

A EUROPEAN PUBLIC SPACE OBSERVATORY:
ASSEMBLING INFORMATION THAT ALLOWS THE
MONITORING OF EUROPEAN DEMOCRACY

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EFFECTIVE CONTESTATION OF POLICY-MAKING

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Preface

The project “A European Public Space Observatory: Assembling Information that allows for the Monitoring of European Democracy” (EUROPUB) analyses to what extent current institutional constellations and socio-political practices provide an effective system of political contestation within a broader political structure with a genuinely European focus. To achieve this overall aim five interrelated objectives were formulated, each corresponding to one research task or work package (thereafter WP):

1. Outline a functional concept of a European public space that is in line with both democratic theory and socio-institutional practices;
2. Identify and assess institutional opportunity structures for effective contestation of EU policy-making in selected issue areas;
3. Assess the emergence of a specifically European political class;
4. Devise a set of empirical indicators that will allow the monitoring of an emergent European public space;
5. Test the transferability of these empirical indicators to other policy sectors.

This report presents the results of WP 2 on institutional opportunity structures for effective contestation of EU policy-making. The six case studies of various areas of EU policy-making and EU institutions in Annexes 1-6 of this report contain the empirical results produced in the framework of WP 2. The Synthesis Report to which the case studies are annexed, analyses and compares these results in terms of the intensity of democratic participatory practice. In addition, Annex A contains the generic guidelines that were used to focus the research for the case studies on a set of common questions and issues. The table in Annex B contains summary information which was derived from the case studies for the purpose of analysis and comparison in the Synthesis Report.

Research for the EUROPUB project was supported under the European Commission’s Fifth Research Framework Programme and carried out by an interdisciplinary team of social scientists from universities and research institutes in seven EU Member States and Accession Countries: the Interdisciplinary Centre for Comparative Research in the Social Sciences (ICCR), Vienna, Austria; Centre for International Studies and Research (CERI), Paris, France; Institute for International and European Environmental Policy (Ecologic), Berlin, Germany; University of Barcelona - Research Centre for Citizenship and Civil Society (CISC), Barcelona, Spain; University of Gothenburg - Inter-European Research (IER), Gothenburg, Sweden; Queen Mary, University of London - Department of Politics, London, Great Britain; The Academy of Sciences of the Czech Republic - Institute of Sociology (SOC),



Prague, Czech Republic. Most of the empirical research and the compilation of the case studies was undertaken in the year between summer 2002 and summer 2003. In the second half of 2003 the EUROPUB team finalised the case studies, prepared the Synthesis Report, and assembled this WP 2 Final Report.



Synthesis Report
EUROPUB Work Package 2

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1 Introduction

Illustrating the growing political importance of efforts to increase the democratic legitimacy of EU decision-making, the European Convention's draft Constitution for Europe is significantly more explicit about the democratic underpinnings of the EU than the present Treaty. Part VI of the draft is entitled "The Democratic Life of the Union". Eight articles outline basic democratic principles and provisions. Perhaps most importantly, the text states that, in addition to the principles of democratic equality and representation (Arts. 44 and 45), the EU is based on the principle of participatory democracy (Art. 46). The draft Constitution does not suggest that there is a hierarchy among these democratic principles. Consequently, all of them, including the principles of representative and participatory democracy, appear to be given equal weight. This contrasts with the situation in the Member States, where democracy is primarily defined in terms of the principle of representative democracy. Against this background, it seems reasonable to interpret the equality of the principles of representative and participatory democracy in the draft Constitution as a recognition of the view that the EU, which is neither a nation-state nor an international organisation, requires a form of democracy that differs from national-level democracy (cf. Magnette et al. 2003: 834). The draft suggest that the difference between national-level and European democracy is grounded in a greater weight of participatory *vis-à-vis* representative democracy.

The view of European democracy which appears to have inspired the European Convention is not entirely new. As argued in more detail below, it corresponds to functionalist academic analyses of the EU as a "regulatory state". It also reflects the EU's "institutional balance" which gives a powerful political role to the independent, unelected body that is the European Commission. Unsurprisingly, the Commission supports similar ideas on European democracy. This is documented most prominently in its White Paper on European Governance. While these views correspond to certain characteristics of the EU, in particular the emphasis on regulatory rather than redistributive policies, the "institutional balance", and the "Community Method" of decision-making, it is far less clear in how far the participatory institutions and practices, which theoretically generate a considerable share of the democratic legitimacy of the "regulatory state", in fact characterise and influence EU policy-making.

Providing information on the degree to which EU policy-making is influenced by participatory practices is the overreaching task which the EUROPUB case studies address. To this aim the case studies analyse several EU policies and decision-making processes, e.g. the European Employment Strategy (EES) and the National Employment Action Plans (NAPs), the EU "sanctions" against Austria and the subsequent revision of Article 7 TEU, the revision of the Directive on the Deliberate Release of Genetically Modified Organisms, and the EU Culture 2000 Programme. Although representative institutions are not the



dominant source of democratic legitimacy in the “regulatory state”, they retain a critical role alongside participation.¹ The case study of the 1999 European elections therefore looks at the role of participation by citizens and political parties via the electoral mechanism of democratic representative institutions. In addition, participation in EU decision-making by regional and local bodies is covered in a case study of the Committee of the Regions (CoR).

The first part of the report summarises the argument for the EU as a regulatory state and outlines some of the implications of such a view for European democracy – both from a theoretical perspective and as presented in key European Commission documents and initiatives. Part two outlines the comparative framework for analysing the case studies. The empirical findings are compared along the four dimensions of mobilisation of civil society, public debate, openness of decision-making, and responsiveness of policy-makers. Each of the following parts focuses on one of these dimensions. The final part summarises the findings of the comparison and outlines possible implications for European democracy.

2 Democratic legitimacy in the European “regulatory state”

Majone (1996) and others argue that the EU can be characterised as a “regulatory state” because a disproportionately large share of its political decisions are of a regulatory rather than redistributive nature. In fact, this appears to be true for what are the most important and successful EU policies. The creation of the Common Market was crucial for the initial phase of European Integration in the 1960s. In the early 1980s the integration process was successfully re-launched with the idea of creating the Internal Market by 1992. Monetary Union probably amounts to the most important development in European integration in the 1990s. Lending support to the assumptions of the early neo-functionalists of European integration that political integration will follow market integration, all of these initiatives and policies were of key strategic significance for the development of the EU. At the same time, their aim was not to redistribute income among citizens but to abolish barriers to cross-boundary economic activities in an effort to stimulate additional growth. In

¹ The „regulatory“ state is an analytical construct directing attention to certain aspects that appear to be particularly significant from the perspective of democratic theory. Empirically, the EU conforms more to an emerging „composite“ or „diffuse“ democracy, e.g. a mix of new and more traditional forms of democratic legitimisation (cf. Héritier 2003; Magnette 2003). Representative institutions are probably the most important traditional forms of democratic legitimisation on which the EU draws and were therefore included in this study.



addition to the removal of tariffs, this involved, above all, the adoption of new, harmonised regulations (“re-regulation”).

Even in areas which are less closely linked to the removal of barriers for cross-boundary economic activities, the EU mostly acts through regulations rather than redistribution. The creation of a “level playing field” of undistorted competition and the correction of “market failures”, in particular in the form of negative external effects, frequently figure as reasons for EU regulatory intervention. European environmental policy is a case in point. While EU harmonisation of environmental product standards is frequently necessary to avoid trade barriers, one rationale for the adoption of environmental process standards - which regulate the production process rather than the end product - is the creation of a level playing field among producers in different Member States. Similarly, EU environmental regulations may also serve to avoid negative external effects, such as cross-boundary pollution. Even in the field of social policy, the EU mostly does not act through direct income redistribution but uses regulatory instruments.

Finally, even those EU policies, in particular the Common Agricultural Policy (CAP) and the Structural Funds, which involve significant budgetary transfers, also tend to serve the regulatory functions of the EU rather than redistributive purposes. More specifically, frequently these policies reflect the outcome of comprehensive negotiations among Member State governments on market liberalisation and harmonisation. In this context, the policies were introduced as “side-payments” to support or compensate particular Member States for concessions on issues of economic liberalisation and regulatory harmonisation. Even if these budgetary transfers have become “locked in” over time and, in the process of outliving their original rationale, may also have assumed some redistributive functions, their overall significance remains limited if compared to national-level redistributive expenditures. Total EU expenditures amount to substantially less than half the expenditure of a single large Member State such as Germany.

If the EU is, first and foremost, a regulatory state, then this has important implications for the Union’s sources of legitimacy and its institutional structure. Generally, the legitimacy of EU decision-making seems to depend less on social solidarity and more on technical rationality than policy-making at the national level. While solidarity is essential to legitimise redistributive policies, regulatory policies require a higher input of technical rationality. This difference is implicit in the analytical distinction between regulatory and redistributive policies: the former are defined as positive sum, whereas the latter are zero-sum. In contrast to redistributive policies, regulatory policies therefore have the potential for increasing benefits for all parties. In general institutional terms this means that good redistributive policies can be expected to result from institutions which provide for a mix of solidarity and the right balance of bargaining power between the social partners. However, the realisation of



additional benefits as a result of regulatory intervention depends on a very different set of conditions: First, policy-makers must be able to decide more or less independently from the parties which stand to benefit. If this is not the case, there is a danger that policy-makers are confronted with a Prisoners Dilemma type of situation, in which distributive considerations impair the search for an optimal solution in absolute terms. Ideally, decisions on the distribution of the additional benefits are therefore relegated to a separate, second step of decision-making. Second, policy-makers must be able to access and process the information which is necessary to identify the regulatory measures most likely to increase total benefits. This requires a deliberative decision-making style which is based on consultation of experts and concerned parties. Among other things, deliberation and broad consultation allows policy-makers to identify and assess negative externalities affecting third parties and the practical requirements for implementing a given regulatory measure. However, in addition to information and deliberation, consultation is also relevant for ensuring accountability. Given that, ideally, affected parties or their representatives are only directly involved in decision-making at the second, (re-)distributive stage of decision-making, consultation is important for ensuring accountability at the first, regulatory stage. More specifically, this implies that consultations must require policy-makers to give reasons for rejecting or accepting the proposals and objections raised in the consultation process.

In sum, the legitimacy of regulatory policy making derives more from technical rationality than from social solidarity. Appropriate institutional structures must conform to four main conditions: First, regulatory and (re-)distributive decision-making should be institutionally separated. Second, the institutional setting of regulatory decision-making should encourage deliberation. Third, broad consultation of experts and other relevant parties must ensure that policy-makers are well informed about the technical and political implications of alternative regulatory options. Fourth, policy-makers must be required to give reasons for accepting or rejecting proposals and objections raised during the consultation exercise.

2.1 The critical role of the European Commission

The EU's institutional structure corresponds to a significant extent to the regulatory state model. This is true for some of the EU's most general institutional characteristics, in particular the so-called "institutional balance" among the main EU political bodies - the European Commission, the Council, and the European Parliament – as well as the "Community Method" of decision-making. The "institutional balance" implies a relatively high degree of independence of regulatory decision-making because it is associated with a considerable political influence of the unelected Commission. At least in theory



the Commission operates independently of political influences. Similarly, the “Community Method” conforms to an important element of the regulatory state model in that it is based on a certain degree of institutional separation of regulatory and (re-)distributive decision-making: the Commission is primarily responsible for regulation, whereas the Council has a stronger influence on issues of (re-)distribution. More specifically, the Commission’s influence mostly results from its monopoly on drafting legislative proposals, from informational asymmetries and its networking capacities (Pollack 2003). The Council and the European Parliament can only modify the proposals once they have been submitted by the Commission. This relatively strong separation of the bodies responsible for drafting and adopting legislation renders it more difficult for distributive considerations - in particular distributive conflicts among Member State governments - to influence the process of drafting regulations.²

Even at a somewhat less general level, the Union’s institutions and decision-making practices seem to correspond more to the regulatory state model than to the institutional foundations of the European welfare state. This primarily concerns the issues of deliberation and provision of information for regulatory decision-making. Perhaps most importantly, the Commission’s regulatory activities strongly rely on “comitology” – an extensive structure of expert and consultative committees.³ In addition to information, these Committees offer the Commission an institutional setting for deliberation among policy experts and administrators (Joerges and Everson 2000, p. 183). However, the extent to which comitology fulfils these informational and deliberative functions not only remains controversial among scholars and practitioners, but also differs among policy areas and the particular kind and composition of committees. In particular, many committees are primarily staffed with representatives of Member State governments or technical experts, whereas other stakeholders, for example NGOs, tend to be excluded. In addition, the highly complex committee system suffers from co-ordination problems and a lack of transparency. Narrow representation in the committees and low transparency frequently seem to render the committee system insufficient in terms of the

² Although the separation between the bodies drafting and adopting legislation is stronger than at national level, it is clearly limited. After all, the interventions of Member State governments and the European Parliament are not limited to distributive issues at the second stage of the legislative process. In addition, Member State governments are frequently represented in the Commission’s advisory committees (see Joerges and Everson, 2000, p. 171). Nevertheless, the Commission’s agenda setting power may often ensure that its effort to upgrade the common interest is not completely muddled by distributive issues raised by Member State governments and the Parliament.

³ Strictly speaking the term “comitology” only applies to various kinds of committees which oversee the implementation of policy. However, these committees often also fulfill a broader consultative or advisory function.



participatory functions of consultations which are associated with the “regulatory state” model.⁴

2.2 Addressing the “participatory deficit”

The EU has addressed the shortcomings of the burgeoning committee system in at least three principal ways: First, it has adopted a Decision⁵ which aims, among other things, at simplifying the comitology system, and the Commission has proposed further reforms. Second, since the early 1990s the EU has established a growing number of more or less independent regulatory agencies which have taken over some of the tasks of the committees. Examples include the European Agency for the Evaluations of Medicines, the European Environment Agency, and the European Food Agency. As a result of the creation of these agencies, the EU has shifted further towards the regulatory state model (Majone 1996). However, while these developments may have improved co-ordination and transparency, they have hardly affected democratic legitimacy (with the exception of a somewhat stronger involvement of the European Parliament in “comitology”).

The third way in which the EU is trying to address the problems associated with the committee system is more promising from the perspective of democratic legitimacy. It concerns efforts to improve participation and openness and is most prominently outlined in the White Paper on European Governance, published by the Commission in 2001 (European Commission 2001). Although the White Paper also deals with issues of effectiveness and coherence of policy-making, it primarily focuses on democratic legitimacy (cf. Greenwood 2002), in particular participation and openness, which are two of the five “Principles of Good Governance” outlined in the White Paper. In accordance with the regulatory state model, the Commission associates participation primarily with consultation of civil society. While the Commission has frequently resorted to consultation in the past, for example through Green and White

⁴ In recent years the Commission has taken measures to improve the transparency of the committee system, for example by setting up the „Consultation, the European Commission and Civil Society“ (CONECCS) database which, among other things, provides information on the Commission’s consultative bodies and their members. See Greenwood (2003, p. 43). However, serious problems of transparency and accountability remain (Dehousse 2003).

⁵ Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission, OJ L 184, 17.7.1999; European Commission 2002, Proposal for a Council Decision amending Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission, COM(2002) 719 final, 11 December 2002.



Papers, Communications, nearly 700 *ad hoc* consultation bodies (European Commission 2001, p. 17) etc., the White Paper acknowledged that there “is currently a lack of clarity about how consultations are run and to whom the Institutions listen”. Therefore, the Commission promised to “reduce the risk of the policy-makers just listening to one side of the argument or particular groups getting privileged access on the basis of sectoral interests or nationality, which is clearly a weakness with the current method of *ad hoc* consultations” (ibid.). This was to be achieved primarily with the help of explicit standards for the conduct of consultations.

In late 2002 the Commission adopted the “general principles and minimum standards for consultation of interested parties by the Commission” (European Commission 2002c). While these standards set out principles and rules which are likely to lead to a certain homogenisation of consultation practice, they do not fully meet the conditions which must be fulfilled if consultations are to enhance the democratic legitimacy of the regulatory state. The most serious shortcomings of the consultation standards are that they tend to be too general and lack legal force. In particular, the standards only provide for a very general requirement for the Commission to give reasons why it accepted or rejected the proposals and objections raised during the consultation process (cf. ibid., pp. 21-22). The Commission also states that consultations must be proportional to the impact of the proposal subject to the consultation and to the political constraints linked to the proposal (cf. ibid., p. 18) Given that the consultation standards are not legally binding, the Commission retains a wide leeway in interpreting these general provisions. This tends to undermine the accountability function of consultations and increases the incentives for the Commission to tailor consultations to suit its institutional interests and needs.

If anything, the Commission can only partly be blamed for the shortcomings of its consultation guidelines. Given that there is only a partial separation between regulatory and distributive decision-making at the EU-level, the Commission is in fact much more politically constrained by the Council and the Parliament than would be the case if the separation conformed more closely to the regulatory state model. Under these circumstances it is more difficult for the Commission to fully exploit the potential of consultation as a source of democratic legitimacy. In fact, in the area of scientific expert consultation, where the Commission is less politically constrained, it has adopted more detailed guidelines. Among other things, this concerns the rules for feedback and “giving reasons”. The guidelines for scientific expert consultation state that “any proposal [...] should be accompanied by a description of the expert advice considered, and how the proposal takes this into account. This includes cases where advice has not been followed. As far as possible, the same information should be made public when the Commission’s proposal is formally adopted” (European Commission 2002a, pp. 12-13). The guidelines do not have legal force. However, in contrast to the consultation standards, there are significantly more detailed provisions on implementation, monitoring and review (cf. ibid., p. 13). As a result of these



provisions the guidelines on the use of expertise go further than the consultation standards in providing for rules which do not only aim at improving the informational but also the accountability function of consultation.

The Commission's White Paper on European Governance also emphasised the need to improve the openness of European policy-making. According to the White Paper the "aim should be to create a transnational 'space' where citizens from different countries can discuss what they perceive as being the important challenges for the Union. This should help policy makers to stay in touch with European public opinion [...]" (European Commission 2001, p. 12). In this context the Commission underlines the importance of an improved communication policy of the EU. But the White Paper hardly mentioned issues of transparency and access of the public to documents, negotiations etc. Partly reflecting similar political constraints as in the case of consultation, the Commission therefore stressed aspects of information rather than accountability. While this emphasis is maintained in the Commission's 2002 report on the implementation of the White Paper, the document also mentions several improvements with respect to transparency and public access to documents and negotiations, for example publication of the minutes of Commission meetings, and measures to improve access to Council and Parliament documents (European Commission 2002b, pp. 8-9). As indicated by the provisions of the draft Constitutional Treaty which, among other things, call for the adoption of legislation on access to documents (Art.49(4)) and provide for access of the public to the Council's legislative debates (Art.49(2)) there is, however, ample room for further improvements.

In sum, there are good reasons to characterise the EU as a regulatory state. First, such a description captures the fact that the Union heavily engages in regulatory policy-making, whereas its role with respect to redistribution is small if compared to the significance of redistributive policies in European welfare states. The institutional structure of the EU also resembles the regulatory state model. Important elements include the central role of the unelected, relatively independent European Commission, a partial separation of the responsibilities for regulatory and redistributive questions, and the significance of the committee system. Second, the description of the Community as a regulatory state also conforms to a significant extent to the way in which the main EU institutions and the European Convention tend to see the Community – not least with respect to its democratic legitimacy. Whereas the democratic legitimacy of Member State governments primarily derives from parliamentary representation, the European Convention's draft Constitutional Treaty suggests that the Union's democratic legitimacy also derives from the principle of participation. However, in the draft Constitution participation is only partly understood as direct participation (e.g. of citizens through referenda). More importantly, participation is understood as wide and balanced consultation, transparency, and openness of decision-making. The European Commission's White Paper on European Governance also emphasised the importance of participation and openness. Nevertheless



representation also remains an important source of democratic legitimacy for the Union. First, even in the ideal regulatory state model the majoritarian decision-making procedures from which representative systems derive their democratic legitimacy are necessary for deciding on the distribution of the additional benefits generated by better regulation and, if appropriate, compensation. Second, as mentioned above, the EU only partly conforms to the regulatory state model. In particular, the role of the two main representative bodies, the Council and the Parliament, is not restricted to (re-)distributive decisions as both bodies can amend the Commission's regulatory proposals. The Union's democratic procedures also reflect the fact that regulatory and (re-)distributive decision-making are only partially separated. This may at least partially explain why, despite the rhetoric of the White Paper on European Governance and similar documents, the Commission's rules for consultation of civil society remain somewhat vague, in particular with respect to the potential role of consultation in enhancing accountability.

3 Analysing participation

The aim of the EUROPUB case studies was to provide information on participation through democratic representation and, in particular, more direct forms of involvement in EU policy-making. However, rather than merely looking at formal institutional rules and procedures, the EUROPUB case studies focus on the actual involvement of citizens and civil society in EU policy-making. The rationale behind this approach is the assumption that the extent to which representation and participation actually contribute to the democratic legitimacy of the EU depends not only on EU policies and institutional structures, but also on the existence of a sufficiently European (Europeanised or European-level) civil society and public sphere as well as the degree of responsiveness of policy makers. For example, in the absence of a public sphere, representation and participation may go unnoticed by the public at large. As long as there is broad support for the EU among national elites, this may be compatible with the kind of "permissive consensus" that has dominated public attitudes towards the Community until the early 1990s. However, a "permissive consensus" provides only weak legitimacy which is likely to break down once EU policy-making becomes politicised either because of disagreement among political elites or because of a significant increase in the visibility of EU policies (the introduction of the Euro, the abolishment of border controls etc.). Similarly, representation and participation are unlikely to enhance the Union's democratic legitimacy if policy-makers are insufficiently responsive (be it voluntarily or as a result of institutional constraints). For example, with respect to representation this may be the case in areas where the European Parliament cannot adequately fulfil its representative functions because it has a very weak role in the decision-making process. Regarding participation, consultations may degenerate into "window



“dressing” if policy-makers are unable or unwilling to seriously consider and address the positions of the various parties. Finally, in the absence of a sufficiently European civil society - understood broadly in this context as including public interest-oriented NGOs, political parties, the social partners, and regional and local bodies - genuine representation and wide and balanced consultation is not possible because of a lack of suitable constituents or interlocutors for the EU institutions.

In part 4 the findings of the EUROPUB case studies are compared with respect to the four main factors which impact on the effectiveness of institutional practices of participation and democratic representation in terms of democratic legitimacy (“four dimensions of participatory practice”): the existence of institutional opportunities for participation and democratic representation (openness), the mobilisation of societal and regional actors (mobilisation), media coverage and public contestation (public debate), and the ability and willingness of policy-makers to take the outcomes of participatory and representative practices into account (responsiveness). Where applicable, these dimensions are assessed separately for each of the major stages of the policy cycle, e.g. agenda setting, policy formulation, and implementation, to obtain a more nuanced picture. As explained below, for the case studies on the 1999 European elections and the Committee of the Regions, which concern “institutions” rather than policies, these criteria were modified.

3.1 Case study selection

Given that the EUROPUB case studies focus on a limited number of crucial, yet diverse aspects of EU decision-making, it is neither possible nor necessary to derive fully adequate, reliable findings for each dimension or for each stage of the policy process. The explorative function which the case studies serve in the framework of the larger EUROPUB project resulted in the choice of the following main criteria for the selection of the cases: One criterion was the degree of political “challenge” which a particular case poses in the context of issues of EU democratic legitimacy. The “sanctions” which the EU-14 governments imposed on Austria following the formation of an Austrian government that included the extreme right wing Freedom Party (FPÖ) posed such a challenge. It raised questions as to the democratic values on which the EU is founded and the way in which the EU should, and could, deal with threats to these values. Similarly, the implementation of the European Employment Strategy (EES) and the formulation of the National Employment Action Plans (NAPs) engaged the EU more deeply in the highly controversial area of social policy. These measures touch on the diverging social and political structures underlying (re-)distributive policies in the Member States. They pose a particular challenge to the legitimacy of interventions by an EU which has so far primarily



focussed on regulation rather than (re-)distribution. Similarly, the emerging EU cultural policy deals with an area in which the Union has traditionally been hardly involved. Albeit in a less overtly political way than in the case of the “sanctions” imposed on Austria, the formulation and implementation of the Culture 2000 Programme raises the question of European values and identity.

Challenging issues of democratic legitimacy also emerge in the context of more established EU policies. The process of the revision of the EU Directive on the Deliberate Release of Genetically Modified Organisms (GMOs) into the Environment is a case in point. The Deliberate Release Directive (DRD) pursues a two-pronged approach: It is an Internal Market measure harmonising safety regulations for GMOs. At the same time it aims at guaranteeing a high level of environmental protection. Given uncertainty about the effects of GM crops on biodiversity, farming practices, conventional and organic agriculture etc. as well as the rejection by many European consumers of GM food, the revision of the DRD posed a considerable challenge to the legitimacy of EU decision-making practices. The first direct European elections in 1979 were accompanied both by high hopes and deep scepticism. Since then the elections have remained a challenge. On the one hand, the European Parliament has substantially increased its powers; on the other hand, starting from a moderate level of 63 percent in 1979, voter turn-out has more or less continuously decreased. Moreover, as demonstrated by the case study on the 1999 European elections, election campaigns and media coverage continue to focus on national rather than European issues. Finally, there have been repeated efforts to increase the participation of subnational territorial bodies in EU decision-making. The most prominent case so far was the establishment of the Committee of the Regions (CoR), created in 1992 by the Maastricht Treaty. Yet, the case study dealing with the rise of regionalism and the CoR shows that this most institutionalised form of participation of regional and local bodies in EU decision-making still rests on weak foundations, despite the rise of regionalism in recent years at the national level.

In addition to the criterion of political challenge, the selection of the case studies also reflects the complexity and diversity of EU decision-making procedures and institutions. Although it is not possible to derive general conclusions about the functioning of different institutional arrangements with respect to participation and democratic representation from the case studies, the findings do allow for a number of preliminary comparative insights. The studies dealing with the 1999 European elections and the CoR cover important aspects of electoral and subnational territorial representation at the European level, whereas the remaining case studies illustrate the functioning of various EU decision-making procedures and practices; The Deliberate Release Directive was revised under the Co-Decision Procedure which is the most common EU legislative procedure. It is also the only procedure which formally accords the European Parliament a role on a par with the Council of Ministers in the legislative process; The Culture 2000 Programme was also adopted on the basis of the Co-decision Procedure.



By contrast, the EES is based on the non-legislative Open Method of Co-ordination (OMC). By means of setting EU-wide common targets and introducing reporting requirements, monitoring and review mechanisms, the OMC aims at stimulating transnational learning processes. The Council, and to a lesser extent the Commission, are key players under the OMC, whereas the European Parliament is relegated to a largely consultative role. Finally, the discussions on the “sanctions” against Austria led to the revision of Art.7 TEU specifying procedures for imposing sanctions on Member States which are in breach of the basic values and principles of the Union. As is common for Treaty revisions, the revision of Art.7 was agreed by Member State governments at an Intergovernmental Conference (IGC), in this case the 2000 IGC which resulted in the Nice Treaty. In addition, the process in which the “sanctions” were imposed illustrates how intergovernmental co-operation in the framework of the EU may serve as a platform for governments to adopt measures which are not formally EU measures.

In some respects the case study on regionalism and the CoR constitutes a special case. As illustrated in more detail in part 4, the CoR scores exceptionally low with respect to most of the dimensions of participatory practice. This reflects the fact that the impact of the CoR on EU policy-making continues to be very weak. This stands in stark contrast to the rise of regionalism in the 1990s even in Member States, such as Sweden, France, and the UK, which have so far been very centralised. The rise of regionalism may have a significant influence on EU democratic legitimacy: First, participation of regional actors in EU decision-making may function as an additional source of democratic legitimacy. In particular, the CoR may still evolve to become an influential facilitator of regional participation at the EU level. Second, the rise of regional and local democratic practices may create new participatory opportunities for citizens and civil societal actors more generally. In turn, this may reduce the “democratisation pressure” on the EU. However, because of the weak impact of the CoR on EU policy-making and the democratic potential offered by the rise of regionalism, the case study on regionalism and the CoR focuses less on the CoR and more on outlining contributions of the rise of regionalism to new democratic practices more generally.

3.2 Research strategy and sources

The case studies cover the EU and the national level. However, given limited resources, not all Member States are included. In addition to the EU level, the case studies focus on six Member States: Austria, France, Germany, the UK, Spain, and Sweden. Against the background of imminent EU enlargement, the Czech Republic was also covered. The most obvious advantage of the choice of these countries is that it reflects the composition of the EUROPUB research



team. While the lead partner for each case study covered the EU level and his/her Member State, the remaining partners supplied national reports on the situation in their respective countries with respect to the specific subject of the case study. There is one exception to this approach: the case study dealing with the Culture 2000 Programme looks exclusively at EU level decision-making and is therefore not based on partner input.

As pointed out above, the subject areas of the case studies are diverse. The case studies cover several EU policies which are not closely related to each other. In addition, the “policy” cases are complemented by the two “institutional” cases dealing with the 1999 European Elections and regionalism and the CoR. The EUROPUB team used a multi-stage approach to ensure a sufficiently common focus and approach of the case studies. At the first stage the team agreed on a set of generic guidelines for designing the case studies (see Annex A). Each case study leader used these guidelines to produce case specific guidelines. In addition to structuring the case study leader’s own research, the case specific guidelines were designed to direct research by partners preparing the national reports for the case studies.

The final case studies as well as the national reports were assembled on the basis of diverse sources. In addition to relevant scientific literature and documents, interviews and media analyses served as a major source of information. The interviews were conducted with the help of case specific interview guidelines. A common grid was produced for the media analysis. For each national report an average of about eight people were interviewed. This means that most of the case studies rely on about 70 or so interviews covering the seven EUROPUB countries and the EU-level. The selection of interview partners was to some extent case specific. However, government officials, parliamentarians, representatives of societal organisations, such as NGOs or the Social Partners, usually figured prominently among those interviewed. In most cases the media analysis was limited to the print media. More specifically, a right leaning and a left-leaning “high quality” newspaper and, in some cases, a tabloid paper were analysed. Depending on the specific focus of the case study, some case studies required a more extensive media analysis whereas others relied more heavily on interviews. Because of the more limited scope of the case study on the Culture 2000 Programme, which only analyses EU level interactions and decision-making, no interviews and media analysis were prepared for this study.



4 Comparative analysis of the case studies

Table 1 gives an overview of the findings of the case studies with respect to the dimensions of mobilisation of societal and regional actors, public debate and media coverage, openness of decision-making to input by societal and regional actors, and responsiveness of policy-makers to public opinion as well as the demands by societal and regional actors. For those case studies dealing with EU policies, the Table also shows the stage of the policy-making process to which the findings relate. For the two “institutional” case studies dealing with the 1999 European elections and the CoR roughly analogous stages are used. More specifically, agenda setting concerns the selection of issues for political decision-making. For the “institutional” case studies this is replaced by the selection of candidates for the 1999 European elections and the selection of the members of the CoR, respectively. Similarly, policy formulation concerns the political process in which measures to address the selected issue are adopted. This is replaced by “run-up to elections/campaigns” and “adoption of opinions” for the two “institutional” cases. Finally, implementation denotes the way in which those state actors who are charged with the execution of political decisions deal with their task. In the two “institutional” case studies, implementation is replaced by “election results” and “political impact of CoR opinions”.

For each case study Table 1 contains an assessment of the extent of mobilisation, debate, openness, and responsiveness with respect to each of the three main stages of the policy cycle. The comparison of the findings of the case studies primarily relies on the case study reports in Annexes 1-6. However, some entries also reflect information which is not contained in the case study reports but was supplied by the case study authors specifically for the purpose of the comparative analysis. Annex B contains short summaries of the information on which the entries in the Table are based. For the purpose of the comparative analysis this information was graded, with the grades ranging from “0” to “+++” where “0” stands for no or very low mobilisation, debate, openness and responsiveness.



Table 1: Comparative overview of the case studies

	Mobilisation	Debate	Openness	Responsiveness
REVISION OF THE DELIBERATE RELEASE DIRECTIVE				
Agenda-setting	+	+	0	0
Policy formulation	+++	+++	+	+++
Implementation	++	++	++	++
CULTURE 2000 PROGRAMME				
Agenda-setting	0	0	+	0
Policy formulation	+	0	++	+
Implementation	+	0	0	0/+
THE EUROPEAN EMPLOYMENT STRATEGY ⁱ				
Agenda-setting	- (+)	- (0)	- (+)	- (+)
Policy formulation	+ (+)	0 (0)	++ (+)	+ (+)
Implementation	- (+)	- (0)	- (++)	- (++)
THE "SANCTIONS" AGAINST AUSTRIA AND THE REVISION OF ART.7 TEU ⁱⁱ				
Agenda-setting	+ 0	++ 0	+ 0	0/+++ +
Policy formulation	+ 0	+++ +	0 +	+ 0
Implementation	++ -	++ -	0 -	0 -
THE COMMITTEE OF THE REGIONS				
Member selection	+	0	0	0
Opinions	0	0	0	++
Political impact	0	0	-	0/++
THE 1999 EUROPEAN ELECTIONS ⁱⁱⁱ				
Candidate Selection/ Manifesto drafting	+	0	+	+
Run-up to elections/campaigns	+	+ /+++	+	++
Election results	+	++	++	+

Grades

Mobilisation/ Responsiveness	Debate	Openness
0 = negligible	0 = media treatment as potential issue at best	0 = no access
+ = some	+ = media treatment as issue of low relevance	+ = difficult access
++ = strong	++ = media treatment as issue of significant relevance	++ = fair access
+++ = very strong	+++ = media treatment as issue of major relevance	+++ = easy access
/ = alternative assessments	/ = alternative assessments	/ = alternative assessments
- = not applicable	- = not applicable	- = not applicable

ⁱ The first grade in each box refers to the EES, the second one in brackets to the NAPs. As it is a cyclical process, the agenda is set automatically for the EES. The implementation of the EES corresponds to agenda setting for the NAPs.

The case is further complicated by the fact that national governments play a central role in decision-making. Therefore, EU-level consultation processes are less important, while national consultation and negotiating processes differ strongly among Member States. These processes are heavily conditioned by traditional national institutional structures. The fact that the EES is based on the non-legislative OMC reflects the importance of divergent national structures in this area. In terms of assessing the NAPs, diversity means that, for example, in some Member States the policy formulation process may be quite open, whereas it may be closed in others. In such a case, the overall assessment in the Table refers to an artificial "average" among Member States.

ⁱⁱ Each box has two compartments: The upper one refers to decision-making on the „sanctions“ against Austria, the lower one to decision-making on the revision of Art.7.

ⁱⁱⁱ As with social policy, situations differ strongly between the Member States. This is not surprising, given that the European elections take place in a context which is heavily conditioned by entrenched party systems, electoral cycles etc. The overall assessments in the Table hide these differences, as they reflect „averages“.



For several reasons the grades are only very rough indicators. First, the process of interpreting, summarising, and grading the information in the case study reports is necessarily to some extent subjective and many important aspects of each case had to be ignored. For example, much of the extensive background information on regionalism and democratic participation contained in the case study on regionalism and the CoR is not reflected in the entries of the Table. Among other things, the contrast between the dynamism of regionalism and the relatively small political significance of the CoR which emerges from the case study is partly lost. Though to a significantly lesser extent, similar constraints apply to the other case studies.

Second, the entries in the Table are “averages” which hide differences between the Member States. For example, in a case where Member State governments have a dominant impact on EU policy-making and half of the Member State governments consulted extensively on European issues, whereas there were no opportunities for societal actors to influence the government’s position in the remaining Member States, openness would be evaluated as medium in the Table. This approach hides important national differences in particular in cases in which national political institutions had an extraordinarily strong impact. This applies most clearly to the European Employment Strategy (EES) and the 1999 European Elections. As illustrated in the EES case study, there are marked differences in national employment policies between corporatist and more liberal Member States. These differences also have a significant impact on the political processes at the European level. First, they are reflected in the approaches of Member State governments which have a strong influence on the EES under the Open Method of Co-ordination (OMC). Second, as a result of a relatively high degree of openness and responsiveness of EU employment policy, national societal actors also have opportunities to directly transmit different approaches rooted in diverging corporatist and liberal national structures to the European level. Similarly, national structures also had a strong impact on the 1999 European Elections. For example, it seems reasonable to assume that the elections offered more opportunities to electorates with a high share of “eurosceptics” to influence European policy-making because the positions of the parties in the respective countries tended to be less dominated by purely national issues.

Finally, in some cases it was not possible to assign a grade because the available information leaves room for contrasting assessments. The responsiveness of the agenda setting process which resulted in the EU “sanctions” against Austria is a case in point. On the basis of the available information two alternative conclusions are possible: if Member State governments began to consider sanctions against Austria because of the public outcry over the political situation in Austria, then the process was marked by a very high degree of responsiveness; however, if Member State governments took up the issue primarily for strategic reasons, e.g. because of the potential



transnational effects of the Austrian government formation on the rise of the extreme right in the EU, then the degree of responsiveness was low.

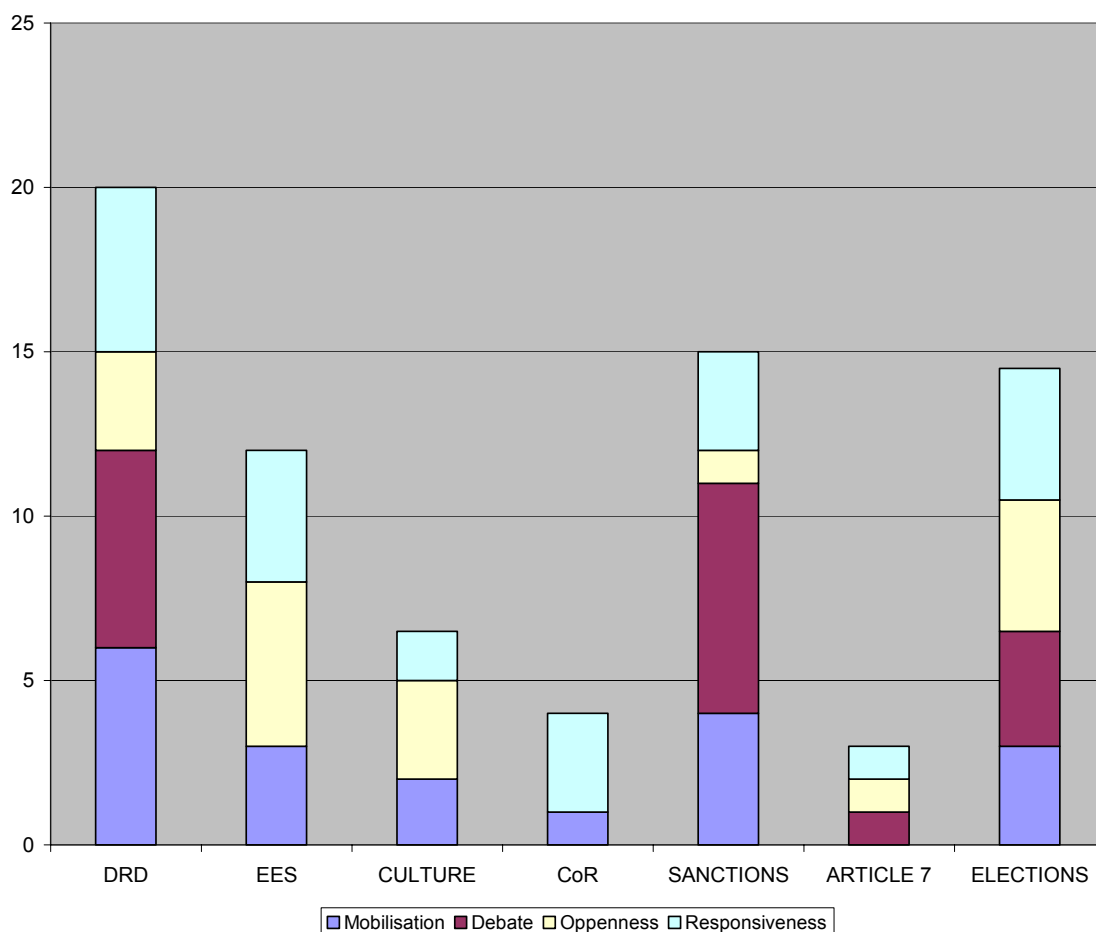
4.1 **Implications for EU democratic legitimacy**

As pointed out in part 3, to assess the contribution of participation to EU democratic legitimacy it is helpful to focus on practices of participation. The opportunity structure for participation in EU decision-making, the mobilisation of relevant societal actors, the extent of public debates and contestation, and responsiveness of policy-makers all contribute to the emergence of practices of participation. The Figure presents rough estimates of the extent of participatory practices characterising the political processes and institutions analysed in the EUROPUB case studies. The Figure was generated on the basis of the entries in the Table. The entries were converted into numbers (“0”=0; “+”=1; “++”=2; “+++”=3). For each case the numbers were then added for each of the dimensions of participatory practice (mobilisation, debate etc.) and for the case as a whole.⁶ The “sanctions” against Austria and the revision of Article 7 were treated as two separate cases because they were based on different decision-making procedures (informal co-operation among EU-14 Member State governments and formal Treaty revision, respectively). For the cells with alternative assessments in the Table, the average of the two entries was used.

⁶ Note that this method allows for the possibility of significant participatory practices to be found without direct involvement of citizens or civil society organisations in EU decision making, for example in a situation with intensive public debate and high responsiveness of policy-makers. One might therefore consider introducing the requirement of minimum levels of mobilisation and openness which must be observed if particular practices are to be recognised as participatory. In the present context, the question is to some extent relevant for the case of the “sanctions”. The total score of the case is relatively high, but there were only weak opportunities for participation.



Figure 1: Participation Scores



Before discussing the findings, it should be pointed out that the scores for the case of the revision of the DRD may be distorted to some extent due to the fact that it covers a significantly longer time span than the remaining cases: agenda setting for the revision of the DRD already started in the early 1990, but the revised Directive was adopted no sooner than 2001. Yet, towards the end of the agenda setting process in 1996 the contextual conditions for the revision of the Directive had radically changed, among other things as a result of the BSE crisis and the first European imports of GM crops from the U.S. It seems reasonable to assume that participation would have been significantly lower at the policy formulation and implementation stages in the absence of this change. Conversely, if agenda setting had been delayed by several years, participation at the agenda setting stage would probably have been more similar to the other two stages.

Most obviously, the Table suggests that there are very large differences among the cases with respect to the extent of participatory practices: with a total of twenty, the DRD case scores almost seven times higher than the revision of



Article 7, the case with the lowest score. It is tempting to suggest that this contrast is related to the fact that the revision of the DRD followed the “Community method” and was based on the Co-decision Procedure which foresees a strong involvement of the European Parliament, whereas the revision of Article 7 was an intergovernmental process of Treaty revision. However, the decision-making procedure hypothesis is too simple. After all, the Culture 2000 Programme was also adopted under the Co-decision Procedure. Although the case scores somewhat higher than the revision of Article 7, participatory practices were much less intensive than in the case of the revision of the DRD. In addition, the adoption of the “sanctions” against Austria also relied on an intergovernmental process with only weak involvement of the European Parliament. But the case scores much higher than the revision of Article 7 (and the Culture 2000 Programme). These comparisons suggest that differences in EU formal decision-making procedures are not sufficient to explain differences in the intensity of participatory practices.

Alternatively, one might suspect that the intensity of participatory practices depends on the distinction between policies and representative institutions. If this was the case participatory practices should be significantly more intensive either in the policy case studies or in the “institutional” cases of the 1999 European elections and the CoR. However, once again this is not the case. The Figure shows that, if compared to the total scores of the policy case studies, the intensity of participatory practice in the case of the European elections is significant. However, this is not true for the CoR, which scores very low. This contrasting performance suggests that the intensity of participatory practice depends on factors which are not closely linked to the distinction between policies and institutions.

It might also be argued that differences in the intensity of participatory practices can be attributed to factors which are specific to particular policies or EU institutions. More specifically, variations in the extent to which competencies have been transferred to the EU level in a particular issue area and the degree of political influence of specific EU institutions may have an impact on the intensity of participatory practices. For example, a recent empirical study of the European public space concludes that “[o]ur results cannot be read as providing evidence either for or against the existence of ‘a’ European or Europeanised public sphere. The answer completely depends on the policy field one studies” (Koopmans and Erbe 2004, p. 32) In particular, “the alleged ‘public sphere’ deficit of the European Union is merely a derivative of a lack of strong and clearly demarcated competencies at the European level” (ibid., p. 29). Put differently, in policy areas, such as monetary policy, where competencies have been clearly transferred to the EU level, this is also reflected in a high degree of Europeanisation of public political communication.

However, the comparative analysis of the case studies suggests that things may be significantly more complex if one looks beyond media coverage at the



broader concept of participatory practice. With respect to the “institutional” case studies of the 1999 European elections and the CoR, the comparative analysis supports the view that the intensity of participatory practices is closely related to competencies and political influence. This would explain the contrasting total scores of the 1999 European elections - which determined the political composition of a European Parliament with significant powers in several policy areas - and the CoR, an institutions with very little political influence. However, even in this case the relationship between competencies and political influence on the one hand, and the intensity of participatory practice is likely to be more complex. For example, voter turn-out for the European elections, which is a crucial aspect of mobilisation in the case of the 1999 elections, has fallen over the past two decades. This happened despite the fact that the European Parliament’s powers have significantly increased. More generally, it is not difficult to imagine that the intensity of participatory practices associated with the European elections has risen significantly less than the European Parliament’s powers.

The Figure suggests that the relationship between EU competencies and the intensity of participatory practice is equally complex with respect to policies. Interestingly, the two cases with the highest scores - the revision of the DRD and the “sanctions” case - were also the ones with the lowest contribution of openness to participatory practice. The “openness ratio”⁷ for these cases was 0,15 and 0,07, respectively, whereas it was 0,3 for Article 7, 0,42 for the EES, and 0,46 for the Culture 2000 Programme. One possible explanation for this observation could be that, if EU competencies in a particular area grow, mobilisation of societal actors and public debates increase, but the effect on openness is the opposite: Faced with intensive mobilisation and public debate, EU policy makers try to limit openness in an effort to retain a certain degree of autonomy and prevent “overburdening” of the decision-making process (cf. Greenwood 2002). However, such limitations on openness need not necessarily have a negative impact on democratic legitimacy as long as policy-makers are sufficiently responsive and a certain degree of openness is maintained. As the Figure shows, this appears to be the case for the revision of the DRD, but the “sanctions” case lacked not only openness but responsiveness was also only marginally higher.

In sum, the comparative analysis of the overall scores for participatory practice suggests that the degree to which competencies have been given to EU institutions may have a significant influence on participatory practice. While overall participatory practice is likely to increase if more competencies are transferred to EU institutions, any rise in mobilisation and public debate tends to some extent to be offset by decreases in openness. By contrast, the analysis of the overall scores does not provide support for two other hypotheses: First, the

⁷ “Openness ratio”: For each case, the score for openness divided by the total score.



formal decision-making procedure at the EU level, for example use of the Co-decision Procedure or intergovernmentalism, appears to have only a limited impact on the intensity of participatory practice: some cases of the application of the Co-decision Procedure and intergovernmentalist negotiations between Member State government scored high while others scored low. Second, the intensity of participatory practice in the two “institutional” cases was neither consistently more or less intensive than in the policy cases.

4.2 The dimensions of participatory practice

As pointed out above, the main selection criteria for the case studies concerned the degree of challenge in terms of participation and legitimacy as well as the diversity of EU decision-making procedures. Given the resulting wide spectrum of cases, a closer look at the basis for the scores in the Table and Figure enables a better understanding of the variety of determinants of the intensity of participatory practice and of the possibilities and limits of comparison. The following parts provide an overview for each of the dimensions of participatory practice focusing, in particular, on the impact of EU competencies, EU decision-making procedures, and the difference between policies and “institutions” on the extent of participatory practice. Various additional factors, such as the role of common affectedness and organisational issues are also covered.

4.2.1 Mobilisation

Mobilisation concerns the degree to which societal actors, in particular citizens and citizen oriented organisational actors, such as NGOs, political parties, trade unions, but also regional and local actors, mobilised resources in response to EU activities or perceived European challenges. It is not surprising that, as illustrated in the Figure, mobilisation was highest in the DRD, “sanctions” and 1999 European elections cases. In these cases there was a high degree of common affectedness among key actors. In the DRD case common affectedness resulted from the coincidence with the BSE crisis of the first U.S. exports of unlabelled GM crops to the EU. The European elections almost by definition “affect” citizens and political parties across the EU as they provide opportunities to vote and be represented in the European Parliament. In the sanctions case, common affectedness, in particular of national political parties, stemmed from the fact that extreme right-wing parties in Member States other than Austria were expected to benefit from the results of the Austrian elections and the inclusion of the FPÖ in the new coalition government. By contrast, due to the diversity of labour market, cultural and regional structures in the Member States, there was only a small degree of common affectedness in the EES, Culture 2000, and CoR cases. This corresponds to lower mobilisation in these



three cases. As no particular Member State government was widely expected to violate basic European values and principles, the revision of Article 7 neither generated strong common affectedness nor mobilisation.

The Figure shows that the intensity of mobilisation ranges from strong in the DRD case to non-existent in the Article 7 case. In between these two extremes there is a fairly gradual decrease of mobilisation across the various cases. In addition to the degree of common affectedness, two other factors appear to have contributed significantly to this pattern: First, organisational factors could explain why mobilisation was particularly high in the DRD case. Environmental NGOs which led mobilisation in this case were to a significant extent organisationally Europeanised or transnationalised. This was particularly true for Greenpeace, but also for other NGOs, such as Friends of the Earth. Organisational factors were also relevant in the EES case. Given that common affectedness was low in this case, there was a relatively high degree of mobilisation. This can be attributed to the organisational resources which the Social Partners mobilised, in particular in the more corporatist Member States. The differences in mobilisation between the corporatist and the more liberal Member States which emerges from the EES case, suggest that organisational factors may also account for some of the other cross-national variations that were observed in the case studies, but are obscured by the aggregate values in the Figure.

Second, the pattern of mobilisation corresponds fairly closely to the competencies hypothesis if competencies are not defined as formal competencies but as effective powers of intervention: the Figure suggests that an increase in mobilisation tends to go hand in hand with more EU competencies/powers of intervention. In the DRD case, which features the highest degree of mobilisation, the EU formally shares competencies with Member States. But Member State government's influence is limited in practice due to the Co-decision Procedure which corresponds to the "Community Method" and involves the EP and the Commission in decision-making and, at the implementation stage, EU restrictions on national measures that may negatively affect the Internal Market. Intensive mobilisation also occurred in the "sanctions" case. However, while the co-ordinated measures by the EU-14 Member State governments exerted significant diplomatic pressure on the Austrian government, the "sanctions" were not based on formal EU competencies.

By contrast, policy-making is still largely confined to the national level in the areas of social and employment policy as well as cultural policy. Corresponding to this situation, mobilisation was lower. There was no mobilisation in the Article 7 case. Two main factors appear to be responsible. First, the revision of Article 7 concerned very sensitive issues of national sovereignty. Second, the failure of the "sanctions" against Austria had revealed the difficulties of successful EU intervention in national political processes of government formation. Whereas



the implications of the Article 7 case for the competencies hypothesis remain unclear, the contrast between significant mobilisation for the 1999 European elections and very low mobilisation in the case of the CoR corresponds to the difference in competencies and political influence between the two institutions.

Finally, it should be pointed out that the degree of mobilisation corresponds both to the extent of EU competencies/effective powers of intervention and to common affectedness. The relative weight of these two influences on the degree of mobilisation is not entirely clear, although it seems reasonable to assume that both had a significant impact.

The patterns of mobilisation do not conform to the other two hypotheses outlined in the previous part. As with participatory practice in general, patterns of mobilisation do not seem to systematically correspond to either differences in decision-making procedures or the difference between representative institutions and policies. However, if compared to the situation at the national level, it is remarkable that some policy cases (DRD and “sanctions”) feature a higher degree of mobilisation (and public debate) than the 1999 European elections. This may be interpreted as an indication for the limited role of representative institutions in legitimising EU policy-making.

4.2.2 Debate

Perhaps most importantly, public communication and debate occurs in the mass media. However, other forms of contestation, such as public protests, open letters, public relations activities, parliamentary debates etc. are relevant, too. Public debates and communication are European or Europeanised if they involve, react to, or address the European institutions or issues of EU policy-making (cf. Koopmans and Erbe 2004). The Figure shows that differences between the cases are most pronounced with respect to the public debate dimension of participatory practices: On the one hand, there are three cases with a high level of debate while, on the other hand, there is an equal number of cases which feature virtually no public debates. As with mobilisation, the degree of debate seems to be related to a significant extent to common affectedness. The three cases which were characterised by relatively high common affectedness, e.g. the DRD, “sanctions”, and 1999 European elections cases, also featured the most intense public debates. In the three remaining cases, in which common affectedness was low, there was no public debate, whereas the intensity of debates was only marginally higher in the Article 7 case, which is the fourth case with low common affectedness.

Public debates and communication are often linked to mobilisation of societal actors which, in turn, is also linked to common affectedness. Consequently, there is a significant degree of co-variation among the two dimensions of



participatory practice. The Figure shows that the three cases with the most intensive debates also featured the highest degree of mobilisation. In fact, it seems very likely that at least for the case of the DRD, the impact of highly effective campaigning by environmental NGOs on public debates was higher than any direct impact of common affectedness.

However, the Figure also suggests that there is significant slack in the link between debates and mobilisation, at least if mobilisation is only moderate or low: in the EES case, and to a lesser extent in the Culture 2000 Programme case, there was significant mobilisation, but no public debate. Among other things, this may be explained by the fact that mobilisation by societal actors in these two cases did not take place in public, but focussed on what might be called elite actors, such as experts and leading institutions. By contrast, although there was no mobilisation, there was at least some debate in the Article 7 case.

Even in the DRD and “sanctions” cases there appears to be some slack. Mobilisation was more intensive than public debates in the DRD case, while the opposite is true for the “sanctions” case. In addition to variations in the extent of mobilisation, these differences may be attributed to the role of the media. In the DRD case, there was very broad media coverage in some countries, such as Austria and the UK. However, in particular in Spain, but also in Germany, Sweden and the Czech Republic, media coverage was significantly less intensive. In the “sanctions” case media coverage was most intensive in Austria. However, there was also intensive debate in most other EUROPUB countries. The more heterogeneous situation with respect to media coverage in the DRD case appears to have contributed to the different mobilisation/public debate ratios in the two cases.

As pointed out above, it has been argued that the transfer of competencies or effective powers of intervention frequently has a positive effect on the intensity of European or Europeanised public debates. The Figure partly supports this view: Those cases in which important competencies or powers have been transferred are the ones with the highest levels of public debate. Nevertheless, the impact of competencies seems to be limited. In particular, EU competencies cannot fully account for the fact that there was no public debate in the EES case. In this case the extremely low degree of public debate seems out of proportion if measured against the limited, but existing EU competencies in this field. Though less clearly, the same argument applies to the Culture 2000 Programme. In these two cases the lack of public mobilisation by societal actors, who primarily engaged in private lobbying, may be more relevant to the absence of a broader public debate than limited EU competencies.

As to the hypotheses concerning the impact of variations in decision-making procedures and differences in performance with respect to the dimensions of participatory practice between representative institutions and policies, the



Figure suggests that these two factors have no major impact on the intensity of public debate. In particular, both intergovernmental and “Community Method” types of decision-making as well as representative institutions and policies may or may not generate significant public debate.

4.2.3 Openness

Openness of decision-making relates to the opportunities for societal actors to both obtain information on, and to feed information into the EU policy-making process either directly via the EU institutions or indirectly via Member State governments. As illustrated in the previous parts, there seems to be significant co-variation between the factors which induce mobilisation of societal actors and public debate. However, co-variation does not extend to openness. This may be attributed to the fact that mobilisation and debate primarily concern the “demand side” of policy making, e.g. the demands and controversies emanating from societal actors, whereas openness together with responsiveness are attributes of the “supply side” constituted by state structures,.

The Figure shows that openness is particularly developed in the EES case, followed by the 1999 European elections, the Culture 2000 Programme, and the revision of the DRD. It is marginal or non-existent in the remaining three cases, e.g. the “sanctions”, revision of Article 7 and CoR cases. The hypothesis on the impact of decision-making procedures appears to be relevant for explaining differences in the degree of openness. In the Culture 2000 Programme and the DRD cases, in which the Co-decision Procedure was applied, a significant degree of openness could be observed. In both cases the involvement of the European Parliament in decision-making appears to have contributed to openness. Among other things, the EP organised consultations and, in the DRD case, leaked information to societal actors on discussions in the Conciliation Committee in which the final negotiations between the Council and the EP take place under the Co-decision Procedure. Similarly, in both cases the Commission and even the Council appear to have been relatively open to consultation of societal actors. By contrast, the “sanctions” and the Article 7 cases, which are, respectively, examples of informal and formal intergovernmental negotiations, displayed a very low degree of openness. The lack of openness in these cases may to some extent be due to the particular political sensitivity of the discussions on EU sanctions against Member State governments. However, organisational factors were relevant, too. After all, employment policy is also a politically highly sensitive issue and, as with intergovernmental decision-making, Member State governments are the leading players in the decision-making process under the Open Method of Co-ordination (OMC). Despite these similarities, openness was much higher in the EES case than in the “sanctions” and Article 7 cases. Organisational factors, in particular the fact that societal actors are represented in several EU advisory



committees and institutionalised fora seem to render the EES much more open than the intergovernmental processes in which the “sanctions” against Austria were imposed and Article 7 was revised.

While these comparisons suggest that the Co-decision Procedure is significantly more open than intergovernmental decision-making, this does not mean that the broader “Community Method”, which gives the European Commission and Parliament a strong role, is necessarily more open than decision-making procedures, such as the OMC, that are not intergovernmental in the “classical” sense, but in which Member State governments are the primary decision-makers. The degree of openness of such decision-making procedures seems to depend more on the specific institutional and organisational arrangements, for example the existence of suitable advisory committees, than on the balance of power between Member States and the supranational Community institutions as such.

The specific characteristics of the decision-making procedures may also contribute to explain the large difference between the “open” 1999 European elections and the “closed” CoR: the European elections are based on well-established, relatively clear and transparent rules and practices for the selection of candidates and, in particular, for the elections themselves. This makes it easier for political parties and voters to participate in the elections. By contrast, the selection procedure for CoR members are intransparent and decisions tend to be made behind closed doors.

Although the Co-decision Procedure was more open than intergovernmental decision-making, openness was more developed in both the 1999 European elections, and in particular in the EES case. As pointed out above, relatively strong EU competencies may have limited openness in the DRD case: if extensive EU competencies increase mobilisation and debate, then EU policy-makers in fields with extensive EU competencies may be inclined to restrict openness in order to avoid overburdening of the decision-making process. The competencies hypothesis may therefore explain why there was less openness in the DRD case than in the Culture 2000 Programme, and in particular the EES case, both of which were characterised by relatively weak EU competencies. Tendencies to insulate decision-making could indeed be observed in the DRD case, especially at the agenda-setting stage. Increasing openness at the later stages of decision-making to a significant extent resulted from the external pressure stemming from the *de facto* moratorium, rather than voluntary opening up of decision-making.



4.2.4 Responsiveness

Responsiveness concerns the extent to which policy-makers involved in EU decision-making accommodate the arguments and demands of societal actors. From the perspective of democratic legitimacy, positions articulated by civil society actors, such as NGOs or the media and, to a lesser extent, public opinion, are particularly relevant. The Figure shows that responsiveness is the only dimension of participatory practice which was present in all cases. In general one might suspect that wide-spread responsiveness functions as compensation for a generally weaker role of directly elected representatives and societal actors in European- than in national-level policy-making (Greenwood 2003, p. 36). This interpretation is supported by some case study findings. First, as pointed out above, openness is low in the two cases with a very strong demand side (mobilisation and public debate) and considerable EU powers - the DRD and “sanctions” cases - to avoid “overburdening” of the decision-making process. Although still limited in relation to strong demands, responsiveness in these cases is significantly higher than openness. This may be taken as an indication that policy-makers try to compensate for relatively closed decision-making by increased responsiveness. Rather than the European Commission, Member State governments, and to a lesser extent the European Parliament, were responsive in both cases (and in the case of the Culture 2000 Programme). This lends further support to the compensation interpretation: the incentives for the Commission to compensate closed decision-making with responsiveness are especially low due to the Commission’s relative independence from societal actors. By contrast, although national governments are not directly elected, they are ultimately accountable to their societal constituencies.

One of the two “institutional” case studies also tends to support the compensation hypothesis. Of the four dimensions of participatory practice, responsiveness is the only one with respect to which the CoR case reaches a significant score. This seems to reflect the CoR’s lack of democratic legitimacy and the particularly loose link between the CoR and potentially relevant constituencies. The CoR therefore tries to compensate its lacking representative qualities by responsiveness at the decision-making stage.

More generally, whereas the legitimacy of policies also depends on their success (“output legitimacy”), the legitimacy of representative institutions, such as the CoR, depends largely on whether they are seen to actually represent their constituencies. The CoR’s behaviour may therefore correspond to a general tendency among nominally representative institutions which lack representative qualities in practice. If this was the case, it would be an example of a systematic difference between the “policy” and the “institutional” case studies. The second “institutional” case study dealing with the 1999 European elections neither contradicts, nor supports this possibility. Relatively high



responsiveness in this case seems to be largely due to a different factor, namely the nature of democratic elections, the success of which in terms of legitimacy largely depends on their capacity to mobilise voters. Responsiveness is one way of increasing mobilisation. As in the EES case, discussed below, responsiveness may therefore be explained in terms of decision-making procedures.

The case of the EES was also characterised by relatively high responsiveness. However, due to only moderate levels of mobilisation, the absence of public debates, and a high degree of openness, there was no need for responsiveness to be used as a means of compensation. Rather, responsiveness was influenced by decision-making procedures. More specifically, given that the EES is based on the OMC, which does not result in the adoption of legally binding rules, successful implementation of the EES requires voluntary co-operation and compliance by relevant societal actors. Policy-makers try to achieve this by accommodating the positions of these societal actors.

Low responsiveness in the case of the Culture 2000 Programme seems to reflect still another factor. Relatively low mobilisation meant that there was little political pressure on policy-makers. In addition, the Programme offers financial incentives for participation. Therefore, there was no need to be responsive in order to secure participation by societal actors. Finally, in the Article 7 case low responsiveness seems to reflect the near absence of mobilisation and broad public debate, as well as the political sensitivity of the debate on the procedures for imposing EU sanctions on Member State governments.

5 Conclusion

The EUROPUB case studies suggest that the total intensity of participatory practice as well as the performance regarding the individual dimensions varies strongly among different EU policies and institutions. The intensity of participatory practice ranged from strong, to medium, to very weak across the cases. Overall participatory practice was high in the DRD and “sanctions” cases whereas it was very low in the Article 7 and CoR cases. At least if one focuses on participation rather than representation, this suggests that it would be wrong to assume that the EU either suffers from a democratic deficit or that that it doesn't. Rather, there appear to be two main problems: First, there are democratic deficits in those areas in which there is indeed a low intensity of participatory practices. Second, a closer look at the case studies also shows that there are problems in cases characterised by a very high level of participatory practices. In these cases the EU institutional framework has great difficulties in addressing societal concerns in such a way that its procedural legitimacy is preserved.



Given the multi-dimensionality of participatory practice, ranging from mobilisation of societal actors, public debate and contestation, openness of decision-making, to responsiveness of policy-makers, it is not surprising that a range of factors influence the intensity of participatory practice. Such factors include the degree of common affectedness by an issue across Member States, the extent of a transfer of powers to the EU level, variations among EU decision-making procedures, organisational characteristics of relevant societal actors and EU institutions, and the resources (legal, financial and other incentives etc.) at the disposal of EU institutions. The impact of these factors varies both across different policies and institutions and across the four dimensions of participatory practice. In addition, these dimensions are partly interdependent.

The case studies suggests that there is significant interdependence between mobilisation of relevant societal actors and public debate. Mobilisation in response to EU policies or European challenges benefits from a high degree of common affectedness by a particular issue across Member States, a situation in which relevant competencies and powers have been transferred to the EU level, and a Europeanisation or transnationalisation of the organisational structures of NGOs. While all of these factors promote mobilisation, the absence of Europeanised or transnationalised NGOs in the “sanctions” case suggests that, while being beneficial, this factor is not strictly necessary to generate strong mobilisation.

Mobilisation in turn is an important determinant of the intensity of public debate. However, differences among the cases in the patterns of mobilisation and public debate suggest that the effects of mobilisation are mediated by whether mobilisation occurs privately or publicly. In those cases in which mobilisation was strong or very strong, e.g. the “sanctions” and DRD cases, public mobilisation was more significant than private lobbying and contributed strongly to the intensity of public debate. By contrast, in the EES and Culture 2000 Programme cases there was significant private, but hardly any public mobilisation. In both cases mobilisation was not accompanied by public debate. Despite the considerable impact of (public) mobilisation on public debate, other factors are relevant, too. In particular the media have an independent influence which can magnify or dampen the impact of mobilisation on public debate.

The political “demand-side”, e.g. mobilisation and public debate, is one of the factors which appear to have affected openness of EU decision-making. Compared to cases with similar decision-making procedures, decision-making was relatively closed in the DRD and “sanctions” cases, which featured a particularly strong “demand-side”. This negative effect on openness may reflect the phenomenon of “overburdening” of policy-makers. However, openness was also linked to institutional factors: decision-making under the Co-decision Procedure was more open than intergovernmental decision-making. The case studies suggest that these differences may be linked more to the specific



organisational characteristics of the decision-making procedures, such as the existence and composition of advisory committees, than to the underlying balance of power among the main EU institutions (“Community Method” vs. Member State dominance).

Finally, responsiveness of policy-makers to societal demands and public debates was influenced by the degree of openness, mobilisation, and public debates. More specifically, responsiveness seems to have compensated to some extent for a relatively low “openness ratio”, defined as the degree of openness in relation to mobilisation and public debate. Perhaps reflecting the particularly low degree of democratic accountability of the Commission, this effect primarily concerned the Council and, to a lesser extent, the EP. A similar phenomenon could be observed in the case of the CoR: a considerable degree of responsiveness on the part of the CoR seems to compensate for its relatively low representational capacities. Responsiveness also corresponded to variations in the dependence of certain decision-making procedures and policies on the mobilisation of societal actors. In these cases responsiveness served to encourage mobilisation and participation.

These results of the EUROPUB case studies are based on qualitative analyses of a limited number of cases and Member States. Further research would be needed to test and refine the results. From the perspective of the contribution of participatory democracy to the democratic legitimation of the EU the following four findings may be particularly relevant:

- An increase in EU competencies is frequently linked to more participation of relevant societal actors in the respective field of EU decision-making. However, a transfer of competencies may be accompanied by negative effects on certain aspects of participatory practice, in particular openness of EU decision-making.
- It has sometimes been argued that the impact of societal actors, in particular NGOs, on EU policy-making is largely private and “elitist” (Greenwood 2003). Although the selection of the case studies is not representative, the DRD and “sanctions” cases, which featured broader mobilisation of NGOs and public debate, suggest that this view may need to be qualified.
- A wider application of the Co-decision Procedure is often advocated as a way to increase the democratic legitimacy of the EU. In spite of some of the findings of the 1999 European elections case study, this may be true with respect to representative democracy. However, concerning participatory democracy, the question of the balance of power among the EU institutions



which is at the core of the choice between intergovernmentalism and decision-making procedures, such as Co-decision, that correspond to the “Community Method”, appears to be secondary to organisational issues, for example the role and composition of advisory committees.

- It is sometimes argued that EU policy-making operates in a democratic vacuum due to the lack of a European public sphere. While some of the EUROPUB case studies, in particular the Article 7 and CoR cases, support this view, the DRD and “sanctions” cases provide example for the opposite situation. In these cases, there was considerable mobilisation and public debate. However, openness of EU decision-making was relatively low. Member State governments tried to compensate for this by increasing their responsiveness, but in doing so they resorted to action outside the formal EU institutional framework (“sanctions” case) or to illegal measures (role of the Article 21 Committee and the de facto moratorium in the DRD case). Rather than by a dearth of mobilisation and public debate, these cases were characterised by an inability of EU institutions to deal with the demands and controversies raised in the public sphere.



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Executive Summary

Work Package 2 of the EUROPUB project provides information on the extent to which EU policy-making is characterised by participatory democratic practices. Based on six case studies of EU policy-making and representative institutions which were prepared in the framework of the project, this report analyses the intensity of participatory practices in terms of four dimensions: mobilisation of societal actors, public contestation and debate, openness of decision-making, and responsiveness of policy-makers. The main conclusions from the analysis of the case studies can be summarised as follows:

A comparison of the case studies shows that the total intensity of participatory practices as well as the performance regarding the individual dimensions varied very strongly among different EU policies and EU institutions. The intensity of participatory practices ranged from strong, to medium, to very weak across the cases. At least if one focuses on participation rather than representation, this suggests that it would be wrong to assume that the EU either suffers from a democratic deficit or that it doesn't. Rather, there appear to be two main problems: First, there are democratic deficits in those areas in which there is indeed a low intensity of participatory practices. Second, a closer look at the case studies also shows that there are problems in cases characterised by a very high level of participatory practices. In these cases the EU institutional framework has great difficulties in addressing societal concerns in such a way that its procedural legitimacy is preserved.

Implications of the main determinants of participatory practices

Given the multidimensionality of participatory practices, it is not surprising that the analysis of the case studies suggests that the level of participation depends on several main factors. These factors have important implications for efforts to improve participatory practices. They fall into three categories: institutional and organisational factors, common affectedness and competencies, and interaction effects among the four dimensions of participatory practices.

Institutional and organisational aspects:

- The analysis of the case studies suggests that organisational factors, for example the existence and composition of formal or informal consultative bodies and the characteristics of relevant societal actors and associations, may often be at least as significant in terms of participatory practices as the distribution of power among the main European institutions ("Community Method" as opposed to intergovernmentalism). A low level of participatory practices therefore appears to be a problem that is more related to the



structure of civil society and the internal organisational characteristics of the main EU institutions than to consequences of the relationships among the main EU institutions.

- On the one hand, the findings regarding the significance of organisational factors as compared to the basic distribution of power among the main EU institutions suggest that a shift of more power to the European Parliament would not necessarily lead to an intensification of participatory practices. On the other hand, these findings also imply that decision-making procedures which privilege Member State governments, for example the Open Method of Co-ordination, may well be compatible with a relatively high degree of participatory practices if certain organisational conditions are fulfilled.
- Although the distribution of power among the main EU institutions is only of limited significance for the overall intensity of participatory practices, the analysis nevertheless suggests that a stronger influence of the European Parliament usually has a positive (but only relatively small) effect on the intensity of participatory practices.

Common affectedness and competencies:

- Besides organisational and institutional factors, the case studies suggest that common affectedness by a problem across Member States as well as the degree to which competencies in a particular area have been transferred to the European level have a positive impact on the intensity of participatory practices.
- The impact of common affectedness and of the allocation of competencies between the regional/national level and the EU-level suggests that some fears concerning the “democratic deficit” may be exaggerated because an allocation of competencies at the EU-level to some extent seems to encourage societal mobilisation and debate in a quasi automatic way. In cases in which this is not the case despite the allocation of significant competencies at the EU-level, it may be worth asking whether the lack of mobilisation and debate is caused by low common affectedness rather than democratic deficiencies. If there is a lack of common affectedness, a reallocation of competencies among levels may be more effective than measures to improve participation.

Interaction effects:

- The analysis of the cases studies points to various ways in which some dimensions of participatory practices tend to influence others. In particular, a high level of mobilisation and public debate was associated with a relatively low “openness ratio”, defined as the degree of openness of



decision-making in relation to mobilisation and debate. This might reflect the phenomenon of “overburdening” of decision-makers.

- To some extent the low openness ratio associated with a high degree of mobilisation and public debate was compensated by higher responsiveness of decision-makers. Perhaps reflecting the European Commission’s low degree of democratic accountability, this effect primarily concerned the Council and, to a lesser extent, the European Parliament.
- Under certain conditions a low level of mobilisation and public debate also had a positive effect on responsiveness. This was the case if policy-makers depended on societal actors for the implementation of policies or if they attempted to compensate for a lack of powers and influence by mobilising support by societal actors.
- Although the European Commission’s direct responsiveness to public debates tended to be low, this was partly compensated for by the Commission’s strong dependence on Member States for the implementation of policies. At the implementation stage, the democratically accountable national governments tended to feed intensive public debates back into the EU policy-making process.
- While EU policy-making was responsive to intensive public debates, the fact that responsiveness primarily resulted from the responsiveness of Member State governments put severe strain on the institutional framework of the EU and tended to challenge the legitimacy of EU decision-making procedures. More specifically, to address public concerns Member State governments resorted to action outside the formal EU institutional framework or agreed measures which were highly questionable from a legal point of view. Rather than by a dearth of mobilisation and public debate, these cases were characterised by an inability of EU institutions to deal with the demands and controversies raised in the public sphere.

Participatory democracy and the European “regulatory state”

The focus of the EUROPUB case studies on participatory practices is rooted in the assumption that EU-level democracy differs from national level democracy. More specifically, whereas the principle of representative democracy is the dominant principle of democratic governance at the national level, the principles of representative and participatory democracy appear to be equally relevant at the EU-level. Because it is the stronger emphasis on participation at the EU-level that accounts for the main difference between European and national-level democracy, the EUROPUB case studies primarily provide information on participatory practices. Nevertheless, the case studies also look at EU-level



representative practices and institutions because representation is the second main principle of European democratic governance. In addition, representative institutions may also provide opportunities for participation by citizens or civil society organisations.

The view that, unlike national-level democracy, democratic governance at the EU-level does not one-sidedly privilege representative democracy is not new. For example, the draft Constitutional Treaty prepared by the European Convention states that, in addition to the principles of democratic equality and representation (Arts. 44 and 45), the EU is based on the principle of participatory democracy (Art. 46). This view also corresponds to functionalist academic analyses of the EU as a “regulatory state”. In these analyses the EU is often characterised as a “regulatory state” because a disproportionately large share of its political decisions are of a regulatory rather than redistributive nature. For example, this is true for the creation of the Internal Market and Economic and Monetary Union. But it also applies to other EU policies which do not primarily pursue economic aims, such as EU environmental policy. Even those policies, such as the Common Agricultural Policy and the Structural Funds, which involve significant monetary transfers via the EU budget are often closely related to regulatory policies. More importantly, total EU expenditures are relatively low. They amount to substantially less than half the expenditure of the largest Member State, e.g. Germany.

If the EU is primarily a regulatory state, then this has important implications in terms of legitimacy. While social solidarity is essential to legitimise zero-sum redistributive policies, positive-sum regulatory policies require a higher input of technical rationality. To create additional benefits for all parties as a result of regulatory intervention policy-makers must be able to decide independently from the parties which stand to benefit. Otherwise distributive considerations would impair the search for the best solution in absolute terms. Ideally, (re-)distributive decisions are therefore relegated to a separate, second step of decision-making. Policy-makers must also be able to access and process the information which is necessary to identify the regulatory measures most likely to increase total benefits. This requires a deliberative decision-making style which is based on consultation of experts and concerned parties. But consultation is also relevant for ensuring accountability. Policy-makers are therefore required to give reasons for rejecting or accepting the proposals and objections raised in the consultation process.

The EU’s institutional structure corresponds to a significant extent to the basic requirements of the regulatory state model outlined above. The so-called “institutional balance” among the main EU political bodies – the European Commission, the Council, and the European Parliament – provides for a relatively high degree of independence of regulatory decision-making because it foresees a considerable influence of the Commission. At least in theory the Commission is politically independent. Similarly, the “Community Method” of



decision-making is based on a certain degree of institutional separation of regulatory and (re-)distributive decision-making; as a result of its right of initiative, the Commission is primarily responsible for drafting regulatory proposals, whereas the Council focuses more on issues of (re-)distribution among the Member States.

Concerning deliberation and the provision of information for regulatory decision-making, the European Commission's regulatory activities rely on an extensive structure of expert and consultative committees. In addition to information, these Committees offer an institutional setting for deliberation among policy experts and administrators. But narrow representation in the committees and low transparency render the committee system insufficient in terms of the participatory functions of consultation. The Commission has tried to address the shortcomings of the committee system in several ways. From the perspective of participatory democracy, the most promising measures were taken in the context of the Commission's 2001 White Paper on European Governance. In particular, in late 2002 the Commission adopted the "general principles and minimum standards for consultation of interested parties by the Commission". However, while these standards set out principles and rules which are likely to lead to a certain homogenisation of consultation practice, they fail to adequately address the accountability function of consultation, in particular with respect to requiring the Commission to give reasons.

Assembling information on participatory practices

The EUROPUB project is based on the assumption that the degree to which participation contributes to the democratic legitimacy of the EU depends not only on the primary functions of EU policy-making ("output legitimacy") and formal democratic rules and procedures, but also on the actual involvement of citizens and civil society in EU policy-making. The case studies therefore look at concrete practices of participation in various areas of EU policy-making and in two EU institutions. Because the case studies primarily serve an explorative function in the framework of the larger EUROPUB project, they were not chosen for the purpose of comparison. Rather, one main criterion for case study selection was the degree of political "challenge" which a particular case posed in the context of issues of participation and EU democratic legitimacy. The "sanctions" which the EU-14 governments imposed on Austria following the formation of an Austrian government that included the extreme right wing Freedom Party (FPÖ) posed such a challenge; Similarly, the implementation of the European Employment Strategy (EES) and the formulation of the National Employment Action Plans (NAPs) engaged the EU more deeply in the highly controversial area of social policy. These measures were particularly challenging given that the EU has so far primarily focussed on regulation rather than (re-)distribution; The emerging EU cultural policy also deals with an area in



which the Union has traditionally been hardly involved. Albeit in a less overtly political way than the “sanctions”/Art. 7 case, the Culture 2000 Programme raises the question of European values and identity; Given that there is considerable resistance among consumers and environmental NGOs against genetically modified food and agricultural biotechnology, the revision of the EU Directive on the Deliberate Release of Genetically Modified Organisms into the Environment posed a considerable challenge to the legitimacy of EU decision-making practices; Against the background of a continuous decline of voter turnout and a predominately national focus of election campaigns and media coverage, the European elections have remained a challenge since they were first held in 1979; Finally, the establishment of the Committee of the Regions (CoR) has been the most prominent effort so far to increase the participation of subnational territorial bodies in EU decision-making. Nevertheless, the EU faces difficulties accommodating the dynamism of regionalism in Europe.

In addition to the criterion of political challenge, the selection of the case studies also reflects the complexity and diversity of EU decision-making procedures and institutions. The two institutional case studies cover important aspects of electoral and sub-national territorial representation at the EU-level, whereas the remaining case studies illustrate the functioning of various EU decision-making procedures and practices, including the Co-Decision Procedure, the Open Method of Co-ordination (OMC), intergovernmental revision of the Treaties, and informal intergovernmental co-operation among Member States in the context of the EU.



Annex A: Generic Guidelines for EUROPUB Case Studies

Preliminary Remarks: The following are generic guidelines for the EUROPUB Case Studies. This means they will have to be tailored to the needs of the specific case studies. To a certain degree this will be about definitions and in that clarifying the theme and scope of each case study: for instance, with regard to the anti-globalisation movement, the dimension of agenda setting (and effective contestation therein) means different things depending on whether the agenda is understood to be that of the movement as such or that against which the movement is mobilising. In other respects, the tailoring of the guidelines to the needs of the specific case studies will be about thinking carefully through how the information is to be collected and by whom and through what sources. This will be done by the case study leaders.

Objectives of Case Studies

The focus of attention in EUROPUB is the policy level and the decision-making context and the extent to which these entail opportunity structures for participation and contestation. In other words, **we want to analyse the existing decision-making and consultation structures and practices to find out the extent to which they are open to (citizen) participation and contestation.**

The policy sectors for analysis have been selected bearing two general criteria in mind: first, the degree of relevance to citizenship-related practices; second, the degree of complexity of decision-making structures.

Subsequently the specific case studies within each policy sector were selected so that:

- They are clearly delineated so we can look at them in depth and so that WP4 indicators can be tested on them retrospectively;
- There is a mixture of policy debates or issues that are to be found at different stages of the policy cycle: 'completed' (but within the current EU policy set-up i.e. post-Maastricht – the advantage is that we can cover the full policy cycle), 'somewhere in between' or 'ongoing' (so that we can use ethnographic techniques as well as documentary and interview approaches);
- There is a mixture of issues defined by reference to specific policy outcomes and issues that are more diffuse and more framed in terms of political mobilisation;



- Jointly they include some successes, some failures (in terms both of democratic process and policy community objectives).

Case Studies

Citizenship

European elections 1999

- Anti-globalisation movement

Environment

- GM food contamination
- GM directive on deliberate release OR integration of environmental concerns in the CAP OR climate change

Regional policy

- Committee of Regions
- Background national reforms on regionalisation and decentralisation

Social policy

Both case studies on social policy will address the interface between the regulatory structure and the social dialogue structure, the latter being of particular pertinence for EUROPUB.

- Role of social partners and European trade-union cooperation, looking in particular on workers' rights at the interface with regulatory (legislative) processes
- National Plans for Social Inclusion and National Plans for Employment again with reference to idea of Social Dialogue

Discourse on European values

- Sanctions against Austria compared to situation in Italy
- European Charter of Fundamental Rights



Dimensions / Case Study Report Structure

Background information

Historical Overview

This section should give a short overview of major developments in the policy area under study since the Maastricht Treaty

Policy process

It should be clear from each case study which stages of the policy cycle are covered and which specific phases / events of the case relate to which stage. This appears useful because the effect of certain characteristics, for example stakeholder participation or transparency, on democratic legitimacy and policy output may vary according to the stage of the policy process. It may be useful to refer to (or adapt according to the specific case) the following stages: Problem definition, agenda-setting, policy preparation (drafting of legislation), policy formulation (formal adoption of legislation, for example by the Co-decision Procedure), implementation.

Policy structure

This section should give an overview of the major structural characteristics of the policy area, such as important actors, decision-making procedures, achievements and challenges, in particular with respect to democratic legitimacy (e.g. role of citizens, interest groups and stakeholders; role of European Parliament, national or other legislatures, consultation of societal actors etc.) Among other things, the following categories could be addressed:

- **ACTORS:** Are state or societal actors predominant? What is the role of politicians vis-à-vis bureaucratic actors? Is the internal structure of societal actors bottom-up or top-down? Is a multiplicity of diverse actors involved in decision-making or is there a closed “power cartel” (open “issue network” vs. closed “policy community”)?
- With reference to actors, special attention should be given to the structure and quality of civil society (organisations). Thus to address would be the scope and quality of civil society organisation in any particular policy sector (how many civil society organisations, how independent, what they represent, what internal structures of decision-making they display etc.)
- **INTERESTS:** Do interests focus on “national interests” (internal/ external governmental autonomy), party ideology, politically highly salient substantive issues, the institutional/ organisational self-interests of state and/ or societal actors, broader sectoral or cross-sectoral or narrow sub-sectoral interests?



- INTERACTION: Do actors primarily interact in terms of hierarchical direction (formal positions in a hierarchical system backed by power resources), specialisation (formal positions in a functionally differentiated system backed by expertise), self-interested bargaining, or arguing in front of an audience (the public or decision-makers)?

Democratic assessment information

It will be the objective of the case studies to explore the following dimensions, thus **scrutinising the practices and opportunities for participation and their effectiveness in terms of policy output and/or in terms of democratic input.**

Legitimacy

While case studies should primarily scrutinise the practises and opportunities for societal input into the decision-making process, in particular by citizens, interest groups and stakeholders, the cases should also contain information on the following broader aspects of legitimacy:

- DEMOCRATIC LEGITIMACY: Which other forms of democratic legitimation, such as checks and balances or protection of minority/ individual rights, were relevant? Did different forms of legitimation reinforce, or detract from, each other?
- DECISION-MAKING OUTPUT: What were the (hypothetical) effects of significant societal input (or lack thereof) on the outcome of decision-making in terms of decision-making speed and effective problem solving, e.g. efficient production, distributive implications, positive/ negative externalities?

Democratic Input

With respect to citizens, interest groups and stakeholders the following issues should be addressed: (Note that the information to be collected and analysed here, while referring to the background information, should be more specific to the specific instance of the case study looked at in more depth within the EUROPUB framework):

- EFFECTIVE PARTICIPATION: Do citizens, interest groups and stakeholders have a formal role in the decision-making process? Do they influence decision-making as a result of “resources” (rights, membership, economic power, expertise)? How and under which condition do they do bring these resources to bear on the decision-making process? Which differences exist among societal actors in these respects?
- EFFECTIVE COMMUNICATION: Do the actors who participate in decision-making supply “outsiders” and the general public with information? Does the



information reflect a consensus among the actors or diverging interests/ positions? Is the information delivered directly or is there an independent role for the media? If there is such a role, how can it be described?

- **ACCOUNTABILITY (GENERAL):** Do citizens, interest groups and stakeholders have the possibility of applying ex-post sanctions to decision-makers? What kind of sanctions are applied? What are necessary and sufficient conditions for the application of sanctions? Does the ability to apply sanctions vary among actors?
- **OPENNESS (GENERAL):** Do societal actors have access to information on substantive issues and the decision-making process? Is access to information conditional? If so, what are the relevant factors? Does the ability of societal actors to access information vary? Are there opportunities for societal actors to feed information into the decision-making process? Are these opportunities conditional? If so, what are the relevant factors? Does the ability to feed information into the decision-making process vary among societal actors?
- **OPENNESS AND ACCOUNTABILITY OF SPECIFIC CONSULTATION PROCEDURES:** A series of questions about how expert or citizen consultations are chartered, membership composed, decision rules, effectiveness, representation (considering background issues like co-ordination, transparency, subsidiarity, decentralisation, etc.)

An autonomous societal public sphere

Participation in the framework of a democratic society / polity is not defined alone, or even primarily, with reference to the policy-making process. Active citizenship is about political interest and participation but seeking to influence policy-making is only one aspect of this. The case studies should thus investigate the extent to which there is mobilisation around the (policy) issue(s) under study which are more concerned about the formation and/or influence of (a European) public opinion rather than the formation and/or influence of policy agendas. A second relevant question in this respect is how such forms of mobilisation or public opinion formation are perceived by the formal political or policy arenas.



Indicators / Specific Questions

Background information

History

Major events since Maastricht treaty (chronologically organised)

- Major issues and development pathways since Maastricht treaty (chronologically organised and connected to events where relevant)

Policy process

- Chronological specification and short description of the phases of the policy process: problem definition, agenda setting, policy preparation, policy formulation, policy implementation. Specify additionally which phase of the policy process the actual case study will be focusing on.

Policy structure

- Specify individual and institutional, state and societal actors and map these against the policy process (i.e. who participated in agenda-setting, who in policy formulation etc.)
- Describe internal (decision) structure of relevant actors: bottom-up or top-down?
- Describe interrelationships and network patterns of relevant actors.
- Regarding in particular civil society organisations operating in the field, establish number, scope, length of existence, membership, level of representation, funding structure, internal decision structure, relations to other organisations, network patterns (national and international).
- Is a multiplicity of diverse actors involved in decision-making or is there a 'closed' power cartel? Was there any formal or informal decision about who participates in which stage of policy process?
- How do relevant actors interact? According to hierarchies, specialisation, bargaining principles or rhetoric principles?
- What interests do various actors represent? Describe and characterise (i.e. national, European, party political, sectoral, cross-sectoral, sub-sectoral, organisational, etc.)



- Are [Were] there opportunities for stakeholders to influence the policy agenda? ('upstream' or 'downstream'). Describe procedures.
- Are [Were] there opportunities for interest groups to influence the policy agenda? Describe procedures.
- Are [Were] there opportunities for citizens to influence the policy agenda? Describe procedures. Consider existence of 'innovative' methods like voter juries, voter feedback or referenda (including trans-regional or trans-national referenda).

Democratic assessment information

Democratic Legitimacy

- Role of political parties: Did parties politicise policy-making by focussing on the ideological implications of particular issues? Were issues politicised along the left-right and/ or along the integration/ anti-integration dimensions? What is the role of political parties in cross-sectoral interaction and consensus building?
- What was the role of national parliaments in decision-making?
- Have the media informed citizens? Did they politicise issues? If so, in which way (along the left-right and/ or along the integration/ anti-integration dimensions)? Have they contributed to hold decision-makers accountable?
- What was the role of the regions in decision-making?
- Has competition among institutions, for example the Commission, the Council, the EP and Member State governments improved accountability?
- Decision-making output
- Characterise decision-making output in terms of efficiency (for instance, speed in decision-making)
- Characterise decision-making output in terms of effective problem-solving.
- Map decision-making output against actors and actors' interests.
- Are there mechanisms for cross-sectoral interaction and consensus building?
- Has decision-making in independent expert committees or by specialised agencies led to more effective and efficient policies?



- Has effective participation of stakeholders, interest groups, citizens (or the lack thereof) influence decision-making output, either with regard to efficiency and/or effectiveness?
- Has plurality of actors in decision-making (or lack thereof) influence decision-making output with regard to efficiency and/or effectiveness?
- Effective participation
- Are [Were] there opportunities for stakeholders to influence the policy agenda? ('upstream' or 'downstream'). Describe procedures.
- Are [Were] there opportunities for interest groups to influence the policy agenda? Describe procedures.
- Are [Were] there opportunities for citizens to influence the policy agenda? Describe procedures. Consider existence of 'innovative' methods like voter juries, voter feedback or referenda (including trans-regional or trans-national referenda).
- Are there opportunities for stakeholders to influence the policy as it unveils (formulated, implemented)? Describe procedures.
- Are there opportunities for interest groups to influence the policy as it unveils (formulated, implemented)? Describe procedures.
- Are there opportunities for citizens to influence the policy as it unveils (formulated, implemented)? Describe procedures. Consider existence of 'innovative' methods like voter juries, voter feedback or referenda (including trans-regional or trans-national referenda).
- With whom does decision on change or implementation ultimately rest?
- Has the EP given citizens, interest groups, and stakeholders an opportunity to voice their concerns? Have these concerns been taken up by the EP?
- Do citizens, political parties, interest groups or stakeholders participate in cross-sectoral interaction and consensus building?
- Has the institutional competition among the Commission, the Council, the EP, Member State governments and others improved the opportunities for citizens, interest groups, and stakeholders to participate in decision-making?

Effective communication

- How is information related to the media? To which ones?



- What other methods are used to diffuse information to the general public? (use – passive or interactive – of Internet; organisation of information days or other?)
- Is there an independent role for the media (print, visual, new technologies)?
- Have parts of the EP, the Commission, national governments or other actors tried to mobilise citizens, interest groups and stakeholders on European issues?

Accountability (general)

- With whom do decisions ultimately rest?
- Can decisions be scrutinised? If so are [were] they and by whom? What is the role of legislative (European, national) in this connection?
- Have citizens, interest groups, and stakeholders used the EP to hold decision-makers accountable?
- Have citizens, interest groups, and stakeholders been able to appeal to the ECJ to enforce their rights / or hold actors accountable?
- Have consultations be used by citizens, interest groups, and stakeholders to hold decision-makers accountable by forcing explanations and justifications?

Openness (general)

- Do societal actors have access to information about policy processes? Is this conditional? If so, on what?
- Does the ability of societal actors to access policy information vary?
- Can societal actors feed information into the policy process? How? Conditions?
- Does the ability of societal actors to feed information into the policy process vary? According to what factors?
- Did debates in the EP and the involvement of the EP in decision-making (for example negotiations in the conciliation committee under the co-decision procedure) render policy-making more transparent to citizens, interest groups, and stakeholders?

Openness and accountability of specific consultation procedures

- How are consultations (expert or otherwise) chartered? Do there exist routines and are these followed in practice for:



- Specifying mandates (if so, by whom)?
- Specifying time frames?
- Specifying tasks and relation to other consultation procedures? Consider in this respect the issues of co-ordination and subsidiarity.
- Specifying internal rules of deliberation?
- How do consultations (expert or otherwise) decide on the composition of membership? (in theory and in practice)
- Are there specifications about the minimum and maximum number of participants? (in theory and in practice)
- Are participants selected according to their stakes in decision, and if so by whom? (distinguish theory and practice)
- What constituencies do participants represent? Do they represent Europe-wide constituencies? Do they represent other policy sectors? (distinguish theory and practice)
- Are participants selected so that they represent diverse or opposing interests or preferences? (distinguish theory and practice)
- What decision rules govern consultation procedures (expert or otherwise)? (distinguish theory and practice)
- Equal votes or not? (distinguish theory and practice)
- Is there a hierarchy? (distinguish theory and practice)
- Are decisions taken by consensus or majority rule or other? (distinguish theory and practice)
- Can participants withdraw and if so are there sanctions? (distinguish theory and practice)
- If consensus is not possible, are there rules regarding contents that govern decisions? (distinguish theory and practice)
- What external influences are there?
- Are decisions reversible? (in theory and in practice)
- Can decisions be scrutinised? By whom? What is role of legislative?



An autonomous societal public sphere

- Forms of active citizenship related to issue under investigation other than those seeking to influence the policy process as such.
- Perception and coping strategies of state and other actors to these other forms of active citizenship.

Sources

The sources for collecting the information should be specified in detail by the case study leaders. In general, the following sources are likely to be relevant:

- Academic literature
- Official documentation
- Statistics (in part)
- Media reports
- Government representatives
- Representatives of other political institutions
- Stakeholders
- Interest groups
- Civil society organisations
- Experts
- Observers (from international or other organisations)

Methods

Again the methodology mix to be used by each case study and how they will be applied will be specified in detail by the case study leaders. The following methods are likely to be relevant:

- Desk-review
- Database actors



- Media observation / analysis
- Event chronology
- Expert interviews (open and/or semi-standardised)
- Group interviews or discussions

Time plan

February 2002

- Distribute generic guidelines to all partners for comments – is something left out? Is something not understood? Input obligatory from case study leaders.

March 2002

- Case study leaders tailor generic guidelines to the needs of their case studies and supply the more detailed guidelines, including, if relevant, guidelines for expert interviews, to all participants in the case study

April to December 2002

- Fieldwork at country and European level – a more specific timetable to guide fieldwork should be provided by case study leaders and the input ought to be provided in bunches to the extent possible, to allow feedback and co-ordination.

May 2002 – Barcelona Meeting

- Presentation of case study and fieldwork plan

October 2002 – First external workshop

- Progress report

December 2002

- Written final input from all partners to case study leaders

March 2003

- First draft case study reports

May 2003

- Final versions of case study reports

June 2003

- Submission of D2.



Annex B: Comparison (table)

	Mobilisation	Debate	Openness	Responsiveness
THE “SANCTIONS” AGAINST AUSTRIA AND THE REVISION OF ART.7 TEU¹				
Agenda-setting	<p>+</p> <p>Parties, civil society associations (anti-racism etc.) were mobilised to some extent in several Member States, very strong mobilisation in Austria</p> <hr/> <p>0</p> <p>Governments and Commission set the agenda for the revision of Art.7</p>	<p>++</p> <p>Debate on election results/government formation in Austria and European/ transnational implications (esp. France); the opinion of the press often seemed to depend on whether it was generally supportive of the government (Spain)</p> <hr/> <p>0</p> <p>Revision of the Treaties was hardly mentioned in the media as an option to prevent situations such as the “sanctions” against Austria</p>	<p>+</p> <p>EP had called for EU sanctions, but there were no consultations or involvement of societal actors</p> <hr/> <p>0</p> <p>Agenda-setting was limited to government and Commission officials</p>	<p>0/+++</p> <p>Governments took up the issue for strategic reasons: because of potential transnational effects of the Austrian government formation on the rise of the extreme right in the EU- Governments took up the issue because of the public outcry</p> <hr/> <p>+</p> <p>Governments took up the revision of Art.7 because of the ineffectiveness of the “sanctions”, the perceived lack of legitimacy and the critical examination of the “sanctions” by the public.</p>
Policy formulation	<p>+</p> <p>Only limited discussion of the appropriateness of EU measures <i>before</i> their imposition due to time pathway followed and the initial shock reaction to the results of Austrian elections.</p> <hr/> <p>0</p> <p>Governments and Commission formulated revised Art.7</p>	<p>+++</p> <p>There was significant debate in the media on the usefulness of EU sanctions against Austria</p> <hr/> <p>+</p> <p>Proposals for the revision of Art.7 were not discussed in the media with the exception of Austria and occasional listings in other countries</p>	<p>0</p> <p>Small circle of government officials decided to impose “sanctions”</p> <hr/> <p>+</p> <p>EP and Commission were involved in formulation of revised Art.7, albeit only informally</p>	<p>+</p> <p>Governments wanted to keep FPÖ out of Austrian government; Some governments agreed to sanction because of fear of negative publicity</p> <hr/> <p>0</p> <p>The revised Art.7 reflects practical and sovereignty concerns</p>
Implementation	<p>++</p> <p>There were intensive discussions among parties, civil society associations (anti-racism etc.) on the legitimacy or not of EU measures, especially in Austria</p> <hr/> <p>-</p> <p>The revised Art. 7 has not yet been applied</p>	<p>++</p> <p>There was significant debate on lifting or maintaining the EU “sanctions” in the media</p> <hr/> <p>-</p> <p>The revised Art. 7 has not yet been applied</p>	<p>0</p> <p>Governments decided among themselves</p> <hr/> <p>-</p> <p>Art.7 has not yet been applied, but EP and Commission are formally involved in deciding on measures on the basis of Art.7.</p>	<p>0</p> <p>Sanctions were lifted because they had not fulfilled their original purpose and because it was felt that their imposition – taking place outside the EU institutional framework – was not correct</p> <hr/> <p>-</p> <p>Art.7 has not yet been applied</p>



	Mobilisation	Debate	Openness	Responsiveness
THE EUROPEAN EMPLOYMENT STRATEGYⁱⁱ				
Agenda-setting	0 The agenda is set automatically as a result of the annual cycle of the EES (three years cycle from 2003 on)	0 When the EES was first introduced, there was some discussion in the media. However, once it became routine, there has been very little media coverage	0 The agenda is set automatically as a result of the one year cycle of the EES	0 The agenda is set automatically as a result of the one year cycle of the EES
Policy formulation	+	0	++	+
	The Social Partners, and to a much lesser extent NGOs (regional bodies in the UK) developed positions on the Employment Guidelines. But the process only involved “experts”	see above	The European-level social partners are represented in advisory committees (ECOSOC, SCL, Social Dialogue Committee, CEP CMAF, Social Platform, Social Summits) but national-level organisations, NGOs are only represented in some committees. The advisory committee system is fragmented/intransparent. Regional and local bodies are only represented by the CoR	Responsiveness strongly depends on the responsiveness of national governments. However, on the whole, societal actors in most Member States seem to regard the EES as an improvement.
Implementationⁱⁱⁱ	+	0	+	+
	Societal and regional actors have developed positions on the formulation of the NAPs. But the process only involved “experts”	see above	Societal and regional actors are mostly involved in agenda setting for the NAPs, but the kind of actors involved differ markedly among Member States. In corporatist countries the Social Partners are dominant, in some countries NGOs and regional actors are more important	Responsiveness depends on the national government. While some governments are responsive (corporatist countries, others have used the NAPs process to defend their approach to employment policy against attacks by labour unions (Spain, UK))
	+	0	++	++
	The Social Partners, and to a much lesser extent NGOs (regional bodies in the UK) contributed to the implementation of the NAPs. But the process only involved “experts”	see above	The pattern of opportunities for participation is similar to the formulation stage. However, the relevant actors can exert more influence	Because societal and regional actors are mostly involved to a significant extent, there is usually considerable responsiveness



	Mobilisation	Debate	Openness	Responsiveness
CULTURE 2000 PROGRAMME				
Agenda-setting	0 The process was set in motion by Commission officials	0 Debate on national identity and the need for the EU to have such an identity to become a political community. However this debate is at this stage mainly academic or limited to policy community circles	+	0 The process is driven by strategic objectives ("nation-building") of EU policy-makers
Policy formulation	+	0 see above	++	+
	Some cultural organisations and artists participated in several consultation exercises organised by the EU institutions; EFAH and others developed positions on EU initiative		The Commission, and the EP organised consultations (of "highly positioned persons", survey, 30 persons meeting with Commissioner, EU Cultural Forum, hearings, internet consultation, publication of a communication/ "guidelines")	The EP report reflects position of EFAH and other societal actors. Member States shifted action types towards smaller and experimental actions. However, important EP amendments (budget increase) were rejected.
Implementation	+	0	0	0/+
	Cultural organisations participate in EU programme. However, the programme is too broad and has a certain established/ "high" culture bias	However, debate on the EU as political community and forms of identification and the role of culture in this respect might be changing in view of the European Convention and the constitutionalisation process	The Commission is in charge of implementation.	Implementation remains too bureaucratic and too much focussed on strategic nation-building aim, but assessments differ to some extent



	Mobilisation	Debate	Openness	Responsiveness
THE 1999 EUROPEAN ELECTIONS^{iv}				
Candidate Selection/ Manifesto drafting	<p>+</p> <p>Frequently, there was significant competition for top places on the party lists. However this was not universal. In addition, non-party actors were not involved</p>	<p>0</p> <p>There was hardly any coverage of the processes of candidate selection and manifesto drafting</p>	<p>+</p> <p>There are some opportunities for “newcomers” to become candidates. Manifestos tend to be drafted by a small “expert” circle</p>	<p>+</p> <p>Candidate selection reflects political influence and bargaining, but party manifestos are more responsive</p>
Run-up to elections/ campaigns	<p>+</p> <p>Parties usually ran significant but short campaigns; other societal actors hardly got involved</p>	<p>+ / ++</p> <p>Compared to national elections, coverage was low. In addition, coverage that treated the elections as a European event was rare – but coverage as such (not compared to national elections) was high. Although in some countries (Germany, Spain, France) purely national issues dominated, there were significant discussions of European policies in others (Austria, UK, Sweden)</p>	<p>+</p> <p>Relatively small and new parties participated in the campaign. However, there seem to be few opportunities for other societal actors, such as NGOs, to influence the campaigns</p>	<p>++</p> <p>The campaigns echo political issues of the day, which may or may not be European (Euro, pro- anti-membership, enlargement, European security policy/“referendum over government policies” etc.)</p>
Election results	<p>+</p> <p>Weak turn-out</p>	<p>++</p> <p>Outcomes and their implications were reported widely, including other Member States. However, implications were often primarily discussed in terms of national politics.</p>	<p>++</p> <p>New and small parties frequently get a disproportionate share of the vote</p>	<p>+</p> <p>The results, including low turnout and “protest” or “alternative” votes, may express certain attitudes in the population which are suppressed in the national political process; in contrast to votes, low turn-out is not translated into mandates</p>



	Mobilisation	Debate	Openness	Responsiveness
THE COMMITTEE OF THE REGIONS				
Member selection	<p>+</p> <p>How competitive is the selection process for members of the CoR?</p>	<p>0</p> <p>The media do not report the selection process</p>	<p>0</p> <p>The process is mostly intransparent and closed to “outsiders”</p>	<p>0</p> <p>The process reflects political influence and bargaining rather than popular sentiment.</p>
Adoption of opinions	<p>0</p> <p>The activities of the the CoR usually do not mobilise regional actors or societal actors (NGOs etc.). If these actors want to exert political influence (lobbying etc.) on issues with a strong regional dimension, they tend to use other channels (such as?)</p>	<p>0</p> <p>With very rare exceptions, the media do not report the involvement of the CoR in the decision-making process</p>	<p>0</p> <p>The process is insulated and intransparent, a matter of political negotiation behind closed doors.</p>	<p>++</p> <p>In an effort to increase its legitimacy and visibility, the “rhetoric” of the CoR to some extent reflects popular sentiment</p>
Political impact of CoR opinions	<p>0</p> <p>The opinions of the CoR do not provoke reactions by regional or societal actors</p>	<p>0</p> <p>There is no media coverage of the political impact of CoR opinions</p>	<p>-</p>	<p>0/++</p> <p>Insofar as there is a political impact, it corresponds to the “rhetoric” of the CoR (as the impact occurs through the rhetoric)</p>



	Mobilisation	Debate	Openness	Responsiveness
REVISION OF THE DELIBERATE RELEASE DIRECTIVE				
Agenda-setting	+	+	0	0
	Some NGO activities in MS and at EU level	Some media coverage of GM food and regulatory issues	Commission consults NGOs, but it is “window dressing”	the agenda is set by a closed network: the SAGB, German producers, Bangemann
Policy formulation	+++	+++	+	+++
	Greenpeace started a campaign; mobilisation is increased by GMO shipments from the US; Monarch butterfly; cases of GM contamination; Austria: referendum; France: Bové; UK: Soil Assoc., grass roots groups	Strong increase in coverage; Major media coverage in the UK (uprooting of fields, Prince Charles, Puztai controversy) and Austria (referendum). Also strong in France (Bové). Significant in Germany	EP intensively consults all sides, but rapporteur is under strong pressure by UK government. Some informal contacts between various Commission services and societal actors	Reacting to public debates and protests, Member States called for stricter regulations and imposed the moratorium
Implementation	++	++	++	++
	Campaigns focus on labelling, co-existence, anti-globalisation	Coverage of ongoing moratorium, labelling and co-existence, anti-globalisation, especially in UK but also others	Under pressure from the moratorium, and due to rivalry among Commission DGs, DGs intensify informal contacts and information is leaked. EP is more open and continues to consult	The European Parliament and, to a lesser extent, Member States called for the adoption of strict implementing legislation

Grades

MOBILISATION / RESPONSIVENESS	DEBATE	OPENNESS
0 = negligible	0 = media treatment as potential issue at best	0 = no access
+ = some	+ = media treatment as issue of low relevance	+ = difficult access
++ = strong	++ = media treatment as issue of significant relevance	++ = fair access
+++ = very strong	+++ = media treatment as issue of major relevance	+++ = easy access
/ = alternative assessments	/ = alternative assessments	/ = alternative assessments
- = not applicable	- = not applicable	- = not applicable

ⁱ Each box has two compartments: The upper one refers to decision-making on the „sanctions“ against Austria, the lower one to decision-making on the revision of Art.7.

ⁱⁱ The case is complicated by the fact that national governments play a central role decision-making. Therefore, EU-level consultation processes are less important, while national consultation and negotiating processes differ strongly among Member States. These processes are heavily conditioned by traditional national institutional structures. The fact that the EES is based on the non-legislative OMC reflects the importance of divergent national structures in this area. In terms of assessing the NAPs, diversity means that, for example, in some Member States the policy formulation process may be quite open, whereas it may be closed in others. In such a case, the overall assessment in the Table refers to an artificial “average” among Member States.

ⁱⁱⁱ Each box has two compartments: The upper one refers to the formulation of the NAPs (implementation of the Employment Guidelines at national level), the lower one to the implementation of the NAPs.

^{iv} As with social policy, situations differ strongly between the Member States. This is not surprising, given that the European elections take place in a context which is heavily conditioned by entrenched party systems, electoral cycles etc. The overall assessments in the Table hide these differences, as they reflect „averages“.

