparing participation in online consultations with participation in conferences and policy forums, it becomes quite clear that civil society organisations (i.e. associations) profit most from the introduction of this new instrument, whereas public authorities and companies put more emphasis on participating in conferences and policy forums (Table 2).

**Table 2: Participation in consultation instruments by type of actor**

	Conferences and policy forums (%)	Online Consultations (%)
public authority	17,41	12,55
association	44,67	66,04
company	28,48	17,92
research	6,75	1,32
religious community	0,00	0,85
political party	0,40	0,19
other	0,13	0,28
no information	2,16	0,85

<sup>21</sup> All 31 consultations of DG Employment together arrived at a number of 1549 different institutional or organisational participants.

**Table 3: CSO participation in DG Employment consultation regime**

	conferences and policy forums (331 CSOs)	online consultations (700 CSOs)
international	10,88	5,43
European	25,08	21,43
national	55,89	57,00
sub-national	5,14	9,43
local	2,11	5,29
no information	0,91	1,43

Within the group of CSOs, the success of the online consultations as an instrument to include other than European and national level associations into the European policy making process becomes quite clear. As the European Commission hoped and intended, sub-national as well as local associations find ‘their way to Europe’ through this third generation consultation instrument (Table 3).

#### *Territorial and functional origin*

Concerning the functional origin of CSOs participating in DG Employment consultations, the picture is less clear (Table 4). The ratio between the group of associations commonly referred to as NGOs (non-market actors associations) on the one side, and business associations (market-actors associations) on the other side, is 3:1. This shows that the European Union has come a long way since its early days first generation Commission – civil society relations, when business and agricultural groups were its main interlocutors.

**Table 4: Involvement of CSOs of different territorial origin into the DG Employment's consultation regime**

	NGOs	Business associations
international	7,58	4,72
European	16,82	29,25
national	60,91	50,47
sub-national	7,58	12,74
local	6,06	0,47
no information	1,06	2,36

Partly, this new ratio between market- and non-market actors can be attributed to the Commission's funding policy of EU-level associations. However, even if the funding programme of the Commission for EU level non-market actors' associations might have some positive results, the ratio between business and non-business associations is still not balanced: we find that EU-level business associations are much more present in the consultation regime than EU-level NGOs.

The results of our empirical analysis also show that the third generation of Commission-civil society relation is lopsided with regard to the involvement of *local* associations. This can not necessarily be attributed to the Commission's consultation regime itself. The organisation of business in European member-states usually follows a rather strict 'hierarchical model' by territorial level. Interest intermediation is usually assigned to the sub-national (regions, *Länder*, departments, etc.) and national level, while the local level is mostly restricted to service provision, data collection, and organisation of information and networking events (for the example of France and Germany see Quittkat 2006). The organisation of non-market actors and general interests follows a different logic. A strict hierarchical model of organisation is often not compatible with voluntary work, mostly restricted by its internal logic to the local level i.e. local grassroots groups, and scarce resources, which

do not allow for many (and large) higher-level organisations with (paid) personnel.

***Excursus: EU funding of CSOs***

It is still worthwhile looking at the funding policy of the European Commission. Using (and relying on) the data in the Commission's CONECCS database the funding strategy of the European Commission can well be analysed. Out of 232 European or international associations (173 EU; 59 international) participating at DG Employment and Social Affairs consultation instruments (DemoCiv database), less than half (105: 98 EU; 7 international) can be found in the CONECCS database. 34 associations out of these 105 associations registered in CONECCS do not provide any information on their financial resources in the CONECCS database. Thus, our data is restricted to 71 EU-level associations.

Out of these 71 associations, 42,25% receive EU-funding in various degrees, with the exception of the Association of European Chambers of Commerce and Industry (Eurochambres) all organising non-market actors.<sup>22</sup> The two main groups receiving EU-funding are human rights organisations (37,93 %) and welfare organisations (34,48%), whereas environmental and consumer organisations are less often funded (both constitute 3,45 % of the 'funding community'). Thus, the European Commission mainly supports associations representing either the weak or excluded, whereas CSOs representing general interests are less often supported.<sup>23</sup>

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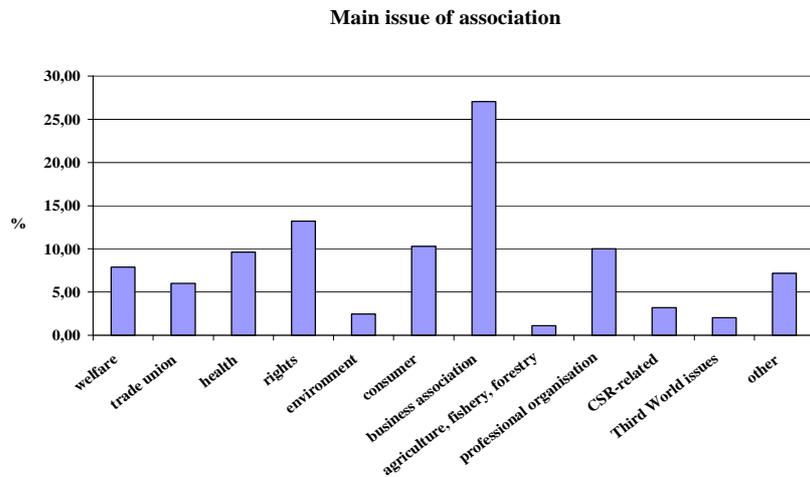
<sup>22</sup> The largest group of associations in CONECCS are fully financed by membership fees (45,07%).

<sup>23</sup> It is worth noting that the data does not provide any support for the hypothesis, that there exists a (statistical) correlation between EU-funding and participation in consultation instruments.

*Issues represented*

Looking at the plurality of voices represented in DG Employment consultations, quantitative analysis only offers a rough picture. Although having assigned all CSOs in the DemoCiv database to rather large issue categories, we can see from figure 2 that next to associations representing business interests (the largest issue group) we also find quite large groups active in the field of human rights, consumer interests or welfare, often in conflict with business associations. In the case of DG Employment, however, the issue of CSR has blurred the conflict lines in some cases between business and, for example, human rights associations. Whether this has led to more deliberation can not be taken for granted, of course, but the formation of CSR-related associations with in some cases a mixed membership of associations representing business, but also of associations representing human rights is certainly worth further investigation.

**Figure 2: Diversity of issues presented through CSOs in DG Employment consultations**



### *National origin*

Looking at the nationality of CSOs participating in DG Employment and Social Affairs consultations, three main findings can be reported. Firstly, CSOs from the *old and large* EU member countries (France, Germany, Italy, UK) are the most present; this holds true for market-actors associations as well as non-market actors associations. Secondly, the national origin of non-market actors associations is much wider than the geographical distribution of market-actors associations; especially business associations from small and/or new EU member countries participate rarely in DG Employment consultations, probably entrusting Eurogroups with the representation of their interests (none or one business associations: Netherlands, Luxembourg, Portugal, Cyprus, Czech Republic, Estonia, Finland, Latvia, Malta, Romania, Slovakia, and Slovenia; yet all these countries are presented in DG Employment consultations by more than one CSO of the non-market sector). Thirdly, we find the following rule: The longer a country is an EU member, the higher its number of non-market actors associations participating in DG Employment consultations. Obviously, not only (financial) resources are crucial for EU level activities of NGOs; familiarity with the EU itself seems to be another decisive factor for participation in EU policy making. Thus, more efforts to break down the barriers between the Commission (especially its complex institutional setting) and CSOs from new(er) member states are needed.

### **Conclusion**

Our chapter started off with the empirical questions of how the present consultation regime of the European Commission looks like and whether the Commission succeeds in bringing into open a maximum range of voices at EU level through its participatory strategy as lined out in various documents.

Systematising the whole variety of consultation instruments applied by DG Employment and Social Affairs, our exemplary ‘case study’, we distinguished three main groups of consultation instruments with regard to the instruments’ addressees: expert consultation, stakeholder consultation, and public consultation. Interestingly, the third generation of Commission – civil society relations is marked by two somehow contradictory trends. While in the past seven years, online consultations, most of them addressing the wider public or very broadly defined stakeholders, have increased significantly, Gornitzka and Sverdrup also located a rapid and radical increase of expert groups (Gornitzka/Sverdrup 2007) and Broscheid and Coen found an increase in the use of restricted-entry policy forums (Broscheid/Coen 2002). Thus, we witness a broadening (online consultations) and a deepening (policy forums and expert groups) of the Commission’s consultation regime.

However, DG Employment applies this diverse consultation instruments to its main policy issues (CSR, demography, equality and labour market) in a rather structured way. The policy making process starts off with an online consultation and in the course of policy formulation, consultation instruments oriented towards more specialised addressees like conferences, policy forums and expert groups are used. To put it simple: the Commission’s ‘participatory strategy’ is accompanied by a ‘strategy of knowledge collection’.

What remains problematic regarding the use of stakeholder consultations and, even more so, expert consultations, is the question of participant selection. Although transparency has increased considerably and indeed, is a characteristic of third generation EU – civil society relations, no criteria for expert selection, for policy forum participants, or for the selection of CSOs when establishing structured relations have been laid down by DG Employment and Social Affairs.

Looking at the (new instrument of) online consultations applied by the European Commission, with the intention to lower the threshold for participation in consultation processes and to attract representatives of different types of interest groups, our analysis showed that most online consultations seem to be more than simple opinion polls. Yet, their quality as instruments of participatory policy making varies with their format: especially consultations with open, albeit structured questions offer real possibilities of participation, but participation rates are much higher when online consultations are based on (multiple-choice) questionnaires. Here again, similar to the question of participant selection in stakeholder and expert groups, transparency of the policy formulation process remains a considerable problem. As Fazi and Smith have pointed out, further clarification is still needed on which criteria are used to assess how different contributions to online consultations and their representativity are assessed (Fazi/Smith 2006: 29).

The issue of contribution assessment is of high importance because the Commission's efforts to achieve inclusiveness through online consultations have been quite successful. Online consultations have not only attracted representatives of different types of interest groups, they have also lowered the threshold for individual citizens to access EU level consultation processes. Thus, we do not only find high rates of participation; the third generation consultation regime is also characterised by the participation of very diverse civil society organisations, attracting CSOs from various territorial levels and CSOs representing different, conflicting and/or competing interests.

In general, the Commission – civil society relations have indeed changed since the turn of the century, and openness, inclusiveness, and transparency have increased considerably. But it is also clear that these aims are not fully

achieved. The Commission itself undertakes a number of evaluations regarding its consultation processes, as the example of the ‘Stakeholder Involvement - Peer Review Group’ of DG SANCO and the independent evaluation of the Commission’s impact assessment system, launched in early 2006 show.

Besides a number of smaller jigsaw-pieces, what remains on the research agenda is the new and somehow contradictory broadening (online consultations) and deepening (policy forums and expert groups) of the consultation regime. Why is the Commission accompanying its participatory strategy with a ‘strategy of knowledge collection’? From our findings it is questionable that the focus is still merely on reducing transaction costs, as assumed by Broscheid and Coen (2002) with regard to policy forums. From the Commission consultation regime, characterised by a combined and structured use of broad and focused consultation instruments, the orientation towards stakeholder involvement (and the evaluation of involvement procedures) and the attempt to balance the ratio between business interests and NGOs, as well as the involvement of CSOs with different territorial origins, it is plausible to assume that the focus is on the *informed* and, therefore, knowledge based inclusion of multiple and diverse approaches into decision-making.

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