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Enhancing the Democratic Legitimacy of EU Governance? The Impact of Online Public Consultations in Energy Policy-Making

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Abstract

With the White Paper on European Governance (2001) the European Commission has introduced a new approach to European policy-making and civil society making public consultations an essential tool for improving governance and policy outputs. The present study seeks to explore the role of online public consultations in enhancing democratic legitimacy at the policy preparation stage for the empirical case of the EU energy policy. First, the paper looks at different concepts of legitimacy and discusses the role of civil society as a cure for the democratic deficit of European policy-making. Second, it examines civil society participation and input in the consultation on the Green paper "A European Strategy for sustainable, competitive and secure energy" and evaluates its impact on policy outputs by analysing two major legislative packages in the energy sector. Finally, it draws implications about the democratic quality of the consultation mechanism and its contribution to legitimising EU governance.

Keywords

Civil Society – Energy Policy – European Public Space – Governance – Legitimacy – Public Consultations

Introduction¹

Since the early stages of European integration, EU institutions and especially the European Commission have regularly tried to involve civil society as well as national and local public authorities in the policy-making process, in order to gain support and input for their legislative proposals and receive feedback for the implementation of certain policies. The need for expertise and civil society involvement emerged from two major purposes: a functional one – to increase the effectiveness of decision-making, and an instrumental one – to gain support and generate input legitimacy (Friedrich 2007: 140).

However, the role and impact of online consultations on the EU policy-making process has not been sufficiently investigated on an empirical basis. Some researchers are sceptical about the democratizing potential of these new consultation tools, which are more often used instrumentally for the institutional power games of the Commission and the European Parliament (Kröger 2008). Others value written consultations as partially effective for gaining influence, as informal and personal contacts with institutional actors seem to be preferred for access to policy-making processes (Bozzini 2007). However, the link between the use of public consultations and their impact on formal decision-making is still not sufficiently explored (Bozzini 2007: 107).

Against the background of these controversial views on consultation practices of the European Commission, and attempts to establish participatory governance in the policy preparation stage, this paper explores the role of written online consultations and their potential to enhance the democratic legitimacy of EU policy-making for the empirical case of the EU energy policy. By investigating civil society participation in the consultation following the 2006 Green Paper “A European Strategy for sustainable, competitive and secure energy”, the study will draw some implications about their impact on policy outputs in this area.

A considerable impetus to the recent Europeanisation of this policy field was undoubtedly the growing importance of energy security issues and climate change challenges in the last decade leading to the formulation of new tasks and instruments at the EU level (Geden 2008). The integrated energy and climate package, the recent gas crisis leading to intensive discussions about a common framework of action, solidarity-based crisis management and higher regulation in the energy sector, as well as the ambitious goals of completing the European energy market project are expressions of a new wave of Europeanisation in a field where a constructive political discourse between civil society, experts, European institutions and member states is essential for achieving a compromise on future measures. Laying the milestones in the development of a coherent energy policy, in the Green Paper “A European Strategy for sustainable, competitive and secure energy” (European Commission 2006a) the Commission formulated an agenda addressing a great variety of civil society actors – energy supply companies, energy regulators, infrastructure operators, industry and business organisations, trade unions, environmental NGOs and consumers.

¹ This paper is a shortened and improved version of my MA thesis, written with the supervision of Prof. Ulrike Liebert, and submitted in the Department of Political Science at the University of Bremen in 2009. My research has benefited from the experiences I gained as a student assistant in the research project “Civil Society and The Public Sphere” at the Jean Monnet Centre for European Studies, funded in the framework of RECON (Reconstituting Democracy in Europe, an Integrated Project funded under the EU’s FP6, and coordinated by ARENA, Oslo).

The paper will first take stock of different concepts of democratic legitimacy and the role of civil society as a cure for the democratic deficit in Europe. Based on document analysis, the empirical part will examine the civil society participation in the consultation on the Green paper on Energy in order to evaluate its potential for increasing the legitimacy of the EU in this policy area.

Democratic legitimacy in Europe and the role of civil society

The basic idea of legitimacy is associated with rightfulness and acceptability of political authority (Hurrelmann *et al.* 2007: 3-6).

One of the leading scholars in the field of EU studies, Fritz Scharpf distinguishes between two dimensions of legitimacy at the EU level - the "input-oriented" and the "output-oriented" legitimising beliefs (Scharpf 1999: 6-28). In his definition, input legitimacy relates to a *government by the people*, which can be achieved through participation of citizens in collective decision-making processes or democratic procedures, whereas output legitimacy refers to a *government for the people* and is oriented towards the efficiency of political decisions and the EU's capacity of problem-solving. Scharpf defines the input-oriented legitimisation process through the concepts of participation and consensus (Scharpf 1999: 7). According to this dimension, political choices are legitimate if they reflect the will of the people and can be derived from the authentic preferences of the members of a community (Scharpf 1999: 7-10).

Scharpf (1999), Moravcsik (2002) and Majone (2001) however strongly doubt the structural ability of the EU to achieve input legitimacy. They see a structural problem in the absence of mechanisms to bring politics to the people, for example through mass-membership political parties organised on a Europe-wide basis, presidential elections, a common European identity, or an EU-wide media. In their view legitimacy can be achieved only through national representation and delegation. Moravcsik (2002) doubts the assumption made by deliberative democrats that greater participation in European political institutions would create a general sense of political community in Europe and increase the popular support for the EU. His main argument is that the issues handled by the EU - for example trade liberalisation, the removal of non-tariff barriers, technical regulation in environmental and other areas - lack salience in the minds of European voters. In contrast, five of the most salient issues in most west European democracies - education, law and order, health care provisions, social security policy, and taxation - are areas where the EU has almost no competencies but only supporting functions. For this reason, any effort to enhance participation is according to him unlikely to overcome apathy (Moravcsik 2002).

Regarding the correlation between the EU's legislative and regulatory activity and the salience of issues in the minds of European voters, one should not ignore the 'spill-over' effect of European integration leading to the expansion of competencies in many policy areas, as well as the evolutionary character of some policy fields due to new challenges. Examples of an increasing Europeanisation process are the fields of education, environmental and energy policy, and the emergence of new policy fields as single portfolios like consumer protection, which are of high salience to European citizens. Indeed, Eurobarometer surveys show an increasing support for the EU's problem-solving capacity in these policy fields. At the same time, the EU gradually

expands its competencies and tasks in these areas as well as its regulative initiatives. For this reason, the link between participation by civil society in consultations and development in these policy fields of increasing salience is worth being investigated. Realizing that the EU cannot become a full-fledged parliamentary regime, various authors consider civil society and decentralised participation as a remedy for the democratic deficit, and as a flexible and less demanding approach than the establishment of a European *demos* (Warleigh 2001; Magnette 2006:26). Thus, legitimacy could be achieved through participation and deliberation of civil society actors serving as channels for citizens' demands and opinions. This is a view supported by the deliberative model of democracy which has emerged as a new strand in democratic theory to provide a critical response to the dominant democratic approaches focusing on voting and elections and undermining other important normative criteria for legitimacy. As a result, various deliberative approaches elaborating on the argumentative quality of decision-making have evolved (Habermas 1992; Cohen & Sabel 1997; Cohen 1998; Joerges & Neyer 1997; Elster 1998; Eriksen & Fossum 2000; Risse 2004; Risse & Kleine 2007). Scholars working with these approaches assume that legitimate governance can be achieved through the institutionalisation of deliberative practices (Eriksen & Fossum 2000; Risse 2004). Deliberative approaches are based on political theories that see the contribution of argumentative interaction as a main condition for the coherence and normative acceptability of a polity (Joerges & Neyer 2006).

However, it should be made clear that deliberative forms of democracies are not seen as a replacement for representative procedures in member states but rather as a supplement to these mechanisms. According to Holzhaecker (2007: 261), an appropriate conception of a democratically legitimate multi-level system should encompass both representative and deliberative aspects in order to enrich the representative system of democracy.

Looking at different normative assumptions, Smismans (2004) shows how institutionalised forms of functional participation can serve as an additional source of EU legitimacy. In general, the central argument of the supporters of the functional participation concept is that all identities, purposes and desires of individuals as such cannot be represented territorially; while individuals are infinite in their purposes, any scheme of representation is finite (Smismans 2004: 43). Therefore, a polity needs to be legitimised by functional representation, through which people are represented as members of functional groups that strive for fulfilling a certain purpose or function.

The role of civil society in providing legitimacy to EU policy-making is seen as significant in most deliberative theories. There are two main approaches to European civil society in empirical research (Liebert & Trenz 2008). The top-down approach investigates how often and under what circumstances the EU provides associational actors with opportunities to express their demands and participate in the policy-making process (Peterson 1997; Marks & McAdam 1996). According to this approach, European institutions are responsible for creating participation opportunities but civil society actors are expected to adapt to these opportunity structures.

Looking at the civil society as a structured field, Ruzza (2006: 169-195) argues that, while different types of organisations stand on the one or the other side of social and political tensions, the field as a whole tends to be balanced by the different accents and priorities which civil society actors bring into the debate. Despite their competition, civil society organisations constitute "an integrated ecology of

associations" (Ruzza 2007: 69) and thus provide governance structures with different democratic goods (Ruzza 1996; Ruzza 2006; Ruzza 2007; Warren 2001). In order to assess the balance of different interests, in-depth empirical studies of certain policy fields are indispensable. This is the endeavour the present piece of work is trying to make – to evaluate the overall balance of different demands by civil society in the field of energy policy and the ability of European institutional actors to provide adequate outputs to these demands.

The establishment of adequate participatory procedures is seen as one of the basic prerequisites for democratic legitimacy (Abromeit & Stoiber 2007: 48-53). Whereas during the first four decades of European integration civil society participation took the form of informal and unregulated lobbying, the 1997 Amsterdam Treaty introduced consultation procedures that led to the institutionalisation of additional channels of formal participation (Friedrich 2007: 140-141). The new forms of policy-making have reached their culmination in the governance debate around the European Commission's White Paper on European Governance (2001) that introduced a new approach to European policy-making and civil society. As a follow-up, general standards for consultation processes were introduced at the EU level in 2002, with the purpose of applying them to all major policy proposals before taking a decision (European Commission 2002a). Thus, public consultations are seen by the Commission as tools for improving European governance and enhancing better regulation by simplifying the regulatory environment, fostering more public dialogue and participation, and bringing more coherence to the impact assessment by the Commission (European Commission 2002b).

As already illustrated, the creation of such procedures has been examined empirically by studies dealing with the top-down approach to civil society as a first step to legitimizing European governance. As a next step, one also needs to examine the effectiveness of these legitimizing structures, and in particular, how civil society actors react and make use of them in order to participate in EU policy-making, and whether this enhances the legitimacy of European governance.

Taking into account the structural difficulties of achieving input legitimacy through other means, some scholars perceive elite interest groups organised at the EU level as a second-best option, as their legitimacy is based not on their 'representativeness' but on them speaking for a cause and pursuing common goals (Greenwood 2007: 31-46). While the dialogue between the EU's political institutions and NGO families is claimed to have an elitist character, some scholars (Delanty & Rumford 2005) argue that there is space for greater involvement of organised civil society organisations at national level. These questions are reflected in the literature on the bottom-up approach to European civil society, which examines, whether and how civil society at the national level is affected and reacts to building of a European polity (Liebert & Trenz 2008).

The concept of civil society in the present work rests on the broad definition by the Commission, which encompasses all non-state actors: "Civil society includes the following: trade unions and employers' organisations ("social partners"); nongovernmental organisations; professional associations; charities; grass-roots organisations; organisations that involve citizens in local and municipal life with a particular contribution from churches and religious communities." (European Commission 2001: 14). Therefore, the empirical analysis focuses on all relevant civil society organisations in the EU energy policy that fall into this category. Based on Smismans's concept of functional participation at the EU level, the present paper will

look at institutionalised forms of civil society participation, with the aim of examining the extent to which these fulfil their function of bringing citizens' demands to the core of European policy-making and its agenda. Finally, the paper will explore, how these institutionalised participation opportunities can produce additional sources of legitimacy and in this way bring politics to the people.

The public consultation on the Green Paper “A European Strategy for sustainable, competitive and secure energy”

The Commission Green Paper of 8 March 2006 “A European strategy for sustainable, competitive and secure energy” is considered an important milestone in developing a common European energy policy (European Commission 2006a). In this policy document, the Commission refers to major energy-related challenges such as a growing dependence on energy imports, increasing demand, constantly changing oil and gas prices, climate change, and hindrances to an integrated internal energy market. Taking into account these challenges, the Commission puts forward specific proposals in six priority areas.

- completion of the internal energy market - proposal for a European grid with common rules and standards for cross-border trade; a priority interconnection plan linking the various national grids; investment in generation capacities; unbundling of generation from distribution assets;
- security of supply - proposal for a European Energy Supply Observatory and a mechanism for rapid solidarity;
- sustainable, efficient and diverse energy mix - proposal for a Strategic EU Energy Review as a new governance instrument;
- tackling climate change through energy efficiency measures, greenhouse gas reductions and the promotion of renewable energy sources;
- promotion of research and innovation - proposal for a strategic energy technology plan;
- coherent external energy policy - proposal for a Strategic EU Energy Review for initiating a dialogue with producer countries and reacting more effectively to energy supply crises.

Participation levels and inclusion

The consultation on the Green paper “A European strategy for sustainable, competitive and secure energy” was open to the general public, which made it possible for individual citizens to participate in the consultation by filling in the online questionnaire or writing a contribution. In terms of participation levels, overall 1680 responses were received (1516 via the questionnaire and 164 additional written comments), of which 1287 came from individual citizens (European Commission 2006b). Of a total of 1516 responses via the questionnaire 1282 came from citizens and 234 from various organisations/stakeholders. The report published after the consultation shows that 85% of respondents were citizens giving their personal view on the energy situation in Europe.

In terms of national representation, it should be noted that many countries were underrepresented, especially the new Member States. Most of the responses came from Germany, France and the United Kingdom, followed by Italy, Austria and

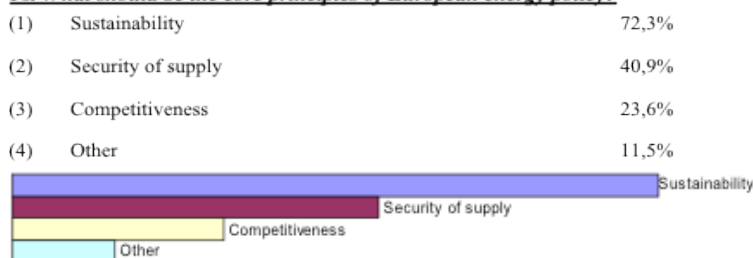
Belgium which were also very well represented, while there were only 97 responses from Member States that acceded to the EU on May 1st 2004. Therefore, the inclusion of citizens from the perspective of national representation was not satisfactory. The utilisation of the written consultation as a participation opportunity seems to be problematic for citizens or civil society actors coming from the new Member States, probably due to their late socialisation in the EU compared to respondents from the old Member States. Apart from citizens and civil society organisations, replies came from 18 member states, Romania (which at that time was not officially an EU member state), national institutions, but also the European Parliament, the European Economic and Social Committee and the Committee of the Regions.

Taking a closer look at the 164 additional written contributions, one can distinguish the pre- dominance of the industry/private sector in the consultation, which delivered altogether 91 written comments on the Green Paper. There is also a high presence of national institutions in the written consultation process. On the other hand, non-governmental organisations are somehow less present when it comes to delivering written statements to the consultation. Surprisingly, less environmental umbrella organisation provided a written contribution to the debate on a European Energy Policy, although they participated in the online questionnaire.

General results from the public consultation on the Green Paper “A European Strategy for Sustainable, Competitive and Secure Energy” 2006

Starting with the first broad consultation on the Green Paper on Energy 2006, the results indicate a significantly high support for the development of a common European energy policy as well as for the existing European objectives in general (European Commission 2006b: 2-5). Among the three main objectives that the Commission outlined in the Green Paper, sustainability² is highlighted by 72,3 % of the respondents as a first priority for the EU energy policy, followed by the security of supply (40,9 %) and competitiveness (23,6 %).

16. What should be the core principles of European energy policy?



Source: European Commission 2006b

Figure 1. Core principles of European energy policy

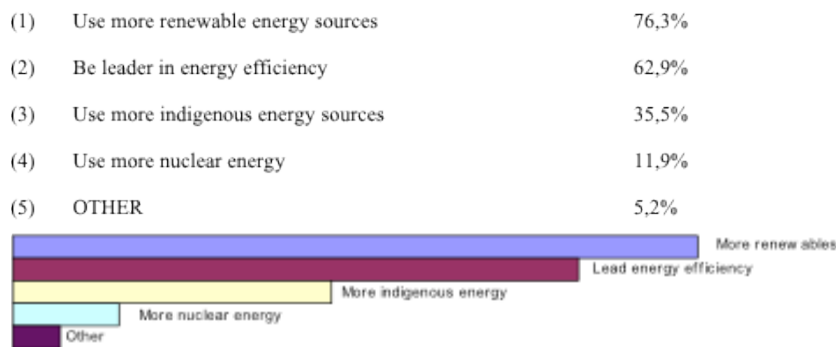
There is a broad acceptance of the general policy framework, although one can also detect some criticism towards the EU not making enough effort to provide benefits for individuals and to open up the market for small and renewable energy providers (European Commission 2006b: 3). Concerning the idea of a European grid, the results

² The summary report on the analysis of the debate on the Green Paper states that the sustainability objective includes the principle of environmental protection, increased use of renewable energy sources, strong support for efficiency measures and the development of innovative technologies (European Commission 2006b: 59).

indicate general support for its establishment as well as for a greater third party access and transparency of information. The question about a European regulator seems to be problematic for some stakeholders and members states. Whereas regulators and industrial consumers request further legislation, including ownership unbundling, the main energy incumbents reject this measure. Another point of criticism is directed towards the inadequacy of the EU to address the issue of energy poverty, which is expected to become more pressing because of higher global prices for fuel, higher carbon prices or costly investment in new infrastructure, which would eventually lead to higher energy prices.

Noteworthy, there is unequivocal support for the high priority given to tackling climate change at the EU level and in international negotiations. Of different instruments, the promotion of renewable energy sources is viewed by 76,3 % of the respondents as the most effective one to combat climate change, improve fuel diversity, support job creation and technology development (European Commission 2006a: 52).

8. What should the EU do to ensure that Europe, taken as a whole, promotes the diversification of energy supplies?



Source: European Commission 2006b

Figure 2. Strategies for diversification of energy supplies

Among the civil society, there is a call for fairer subsidy schemes, and more equal competition between renewable energy/technology suppliers and their conventional counterparts, notably within the internal market (European Commission 2006b: 4).

There is also a broad demand for a greater variety of energy suppliers to the EU, and for investment in new supply routes, including oil and gas pipelines and liquefied natural gas terminals. Further, a general preference is expressed for applying a strategic energy benchmark based on reducing CO₂ emissions and on promoting renewable energy as part of the EU energy mix (European Commission 2006b: 3-4).

As regard to the external dimension of the energy policy, there is a clear message that the EU should incorporate its main energy objectives into all areas of EU's external relations and external energy policy, including support for an international agreement on energy efficiency of all main consumers (European Commission 2006b: 56-57).

7. Which measures need to be taken at Community level to manage energy supply crises if they do occur?

- (1) A solidarity mechanism to assist a Member State facing difficulties following disruptions of its energy supplies under emergency circumstances 40,7%
- (2) A coordinated mechanism to provide early notice and monitoring and to enhance response capabilities 35,2%
- (3) A coordinated mechanism for emergency demand restraint 30,9%
- (4) A coordinated EU response in the event of an International Energy Agency decision to release emergency oil stocks 23%
- (5) OTHER 6%



Source: European Commission 2006b

Figure 3. Strategies for managing energy supply crisis

Compared to previous public consultations, the issue of solidarity is evaluated as an important principle in the EU energy policy. In this context, a solidarity mechanism to assist member states in emergency situations caused by sudden disruptions of energy supplies, as well as mechanisms for early warning and monitoring are seen as essential (European Commission 2006b: 51-52).

The participation of civil society groups in EU energy policy and their demands

After having investigated the general policy input from the public consultations, the main civil society organisations that participated in the consultation of the EU energy policy will be summarized into four main groups based on similarities in their positions on energy issues and their demands with regard to the development of a European energy policy. Finally, their positions on controversial energy issues will be compared qualitatively, in order to discover the main convergences and divergences among them, as well as to analyse their different policy agendas and objectives.

Energy associations/energy supply companies

The first important group of civil society actors in the EU energy policy area is represented by the energy supply companies. The largest associations promoting the interests of the energy supply sector at the European level are Eurelectric, Eurogas, the European association of independent energy distributors (GEODE) and the European Renewable Energy Council (EREC).

Generally, the energy associations welcome the Commission's Green Paper "A European Strategy for Sustainable, Competitive and Secure Energy", in particular its support for better balance and coherence between the three policy objectives, and endorse the need for developing a common approach in the energy policy. These define as the main priorities for the EU in this field the completion of the internal market, the establishment of a clear regulatory framework providing the right incentives, as well as further promotion of energy dialogue with third countries (Eurogas 2006; Eurelectric 2006; GEODE 2006). GEODE endorses the Commission's proposals about harmonised rules such as the establishment of a European grid code and market-based solutions, which are seen as prerequisites for fair competition and efficiency (GEODE 2006). In comparison, Eurelectric and Eurogas are more skeptical

about the establishment of new powerful authorities at the EU level and therefore criticise the strong regulative approach of the European Commission, which in their opinion would have negative impact on the internal market development.

The energy associations express their concern about the targets, benchmarks and plans, covering energy efficiency, renewable energies, import dependency and networks, to which the Commission refers in its Green Paper. That's why they see the implementation of the 20-20-20 targets as problematic. Most energy supply companies are also very sensitive about the sensitive issue of ownership unbundling that would force large vertically integrated energy companies to sell part of their networks. Most energy associations believe that the market should determine the energy mix and their shares in the primary and secondary use.

Environmental concerns are also part of the agenda and policy objectives of the energy supply companies. Although they support the goals of energy efficiency, the promotion of renewables and low-carbon energy, they also focus on the importance of nuclear energy, hydropower and more efficient fossil technologies, in order to ensure the security of supply.

In their view cost-effective policies such as the EU Emissions Trading Scheme should be implemented on a global scale. Regarding the external dimension of the EU energy policy, the energy supply companies favour a common external energy policy, including effective dialogue with producer and transit countries for facilitating trading relationships and new partnerships.

Compared to the other energy associations, the position of EREC differs in some policy areas from those of the other stakeholders in the field of energy supply. Unsurprisingly, EREC puts its focus on the public debate on the development of energy technologies in combination with energy conservation and efficiency as a condition to meet the EU's ambitious targets (EREC 2006). Pointing to the failure in achieving effective competition in the EU's electricity and gas markets, EREC calls for redirecting subsidies from fossil fuels and nuclear energy to renewables, and supports the establishment of new mandatory long-term targets for renewables up to 2020.

EREC brings also social demands onto its agenda. It believes that public support for different technologies should play an important role in the EU's decision-making (EREC 2006: 6). In contrast to the other energy supply organisations, EREC expresses its concerns about building new nuclear power plants, which should not be incorporated into a future EU energy policy.

Business/industry associations

The business/industry sector is represented by umbrella associations at the European level, which as main energy consumers have a great influence on decisions concerning the EU energy policy. The largest ones at the EU level that have submitted written contributions for the consultation on the Green Paper on Energy 2006 are UNICE, Eurochambers and the European Chemical Industry Council (Cefic). The business/industry organisations generally applaud the analysis and proposals in many respects, but express their reservations regarding other proposals. They believe that the EU needs a better coordinated and integrated energy policy, including measures to ensure empowered regulators, effective unbundling, sufficient interconnection capacities, increased transparency, a better coordination among national regulators, and their independence from governmental authority as well as

effective implementation of the market liberalisation directives (UNICE 2006; Eurochambers 2006; Cefic 2006). More precisely, UNICE points to the lack of true competition in the regional energy markets, as well as to the not yet established non-discriminatory access to grids, storage and cross-border connections, as implementation failures (UNICE 2006: 2). Furthermore, they advocate the establishment of a European grid with common rules and standards. Regarding a European energy regulator, Eurochambers (2006: 3) see no need for it, while Cefic (2006:3) believes that the creation of a European Energy Regulator is unavoidable because of the inadequate levels of coordination between national regulators and national grid operators in the dedicated fora.

Eurochambers, representing the interests of small and medium enterprises (SMEs) in the consultation, urge the Commission to ensure a better inclusion of their interests in the decision-making process, so that the voice of smaller business from all sectors is also heard (Eurochambers 2006: 1-3).

The business/industry associations believe that the market should be the ultimate driver for the energy mix. Therefore, they oppose setting minimum levels for secure and low carbon energy sources, since this could lead to further price increases. In addition, the business/industry sector sees not only renewables but also nuclear energy as part of the diversification. Although these stakeholders are generally supportive of the environmental objectives outlined by the Commission, according to them the objectives should be implemented in a way not hampering the international competitiveness of the European industry.

Considering innovation and technology as vital for the energy policy, they emphasise the need for a focused research and education policy. Finally, the business/industry sector also endorses a common approach in the EU's external energy policy, especially issues regarding security of supply. They demand more space for energy questions on the agendas of trade negotiations between Europe and its economic partners, and encourage the EU to follow the principles of market liberalisation and investor security in the supplier countries.

European trade unions

The umbrella organisations representing trade unions interests at EU level are the European Trade Union Confederation (ETUC) and the European Federation of Public Service Unions (EPSU), both of which submitted written contributions to the Green Paper on energy.

EPSU and the ETUC welcome the Green Paper and support many of its proposals to strengthen the security and sustainability of supply, but reject other measures, especially the completion of an internal market for gas and electricity (EPSU 2006; ETUC 2006: 1).

The trade unions regret that the Green Paper does not encompass the social dimension of the energy policy, which has an important impact on different measures in this field – in terms of access to energy, price, employment and occupational health and safety. While EU actions have been concentrated on energy demand issues and the internal energy market, most decisions on energy supply have remained national in scope. Therefore, the ETUC defines the following tasks for the energy policy: eliminating social inequality caused by unequal access to energy services; ensuring the self-sufficiency of supply; responsible management of resources; fighting global

warming and tackling the civil and military risks related to the use of nuclear energy; and preventing energy inflation from affecting wages (ETUC 2006: 2). On the basis of these challenges, ETUC outlines four main priorities for the EU energy policy for achieving sustainable development: strengthening the public and democratic energy management and the establishment of a European public service; reducing energy consumption; improving security of supply, and diversifying energy sources. In order to meet these objectives, the ETUC considers state intervention indispensable.

Regarding some of the liberalisation initiatives by the European Commission, EPSU positions itself against further measures of ownership unbundling, which would affect directly the structure of the energy sector (EPSU 2006: 3). Further, it remains sceptical about the performance of a European regulator, mainly because of the lack of democratic control mechanisms.

When it comes to the EU energy dialogue with third countries, the trade unions support a common approach in the EU's external energy relations, in which the social dimension should also be included. However, they point out that trade unions and the civil society should also be included in such dialogue, contrary to the practice of the European Commission that has involved business but not the trade unions.

Another important priority – the diversification of energy sources – should include an adjustment of the energy mix and setting up a minimum level of renewable energy sources, which would provide the investors and training structures with long-term perspectives (ETUC 2006: 6). Solidarity in the energy policy, associated with mechanisms for preventing energy supply crises, is a key issue on the agenda of the trade unions. As a whole, there are concerns about the Green Paper giving equal weight to the objectives of sustainability, competitiveness and security of supply. The trade unions believe that more importance should be given to measures applied to tackle climate change, rather than to the completion of an internal energy market.

Environmental organisations

The largest EU umbrella organisations active in the field of environment and energy policy are Greenpeace, Friends of the Earth (FoE), World Wildlife Fund (WWF) and the European Environmental Bureau (EEB). They have taken part in the online questionnaire of the Green Paper on energy, but most of them have not submitted written contributions. However, their individual comments on the Green Paper as well as general positions regarding the development of a European energy policy can be traced through briefings, statements and press releases.

Most of them welcome the Green Paper on Energy but express also their disappointment with some of its objectives, because it does not challenge the status quo of the energy policy. In particular, Greenpeace calls for a “greener” paper (Greenpeace 2006: 1) and for the compatibility of energy decisions with existing climate objectives. The reaction of FoE to the Green Paper is also an expression of disillusionment with the EU's policy objectives, which favour fossil fuels and nuclear energy instead of renewables. Jan Kowalzig, an energy campaigner at FoE in Brussels, commented on the Green Paper as follows: “The EU Commission is missing an opportunity to lead a revolution in how we produce and consume energy. Europe should invest heavily in energy saving technologies and in renewables like solar and wind power, instead of clinging to fossil fuels and nuclear a policy grounded in the days of the dinosaurs” (FoE 2006).

The environmental NGOs declare their support for secure, sustainable and efficient energy sources. Therefore, they consider energy efficiency and renewable sources to be the best measures for the EU to adopt in order to boost competitiveness, improve the security of supply, and protect the environment. Moreover, they insist on setting mandatory targets as a prerequisite for the effective implementation of such policies. According to Greenpeace (2006) and FoE (2006), the target for the primary energy share of renewable sources should be 25% by 2020, and this should be accompanied by binding sectoral targets for the share of renewable energy in electricity, heating/cooling and transport. Defining it as “a matter of urgency” (Greenpeace 2006: 1), the environmental NGOs urge the Commission to initiate legislation in these areas. Furthermore, Greenpeace (ibid.) demands that greenhouse gas emission cuts across the EU should amount to at least 30% by 2020 and to about 80% by 2050.

The environmental NGOs regret that the Commission “does not question the status quo of giving preferential treatment to polluting and hazardous energy sources” and refer to the fact that coal and nuclear power have received a huge amount of subsidies and state aid in recent decades (Greenpeace 2006: 2).

According to the evaluation of the World Wildlife Fund (WWF), the energy strategy for Europe is guided only by concerns about the security of supply, and it lacks a “long-term vision for a sustainable and efficient use of resources” (WWF 2006). Although the Green Paper presents a good analysis of the energy challenges in the coming years, the WWF regrets that it does not properly address climate change in a wider perspective. Therefore, the NGO assesses it as particularly weak in terms of energy efficiency and renewable energies, due to the lack of binding targets to strengthen legislation in this area.

Comparing civil society and interest group demands

In order to pave the way for analysing the inclusion of the civil society in policy outcomes, this section of the paper will summarise the findings of the main demands of civil society actors in the field of energy policy in a comparative perspective. For this purpose, a table with the main issues in the EU energy policy and the actors’ positions was designed and certain values assigned to the different actors depending on their positions on a specific energy issue. One can thus identify the main areas of stable consensus where the positions of civil society actors converge, as well as the areas of divergence, where the actors are divided and certain ‘coalitions of interests’ are built.

Analytically, four main groups of actors can be distinguished according to their affiliation and interest representation: the energy supply associations, which are further divided into two sub-groups – the B group referring to the positions of the European Renewable Energy Council (EREC) and the A group staying for the rest of the energy supply umbrella organisations; the business/industry associations; the environmental organisations (ENGOS); the European Trade Union Confederation (ETUC) and the European Federation of Public Service Unions (EPSU) representing the trade unions.

Taking a closer look at the table, we can distinguish the areas, where a stable consensus among the civil society organisations is observed. These are the EU’s sustainability development, the energy efficiency goals, the establishment of a European Energy Technology Plan and a common external energy. It should be noted that the civil society actors put different weight on these objectives, depending on

their interests. Therefore, it is hardly surprising that the environmental NGOs (ENGOs) and trade unions focus on sustainability and environmental protection as the core principle of the EU energy policy, while the other objectives – competitiveness and the security of energy supply as part of the EU’s external policy – are given minor importance by them (except for the trade unions, for which the security of supply is an important issue).

Table 1. Actors and their positions on energy issues

Actors/ Issues	Energy Supply		Business/ Industry	ENGOs	Trade Unions
	A	B			
Decisions taken at the EU level	3	3	3	4	3
Liberalisation/internal market	4	3	4	0	2
Ownership unbundling	2	0	4	0	0
Sustainability goals	3	4	3	4	4
Mandatory targets for renewables and CO2 emissions	1	4	1	4	4
Energy efficiency goals	4	4	4	4	4
Social demands	0	4	0	4	4
Nuclear energy – a solution?	3	1	3	1	3
Regulation at the EU level	2	4	2	4	4
Common external energy policy	4	4	4	0	3
European Energy Technology Plan	4	4	4	4	4

Note: The positions of the actors are coded as follows: 0 – Indifferent/no position on this matter; 1 – firm disapproval; 2 – disapproval with reservation; 3 – approval with reservation/partial approval; 4 – firm approval.

Looking at the table, one can discern policy issues, which enjoy great support from civil society actors, but where some reservations and concerns are also expressed. These issues concern the development of the future EU energy policy, its competencies and regulation at the EU level. In general, there is broad support for the Europeanisation of the energy policy. However, the industry/business associations and energy supply companies have their reservations regarding the regulative approach of the Commission in this field and the setting up of mandatory targets at the EU level, which could have a negative impact on the competitiveness of the energy policy. In contrast, the ENGOs and trade union insist on more regulation at the EU level as well as the establishment of clear targets and a legislative framework. The liberalisation of the energy market and its competitiveness is an objective supported to a great extent by some energy supply companies and the business/industry associations, which insist on the rapid implementation of the existing liberalisation directives and a full utilisation of the competition policy, as a way to achieve an integrated energy market and thus deal more effectively with the problems of the security of supply and climate change challenges. The opposite position is promoted by the trade unions, which criticise the current energy model, based on the liberalisation of the gas and electricity markets, and claim that these

measures have not provided adequate solutions to the main energy issues.

The issues, where the divide among civil society actors is most evident, are the ownership unbundling issue, the use of nuclear power as an alternative solution, and the establishment of mandatory targets for renewables and CO₂-emissions. Regarding the ownership unbundling, the greatest supporters of this measure are the regulators and the industrial consumers, while most energy supply companies reject this option of unbundling.

On the other contested issue – the use of nuclear energy – the civil society actors also seem to be divided. Whereas the environmental NGOs and EREC totally reject this measure and demand the reallocation of subsidies from fossil fuel and nuclear energy to renewables, the energy supply companies, the industrial and business associations consider it as an alternative solution to the increased energy dependency and the EU's transition to a low-carbon economy. The setting up of minimum standards for low-carbon and secure energy sources seems to be a problem for the energy supply companies and stakeholders in the business/industry sector who believe that Member States should be free to decide on the most appropriate energy mix according to their different geographic and climatic position and domestic resources. In contrast, the trade unions and environmental NGOs insist on establishing mandatory targets for the effective implementation of sustainable policies and the enactment of legislation in this area.

Social demands are somehow on the margins of the energy debate. The trade unions focus on the social dimension of the energy policy in their policy papers and try to rebalance its weight in energy matters. Therefore, an exclusion of this aspect from policy outcomes would also make the policy less legitimate, according to some civil society actors.

Policy outputs

Through analysing major pieces of legislation adopted after the written consultation on the Green Paper on Energy 2006, the paper will finally evaluate the main policy outputs of the decision-making process in the energy sector. A basic question guiding the analysis will be, whether civil society demands were taken into account in the final political outcomes and included in legislative acts in this area. Thus, the quality of political outputs will be assessed based on the support of the adopted measures by the majority of the participants in the consultations, or in how far they reflect a balance between the varying demands of civil society actors.

As a follow-up to the Green Paper on Energy, the Commission put forward a package of energy and climate change proposals on January 10th 2007 as an effort to create an efficient low carbon economy and promote the delivery of secure, sustainable and competitive energy (European Commission 2007a). The first objective outlined by the Commission in its Communication was the establishment of an internal energy market to ensure that consumers have the opportunity to choose a supplier at fair and competitive prices, as well as effective regulation at the Community level through the harmonisation of certain regulatory and technical rules as well as common security standards.

The next proposal for the development of an Energy Customers' Charter (European Commission 2007a: 10) was to a certain extent a response to the social demands of

some civil society organisations, as its main goal was to enable the implementation of aid schemes for the most vulnerable citizens, who would eventually suffer from increasing energy prices, and also the improvement of the level of information consumers receive concerning different suppliers and supply options. The Commission also emphasised the need to ensure a secure supply, and proposed measures that ensure solidarity between Member States, as well as the diversification of supply sources and transportation routes (European Commission 2007a: 10-11).

As part of its strategy for fighting climate change, the Commission proposed a binding target to reduce greenhouse gas emissions unilaterally by at least 20% by 2020 compared with the 1990 levels, and a commitment to reduce the emissions by 30%, if other industrialised nations agree on comparable emission reductions (European Commission 2007a: 5).

In terms of energy efficiency, the Commission set further targets in its package proposal: the reduction of the Union's energy consumption by 20% by 2020, in particular through measures of energy saving in the transport sector, the development of minimum efficiency requirements for energy-using appliances, improving the efficiency of the production, transport and distribution of heating and electricity, improving the energy performance of buildings, the development of energy efficient technology, and last but not least through awareness-raising amongst consumers about sensible and economic energy use (European Commission 2007a: 11-13). Thus, the policy outputs in the field of energy efficiency seem to meet the demands of the vast majority of citizens and civil society organisations. It should be also noted that energy efficiency is an issue area, where a stable consensus can be found among the majority of civil society actors.

As part of its climate change package, the Commission presented a "Renewable Energy Roadmap" (European Commission 2007b). In this document, the Commission stated its ambition to maintain the EU's position as a world leader in renewable energy, and in this sense proposed a binding target of 20% for the EU's overall energy mix coming from renewable sources. Based on the results of the consultations, the Commission drafted an outline for a European Strategic Energy Technology Plan that supports the Seventh Framework Programme for Research. It foresees a 50% increase in research funding in the energy sector, together with the Intelligent Energy for Europe programme.

The Commission also made a statement in regard to the use of nuclear energy (European Commission 2007a: 17-18). On the one hand, it recognised the benefit of nuclear energy as one of the low-carbon energy sources offering the most stable costs and supply. On the other hand, the Commission's proposal indicated that the decision on whether or not to use nuclear energy should be made by Member States, although the Commission emphasised the need for a common and coherent approach with respect to the security, safety and non-proliferation of nuclear energy. Evaluating this proposal, one can detect the inclination of the Commission to support nuclear energy to a certain extent as part of the solution of a diversified energy portfolio, but at the same time its caution to express a clear position on this contested issue dividing civil society actors.

Drawing on the results from its consultation process, the Commission proposed furthermore a series of concrete measures for developing international energy agreements, including the European Energy Charter, a post-Kyoto climate change

scheme, the export of the Emission Trading Scheme to global partners, as well as stable bilateral agreements with consumer countries (United States, India, Brazil or China), producer countries (Russia, Norway, OPEC countries and Algeria) and transit countries such as Ukraine (European Commission 2007a: 18-20). As a major new initiative, the Commission proposed a new partnership with Africa that would deal with a large variety of energy issues. Thus, the Commission sought to integrate energy as an essential part into all of the EU's external relations, and especially into the European Neighbourhood Policy.

Following the Commission's proposal for an integrated climate and energy package, the Heads of State and Government endorsed this package at the Spring European Council on March 9th 2007, and as a result, adopted a comprehensive Energy Action Plan for the period 2007-2009 (European Council 2007). After the 2007 EU summit, the Commission put forward the third liberalisation package for an EU energy market, which aims at creating a competitive energy market and establishing a balance between the sustainability and the security of supply (European Commission 2007c). To achieve these goals, the Commission proposed a number of measures in its package: separation of production and supply from transmission capacities, promoting cross-border energy trade by establishing an Agency for the Cooperation of National Energy Regulators, improving the effectiveness of national regulators, enhancing cross-border investment and collaboration, improving market transparency on network operation and supply, and increasing solidarity by interconnecting national markets.

Furthermore, the Commission presented the complete climate and energy package on January 23rd 2008, including the objectives formulated by the European Council and further proposals on the extension of the EU's emissions trading scheme, revision of environmental state aid rules and a new directive on renewable energies (European Commission 2008).

After intense negotiations on the climate and energy package during a summit in Brussels on December 11th-12th 2008, the EU agreed on its final version, which was adopted by the Council of Ministers on April 6th 2009 (European Council 2009). As a result, a directive establishing a common EU framework for the promotion of energy from renewable sources³ was adopted (Council of the European Union 2009a: 1). The directive sets for the first time national mandatory targets in gross final consumption of energy, depending on countries' resources and progress in this area. According to the new legal provisions, each EU Member State is required to adopt a national renewable energy action plan with its national targets in the fields of transport, electricity, heating and cooling, and to deliver it to the Commission by June 2010. The directive sets also sustainability criteria for biofuels and bioliquids, as well as rules related to statistical transfers between member states, joint projects between member states and third countries, and access to the electricity grid for energy from renewable sources.

Second, the climate-energy package adopted also a revised Emission Trading System (ETS) for greater emissions reduction of greenhouse gases in energy-intensive sectors⁴

³ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC.

⁴ Directive 2009/29/EC of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community.

(Council of the European Union 2009a: 3). The third decision adopted by the Council aims at setting effort-sharing targets for emissions reductions in sectors that are not subject to the EU's Emission's Trading System⁵ (Council of the European Union 2009a: 5). The Council endorsed also a regulation establishing the first legally binding standards for CO₂ emissions from new passenger cars⁶, with the objective of reducing the contribution of road transport to global warming. Furthermore, new environmental quality standards for fuels and biofuels were introduced through the revision of a directive improving air quality and greenhouse gas emissions⁷ (Council of the European Union 2009a: 7). Finally, a directive creating a regulatory framework for the geological storage of carbon dioxide was approved⁸, in order to contribute to the deployment of such technology and thus fight climate change.

Although most civil society actors consider the directives as the most important pieces of legislation on renewable energy, ensuring investor certainty in the sector, a lot of environmental organisations evaluate them as weak and as lacking a stable basis for the EU's greenhouse reductions, biofuels and nuclear power (Greenpeace 2008; WWF 2008; EEB 2008). However, if one takes into account the general results of the public consultations, the adopted directives reflect the sustainability demands of civil society and citizens and endorse the preferences of the majority of respondents in many areas. Thus, the energy and climate package illustrates a considerable progress towards sustainable development, compared to the previous legislative acts in this area. As already indicated in the consultations, the ineffective implementation of legislation is seen as a major obstacle to the development of a Common Energy Policy.

With regard to the next major piece of legislation, namely the third legislative package on energy, an agreement between the Parliament and the Czech Presidency was reached on March 23rd 2009 (EurActiv 2009, 25.03.2009). As a result, the legislative package⁹ was adopted by the Council in June 2009 (Council of the European Union 2009b).

During the negotiations, the issue of unbundling appeared to spark most

⁵ Decision No 406/2009/EC of the European Parliament and of the Council on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020.

⁶ Regulation (EC) No 443/2009 of the European Parliament and of the Council setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles.

⁷ Directive 2009/30/EC of the European Parliament and of the Council amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EE.

⁸ Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide.

⁹ The third legislative package on energy is composed of the following legislative acts: Regulation No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing the EU Agency for the cooperation of National Energy Regulators; Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC; Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC; Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003; Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005.

disagreement, with the Parliament and the Commission insisting on the more radical option of ownership unbundling¹⁰, and the national governments of France, Germany and six other Member States leading resistance to the option of unbundling and presenting an alternative proposal, which in their view would lead to a similar result without forcing firms to separate their energy production and transmission assets (EurActiv 2005, 04.10.2005). The final compromise achieved offers companies all three options of unbundling – ownership unbundling, the independent system operators (ISO)⁴¹¹¹ and the independent transmission operator (ITO)⁴²¹².

In terms of the consultation process regarding the Green Paper on Energy, the most supported measures for achieving the goal of a single energy market appear to be the development of harmonised grid access conditions through a European grid code, the finalisation of the unbundling process, and the establishment of a European energy regulator. Therefore, the adopted legal acts regarding the completion of the unbundling initiative and the creation of a stable regulatory framework seem to be legitimate because of their general acceptance by the majority of respondents. However, the Green Paper on Energy did not include a question about the best option of unbundling – the most disputed issue during the Council negotiations. Therefore, we cannot trace the preferences of the general public in this matter. The energy market liberalisation is perceived as less legitimate by EPSU and some environmental NGOs (EPSU 2005; Greenpeace 2005). Despite the general consensus on some market liberalisation measures mentioned above, the third liberalisation package on energy cannot be seen as a product of civil society input in the first place, but mostly as a result of bargaining among the Commission, the Parliament and the national governments.

Although energy market liberalisation, competition and regulation have been actively promoted by the Commission, the competitiveness of the European energy policy has not been considered as a leading principle, as the results of the consultation show (only 23,5% of the respondents indicated it as a core principle in the energy policy). Although a great part of civil society demands articulated during the consultation flow into policy outputs and final legislation, there are also demands that remain on the margins. For example, some social aspects of the energy policy such as employment loss, the lack of qualified staff, or the impact of competition on vulnerable users, as well as public intervention measures, were not adequately addressed in the major legislative packages.

Although the Commission managed the task to establish a balance of interests in some areas, it failed to deliver input-based legitimate solutions in other areas. Despite these deficits in input legitimacy, some civil society groups promoting societal or environmental causes managed to influence the energy legislation, thus counterbalancing strongly neo-liberal aspects of decisions. The climate and energy package,

¹⁰ This option argues for the full separation of production and transmission capacities as the only solution for the electricity market (European Commission 2007a: 7).

¹¹ ISO is a Commission compromise proposal, according to which companies involved in energy production and supply could remain the owner of their network assets, but lose control over their management. In such a case, commercial and investment decisions would be delegated to an independent company (ISO), which should be set by national governments and approved by the Commission (EurActiv 2005, 04.10.2005).

¹² The third option provides the right for former state monopolies to retain ownership of their gas and electricity grids, but at the same time makes them subject to outside supervision (EurActiv 2005,04.10.2005).

formulating binding targets and strengthening the sustainability foundation of the EU energy policy, can be thus seen as a major success in this area.

Conclusions

The EU energy policy is an illuminating case for Europeanisation because of its mixture of governance instruments and interplay between internal policies and external factors. While the policy-making character of the EU energy policy was previously marked by intergovernmental bargaining and national isolation, the new energy paradigm of the 21st century (Helm 2007), triggered by reemerging issues of the security of supply and climate change, has posed also new challenges to the institutional design of the EU energy policy and its policy instruments. The need for a new conceptual and regulatory framework for a common energy policy to face these new challenges has led also to a shift in its governance modes, opening the decision-making to a greater variety of civil society actors. On the other hand, the new consultation practices of the European Commission, adopting more inclusive approach to civil society, have entered also the field of energy policy and established new patterns of public participation.

The main aim of this study was to examine, whether written consultations can enhance the democratic legitimacy of the EU energy policy. The point of departure for the research question was to test the assumption made by deliberative theories that greater participation of civil society in policy-making leads to greater legitimacy of the EU energy policy. Thus, the theoretical foundations of the present piece of work rest on a legitimacy model based on participation. Indeed, the results of the in-depth analysis on the EU energy policy show that the creation of more participation opportunities for civil society actors and citizens do increase the support for EU policies, and therefore have a certain impact on the legitimacy of political decisions and legislation. The recent developments in the EU energy sector indicate that the Europeanisation of this field is driven to a certain extent by the civil society that has mobilised itself to engage in the consultation process due to the new challenges in the security of supply, changing oil prices, environmental concerns, and resources depletion.

In order to illustrate more specifically the contribution of civil society participation to the legitimacy of the EU energy policy, the main findings will be summarised to complete the puzzle. The results of the public consultation suggest a high degree of output legitimacy in terms of universal public support for the development of a common European energy policy and the EU's general objectives in this area. The analysis of the written consultation presented in this research shows that most civil society actors utilised the consultation mechanism and delivered high-quality and informative position paper bringing their input in the debate.

The main conflict lines in the debate were shaped along the following axes: more competitive and market-oriented energy policy vs. policy approach based on social equality and public management, and higher regulation and better supervision vs. deregulation. The controversial issues in the energy policy debate fostered further frame-alignment among civil society actors, who were willing to gain more visibility and bring their concerns onto the agenda. Thus, despite their different points of focus, environmental NGOs and trade unions featured some similarities. On the other hand, energy supply companies and business/industry associations took also similar

positions in some areas, in particular on the general development of an internal energy market, the role of nuclear energy in a diversified energy mix, and other regulations proposed by the Commission.

The empirical results reveal that in areas of broad consensus among civil society actors legislative acts were easily agreed upon and passed. However, other issues appeared more controversial, thus requiring more complex solutions. Examples of such policy outcomes are the directives establishing mandatory targets for energy efficiency, the revision of the existing Emission Trading System, and the issue of unbundling in the third legislative package on energy. While the climate and energy package to a great extent mirrors the civil society's demands, the third legislative package on energy can be seen primarily as a product of intergovernmental bargaining.

As the Green paper was inspired by the will to establish an encompassing and coherent framework for a Common Energy Policy, the Commission was also open to different proposals and criticism, which gave it feedback on its legislative proposals. Thus, the adopted climate and energy package reflects the sustainability demands of the civil society. From this perspective, it can be evaluated as a legitimate outcome, as it contains legislative measures endorsed by the majority of respondents. Whereas the reactions of environmental NGOs show less satisfaction with the package, because they perceived the sustainability measures as too weak to bring about considerable change, business and industry associations expressed their concern with the impact of the 20-20-20 ambitious goals on the European industry. In comparison to previous legislative acts, the package established for the first time binding targets for a sustainable energy policy in different areas, which gave it a considerable weight.

The civil society organisations broadened the spectrum of interests and topics in the consultation process, by bringing the issue of energy poverty and the export of principles of good governance into the EU's external energy relations. Although the third liberalisation package on energy was driven by the liberalisation ambitions of the Commission, it addressed the issue of energy poverty and strengthened the rights of citizens by introducing strong obligations for Member States to protect energy consumers, and in particular more vulnerable consumers. These findings suggest that the civil society did indeed have an impact on legitimating political decisions, as a great part of its proposals and demands was taken on board and included in the final policy outputs. On the other hand, the demands for more public intervention and inclusion of the social dimension of the energy policy were not given the same weight as the demands for more liberalisation, which were strengthened in the third liberalisation package.

To sum up, the empirical analysis suggests a high level of output legitimacy based on the support and the general acceptability of the adopted measures and objectives. The input legitimacy however had some deficits. Because of the unsatisfactory participation levels, the consultations did not reach the general public and certain groups of civil society actors at national and regional level.

At the EU level, the empirical findings seem to support more Smismans's model of functional participation in the context of the EU's multilevel governance than the other deliberative alternatives based on higher normative expectations in terms of representation and participation. Moreover, the supranational dimension of the energy policy requiring legal expertise and technical know-how poses some structural

difficulties for achieving input legitimacy, which can be observed also in the other policy fields. This tendency confirms Greenwood's claim that elite civil society actors organised at the EU level can be seen as a second-best option to pursue, as their legitimacy is not rooted in their 'representativeness', but in them speaking for a cause and promoting common interests.

As energy constitutes a common concern for European citizens, a joint European energy policy could become a motor for further integration on the way to a closer economic and political union, based on a broader involvement of the civil society, experts and national parliaments. The fast development of the EU energy policy in the recent years shows that political decisions taken in this area can only be legitimised, if they contribute to added European value and make clear their benefits to the European citizens.

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