Can segmented publics foster a general public sphere in the EU? An example from the consultation practices of the European Commission[1]

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Abstract

This article critically reviews the discourse of the Commission and civil society organisations about the suitability of participatory democracy instruments like policy consultations as a way to achieve increased input legitimacy. This article asks whether consultation with civil society, which is an institutionalised space of specialised debate on the EU, may serve to reinforce general public spaces in the EU public sphere, which is now largely dominated by specialists.

The paper analyses some of the burgeoning recent literature on the role of organised civil society in the democratic development of the EU, and the way in which consultation is carried out through a comparison of the outcome of consultations in 4 different policy sectors. The hypothesis is that using consultation for engaging the general public is possible but unlikely, because of the "rules of the game" in debates among experts that orientate the relation of the EU Institutions with specialised publics towards output rather than output legitimacy.

The article builds on a distinction between different sectors of the public sphere (Eriksen 2007). Looking from a neo-institutionalist perspective, it considers these sectors of the public sphere as organisational fields that function as public spaces because of the role institutional devices like "comitology committees" or consultation that foster experts' debate. Particular attention ist paid to the place of skilled actors (Stone Sweet, Fligstein and Sandholtz 2001: 11-12) in consultation. It is analysed with tools like epistemic communities and advocacy coalitions, as a way to asses what is the effect these form of collective action for the eventual enlargement of debates to general publics.

The main finding is that the extension of deliberative practices to general publics is unlikely in the present situation, because 1. Despite a discourse about general publics' participation via consultation, the Commission still sees specialised and general publics as pertaining to different forms of legitimacy 2. The topics addressed in specialised publics are of great concern for civil society actors in Brussles but they are of salience only to a small part of their constituency 3. Civil society actors could create links between, both spheres, but this challenges their practices in specialised publics.

Introduction

In the introductory chapter to a recent book, Erik Oddvar Eriksen (2007) applies a distinction between general, segmented and strong publics to the EU. This distinction is useful because it pays attention to deliberative practices in "sectors" of the public sphere that are usually overlooked in the debate on the EU public sphere, like the dialogue between the institutions and civil society associations or "comitology committees". Practices in these areas have been analysed as deliberation in practice by authors such as

[1] This paper builds on some elements of a Master Thesis that I presented in May 2007. I express my most sincere gratitude to Professor Justin Greenwood for his guidance in that work. The opinions of this paper only are those of his author and not those of his institution.

Joerges (2002). Others such as Kohler-Koch and Finke (2007) have criticised it as an example of deliberation by specialists that cannot be considered as a form of deliberative democracy.

In the same chapter, Eriksen (2007) argues that there is a missing link between the deliberation that is actually happening in the EU context and the general publics. The article asks whether policy consultations between the Commission and specialised publics may create a link between specialists and wider publics. Specialised publics are the EU level interest groups that are "the main constituency of the Commisson", (Greenwood 2007a) who prefers to use the term civil society. Policy consultations are institutionalised contacts by which the Commission seeks to obtain information concerning both the subject issue and about their position on proposed legislation from stakeholders and civil society groups. According to the minimum standards (European Commission 2002c)[2], consultation is mandatory whenever impact assessment of the effects of legislation is implied as well. Civil society is deliberately left undefined, as the definition itself is part of the discourse that is analysed.

This article critically analyses the discourse of the Commission and civil society organisations on the usage of open policy consultations as a way to foster awareness of the EU among wider publics. Two examples of this discourse are the new approach to communication by the Commission (European Commission 2006a.) or the standards for consultation (European Commission 2002c).

This article intends to offer an answer to the research question by analysing the compatibility between the discourse on consultation as a form of participatory democracy and the functioning of these dialogues. Building on a neo-institutionalist understanding of the role of specialised groups in the creation of EU public spaces, the hypothesis is that this process is possible but unlikely, since the relation of the Institutions with each "sector" of the public sphere produces different kind of legitimacies (Scharpf 1999). The paper builds on an analysis of the discourse of the actors and assesses it against four consultation cases implying different actors and policy fields.

The notion of an EU public sphere divided in organisational fields functioning as public spaces constructed by social actors is analysed in first place. Secondly the discourse built by the Commission and specialised groups about consultation as a way to produce institutional change beyond this organisational field is presented. Thirdly, the consultation procedures of the European Commission are analysed, and the article discusses which kind of deliberation they foster, by looking at the behaviour of the actors involved. The last section analyses the possible extension of deliberation and the role that strong publics can play on it and why such a possibility is rather unlikely.

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[2] The policy principles are stated in a communication from 2002 (European Commission 2002.c). Present and past consultations documents can be found in the general access point "Your voice in Europe": http://ec.europa.eu/yourvoice/consultations/index_en.htm

1. EU public sphere?

The tenants of the existence of a democratic deficit in the EU recognise that although the institutional design is democratic, the EU as a whole suffers a the legitimacy crisis (Kohler Koch and Rittberger 2007: 6-7). The fact that the EU has abandoned an era of "permissive consensus" and increasingly becomes the object of political contention in domestic arenas (Hooghe and Marks 2009) points out to some of the difficulties for the legitimisation of the EU integration. The lack of a public space is frequently put forward as one of the reasons for the divorce with citizens[3].

However, to say that there is no such thing as an EU public sphere is inexact. There is no equivalent for the EU to the ideal-type public sphere of the national states, based on shared languages and identities. There are however a series of fragmented spaces with differing intensity. Eriksen's (2007) typology of the different kind of publics existing in the European public sphere is useful in order to understand firstly that there is not a unitary European public sphere but rather fragmented European public spaces. This fragmented European public sphere encompasses both transnational processes such as the europeanisation of national public spaces as well as the some manifestations of the existence of general publics such as pan-European newspapers and debates. An important feature of this European public sphere is the relevance of specialised and strong public spaces, where debates on the EU are most intense.

This dominance of strong and specialised public spaces entails that citizens' individual participation in the European public spaces is not strong and that it is organised groups which play a main role. The whole set of groups represented at EU level have been defined by the European Commission as "European civil society" organisations which are an essential element of more legitimate EU encouraging citizens to participate (European Commission (2001).

Eriksen's (2007) typology is also useful in that it allows hypothesising that the functions and logics of each of these public spaces are different. There is not a simple link between the existence of public deliberation and the realisation of democracy. The context of this debate is the institutional and academic acknowledgment that bigger participation by general publics in the debates on the future of Europe has become necessary as EU integration has stepped into constitutional domains (European Commission 2001, 2005a, 2005b, Kochler Koch and Bittberger 2007, Hooghe and Marks 2009). In no moment has been the disconnection between general publics and the EU stronger than during the debates about the European

[3] In this sense, Jürgen Habermas (2005) has argued that the failures in the process of ratification of the EU constitutional treaty may be due to such a missing public sphere.

constitution[4]. Andrew Moravcsik (2006) concluded that the EU is so complex that public vote could only produce ideological outcomes. Eriksen (2007) considers that the EU is not a general public sphere that may be the social room of a "sovereign demos". However, deliberative democracy theorists argue that practices of public discussion can be a way of fostering democracy, through a democratic spill-over process (Eder and Trenz 2004). Analysing policy consultation contributes to understanding how specialised publics function and the nature of their "missing link" with general publics.

Conceiving the European public sphere as one fragmented in different social spaces is particularly prone for a neo-institutionalist inspired analysis focusing on the role of actors in the construction of the spaces constitutive of the public sphere. In the case of specialised publics, the groups that constitute them can be conceptualised as the actors of the making and institutionalisation of European spaces (Stone Sweet, Fligstein and Sandholtz 2001). These spaces are restricted in at least three senses: they are constrained by written and unwritten rules, like the necessary knowledge of EU issues and policy processes, which function as access barriers, they involve a limited number of actors and they take place in a limited space, most times the city of Brussels.

Despite their restricted nature, these are public spaces in that communication and debate are one of the "rules of the game" by which actors of the EU policy process like the institutions and interest representation groups seek to improve their position in the policy space and where possible to produce institutional change in their favour. The actors may choose different registers of collective action according to their resources and the nature of the debate. In this sense, specialised policy debates running on arguments and seeking to convince policy makers via the public usage of reason are in some situations a tool that skilled actors such as policy networks and epistemic communities (Stone Sweet, Fligstein and Sandholtz 2001: 16) may use for policy or institutional change. Consultation procedures can be conceived as institutional devices that actors use as a tool in policy debates with diverse purposes. This paper hypothesizes that the Commission and civil society groups have included consultations in a discourse about the reinforcement of the legitimacy of the EU through participatory democracy. However, involving the general public through this mechanism presents difficulties linked to its nature as a device for experts' deliberation.

[4] Habermas (2005) considers that the "No" in the French and Dutch referenda is the proof that there is no such thing as a European public sphere.

2. EU civil society and input legitimacy

There are two basic notions on the legitimacy of a political system. Input legitimacy is based on, according to Scharpf (1999: 7), the "rhetoric of 'participation' and of 'consensus' ". It is the idea that a political system is legitimate when its decisions are taken, either through direct participation or representation, by the people they are addressed to. Hence, the idea is that the decisions are legitimate because they result of the general will. A second notion, not contradictory with the first one, concerns output legitimacy: in this sense, a political system is legitimate if it produces effective decisions.

Scharpf (1999) and authors writing from an intergovernmental understanding (Moravcsik 2006) point out that the EU is not grounded on a "people" and that its legitimacy as a political system cannot derive from an input by citizens' acceptance of majoritarian decision after their participation in elections or direct decision making, but must be the consequence of the benefits that it provides to the citizens. However, EU institutions and member states are now more concerned about democratic deficit. There is a vision shared by Commission officials and academics that democracy at EU level presents differences compared with national models. In this sense, representative democracy should be completed with other models of democracy such as participation and deliberation (Magnette 2006).The Commission's strategy to face democratic has been to foster an increase in input legitimacy. The Commission has assumed that it can derive it from the direct participation of civil society associations, because those have origin legitimacy since they represent the will of their members to be associated at European level on issues of their concern.

What does civil society mean in this discourse? Stijn Smismans (2004) understands civil society in a wide sense, as the whole range of social organisations mediating between the market, society and the state. The definition is an issue in itself (Smismans 2003, Greenwood 2007a.), in that the discourse of the Commission has raised civil society groups to the status of legitimate partners in governance, which is a status that may be useful in policy making. Thus, NGO's and other groups like business or workers unions disagree on what the notion implies (Greenwood 2007.b) and seek to be included in civil society.

The European Commission, despite using the discourse on civil society, does not stick to a definition. As it is said in the website summarising its relation with civil society: "It should be noted that in its policy of consultation the Commission does not make a distinction between civil society organisations or other forms of interest groups. The Commission consults "**interested parties**", which comprises all those who wish to participate in consultations run by the Commission."[bold font in original text][5] Hence for the

[5] http://ec.europa.eu/civil_society/apgen_en.htm in definition of Civil Society, consulted on 25/05/2008

Commission (European Commission: (2001: 14-15)[6] civil society is not only about cause building and promotion but as well about representation of interests.

The European Commission has elaborated a whole discourse about the involvement of civil society in the governance of the EU[7]. However, in this discourse there is an important difference between relations with civil society that can help the EU to be in touch with citizens and simple lobbying. Stijn Smismans (2004) has analysed structured relations between EU institutions and civil society[8], which are relations that can provide increased input legitimacy to the EU by fostering forms of participation in the decision making process.

The Commission has tried to present its structured relations with civil society as part of a new mode of governance that would increase the legitimacy of the EU through the participation and hence empowerment of citizens organisations. This strategy is not new in that the relationship of the institutions and interests groups is well established in the history of the EU (Greenwood 2007a), but the White Paper on Governance is innovative in that it intends to translate these relationships into complementary sources of legitimacy. This document refers to features of alternative models of democracy such as a transnational public space (European Commission 2001: 11-12) or consultation of civil society, and discusses how to use them as a complement to representative democracy: "Better consultation supplements, and does not replace, decision making by the institutions" (European Commission 2001: 16). Consultation becomes part of a discourse on re-legitimisation from complementary models of democracy. The document regulating the consultative procedure (European Commission 2002 c.) is a direct consequence of the 2001 White Paper on Governance which assumes that the participation of civil society can be a legitimating factor for the policy process. The Commission's strategy as a reaction to the "no" votes in France and the Netherlands[9] consists in associating civil society consultation to the communication policy. Beyond, the White Paper on Communication (European Commission 2006a) and its application documents (European Commission 2007) elaborate a strategy consisting in associating closely broad consultations with communication. Thus, the new strategy consists in a two way communication, aiming at "communicating Europe in partnership" (European Commission 2007). This strategy seeks clearly at extending the deliberation on the EU beyond the specialised publics.

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[6] For a concrete outlook, it is interesting to note that the Commission does not make any difference now between profit and non-profit making purposes of the activities represented. They are all recognised as "interest groups" in the "Register of interest representatives" that has substituted to the CONECCS database. Available at: https://webgate.ec.europa.eu/transparency/regrin/welcome.do

[7] It is interesting to note that the debate about the democratic model and its "complements" is a tool for inter-institutional debates, as the Commission, the Parliament and the Economic and Social Committee have very different positions.

[8] Stijn Smismans (2004) notes that European institutions can only claim legitimacy for contacts with EU civil society by distinguishing those of direct interest representation by defining frames for "structured relationships", that is, regulated by norms about access, representativity and transparency.

[9] The key documents are the Action Plan to improve communicating Europe by the Commission (European Commission 2005a) and plan D (European Commission 2005b).

This strategy is based on three interlinked assumptions: 1. civil society organisations possess origin legitimacy as they represent the free will of their members to participate in associations, 2. increased participation by such associations can foster input legitimacy, 3. such participation can be organised through policy-based consultation, lobbying transparency, and participation of civil society organisations in policy implementation. In this approach European civil society is a partner for the creation of models of democracy complementary to representation, fostering participative and deliberative mechanisms.

A good example of this convergence of agendas is the call for civil dialogue. This has been a demand of civil society groups like the social platform since the mid 90s (Berger 2004, Fazi and Smith: 2006). The debate about the links with civil society organisations, referring to issues like the representativeness of civil society organisations to be consulted, the legal basis for civil society in the Treaty etc, comes high in the Commission's, strategy introduced by the White Paper on Governance (European Commission 2001: 14-15) and would eventually give birth to an article on participatory democracy in the European Constitution (art 47) and now in the Lisbon Treaty (art 11 TUE).

However, the claim that the participation of European civil society in consultations creates bigger legitimacy must be analysed as part of a discourse elaborated by the specialised actors implied in these spaces. The next section analyses consultation practices as a way to analyse to whether the participation of civil society organisations fosters the involvement of their constituencies, or whether these tend to be dominated by specialised policy networks or epistemic communities in which grassroots members do not have much say.

3. Consultations as epistemic communities: strong deliberation but little grassroots impact

Studying consultation procedures is a way to analyse the results of debates between the Commission and civil society. The consultation is a form of structured relationship in that it is defined by rules concerning its format, publicity and the ways in which the Commission has to provide feedback on civil society organisations' input. The system used to be based on a "de facto accreditation system" (Greenwood 2007a) under the form of a register of organisations named CONECCS although it was quite loose according to some civil society groups (Fazi and Smith 2006). Since June 2008 however, it has been replaced by the voluntary register of interest representatives provided for by the European Transparency Initiative (European Commission 2006b). Although CONECCS registration was not a requirement for participation, it was perceived as necessary for organisations to be taken into account. By substituting it

by the interest groups register the Commission seems to prefer a more open approach to general consultations.

One of the main traits of the consultation procedures is its diversity, as the 2002 principles seem not to be applied always consistently (Fazi and Smith 2006). Some broad typologies may however be recalled in order to understand the usage that the Commission makes of this procedure.

The first one concerns a difference between issues of strong political salience and others of rather socio/economic importance. When procedures deal with rather political issues, consultation seems to be a process for open discussion with civil society, and eventually, for extending the debate thanks to citizen's organisation. In these cases, the standards for consultation are more carefully followed and online individual consultation tools used. This can be seen in consultations concerning the communication strategy[10] or the Transparency Initiative[11]. It aims to input legitimacy in that it aims to foster the widest possible debates on policy issues.

However, the Commission seems to be listening particularly carefully to civil society groups when it comes to consultations in fields with clearly identifiable stakeholders and legislation with strong economic costs[12], the Commission proceeds to open consultations with general civil society as a preliminary approach, but it then moves to much narrower discussion with stakeholders' organisations experts. This is a second typology, as there are clear differences between open consultations organised according to the 2002 rules on consultation and the ad hoc stakeholders conferences organised on the wake of some complex consultations[13] or the commission consultative committees[14].

According to Kohler-Koch and Finke (2007), consultation exercises were designed as a way of associating key stakeholders organisations to policy making in order to achieve better results. Although according to the Commission consultation aims nowadays at citizens' participation (European Commission 2002.c) the idea of using it as a way of improving legislation is still present in official documents (European Commission 2001, 2002a) and policy design: reflection on consultation has been associated with initiatives on impact assessment in the yearly reviews of good practices (European Commission 2002a) and reduction of administrative burdens (European Commission 2002b). Thus the Commission still intends to use these procedures as a way to improve the quality of policy-making.

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[10] Here the consultation on the White Paper on European Communication stands out for the important number of contributions from groups (over 300). The contributions can be accessed at: http://circa.europa.eu/Public/irc/press/whitepaper/library?l=/contributions_comm&vm=detailed&sb=Title

[11] Which took place between May and August 2006. All documents can be accessed at: http://ec.europa.eu/transparency/eti/contributions.htm

[12] In my MA dissertation I analyse the consultations on aviation emissions trading scheme and pesticides regulation.

[13] An example is the consultation about the pesticides regulation, available at: http://ec.europa.eu/environment/ppps/home.htm

[14] Christine Pohl (2006) recalls the imbalance in favour of Industry in the CARS 21 consultative committee. A similar situation could be recalled in the European Energy and Transport Forum which played an important advisory role in the early proposals for the inclusion of aviation in the European carbon emissions trading scheme: http://ec.europa.eu/dgs/energy_transport/forum/index_en.htm

These procedures clearly orientate consultation towards output legitimacy, in that the set of rules encourage participants' to play the role of responsible actors trying to come down to compromises based on knowledge within the commonly agreed frame of possible solutions. In this sense, it is clear in the design of the consultative fora that the members are invited as experts, and in principle not on behalf of their organisation representativity. This is coherent with the refusal by the Commission to consult only accredited organisations, as an NGO platform demand (Fazi and Smith 2006). Another characteristic of these fora is that they bring together members from different organisations that may have different policy interests, but for whom it is not infrequent to come to common visions, be it through deliberation (Joerges 2002) or by coalition making or networking.

A characteristic feature of these exchanges is that they are easily turned into specialised spaces, such as the Commission's consultative committees, where knowledge of a policy field is more important than input legitimacy criteria. The reason for this is that before turning to civil society for legitimacy, the Commission considered it as source of expertise, and it remains dependent on external sources for much policy expertise[15]. The response by civil society groups is to adapt their collective action register into one of constructive involvement that will grant them the role of actors in the policy making spaces. Reference must thus be made to the role of skilled actors whose ability to shape these public spaces depends on their capability to build frames for policy change and legitimacy (Stone Sweet, Fligstein and Sandholtz 2001: 11-12, Muller 2008: 59-61). Some tools that may be useful for analysing how knowledge and ideas or beliefs influence policy making and framing are epistemic communities for the most technical debates and policy coalitions or communities on broadest issues.

The analysis of the role of ideas in policy making is thematically linked to the theories of deliberative democracy (Kochler Koch and Rittberger 2007: 15-16). It accounts for the strong epistemic value of deliberation for theories of democracy inspired by deliberativism and constructivism (Erisksen and Fossum 2000, Chalmers 2003) as a trigger for further deliberation in other social fields (Eder and Trenz 2007: 171-173).

Epistemic communities are informal policy-oriented networks that are established over a period of time. According to Haas (1992), they are "networks of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge". Epistemic communities have a strong deliberative dimension, in that participants behave rationally and acknowledge and value each other's arguments. Although Zito (2001) points out that it is not frequent to find examples of

[15] Greenwood (2007.a) points out that the Commission officials are in some cases dependent over civil society actors' information for policy drafting.

epistemic communities influencing EU policy, deliberative processes have been found in some researches concerning experts groups, civil society and European Institutions[16].

This tool explains how knowledge and views of a policy field shared by skilled actors, even if formally belonging to different organisations, may produce policy change. The advocacy coalition framework elaborated by Sabatier and Jenkins (1992) and adapted to the EU by Sabatier (1998) is a broader approach explaining how in pluralistic situations policy change may occur through a slow change of the policy framing occurring because of a slow change in the beliefs of organisations caused by a learning effect.

Both epistemic communities' and the advocacy coalition framework account for the role of ideas in EU policy making (Trenz and Eder 2004, 2007, Sabatier 1998) and may are useful for analysing whether the participation of civil society organisations in consultations may enlarge debates. Firstly consultations are important fora for the exchange of policy ideas. Secondly, these tools imply analysing the links of ideas in specialised publics with the construction of wider frames among European general publics (Muller 2008: 68-69).

However, are consultation processes fit to produce the enlargement of debates on the EU that the Commission and civil society discourses claim? Consultation exercises can difficultly foster input legitimacy because the participants in these procedures do not actually represent a constituency. In a sense it may said that to a certain extent "Brussels still speaks to Brussels". This is so because there is no accreditation system that would allow organisations to formally represent their members. Secondly, deliberation in these kinds of fora could be difficultly turned towards input legitimacy without transforming their nature. Many citizens' organisations participate in such communities and try to deliver the best type of results for their cause (Greenwood 2007.b: 347). Civil society groups may not be able to take part in coalitions or communities because of an inability to come to share the frames and solutions constructed collectively if these contradict an eventual mandate from their constituency. Consequently many of the Brussels based European civil society organisations have little contact with their grassroots associates[17], and thus it is difficult to argue that they are bringing citizens back in.

The very fact that open consultations are organised in parallel with stakeholders fora or consultative committees shows that Institutions and civil society organisations intend to use consultation as an

[16] Commission's DG Trade dialogue with civil society is frequently cited in this sense. See Chalmers (2003), Greenwood (2007.a).

[17] Armstrong (2002) and Sudbery (2003) have found that there is a form of "cognitive dissonance" between the representatives of many NGOs in Brussels and their constituency. Firstly, the members of the Brussels office perceive that the members of national or subnational sections are not always aware of the need to engage in epistemic communities, use technical and scientific arguments and avoiding a "lonely rider" attitude in order to be influent. Secondly, the conditions for consultation is not optimal, as the deadlines do not always allow many organisations involve all their networks in the debate.

institutional device to extend deliberation beyond strong and segmented publics (Eder and Trenz 2007: 172). However, the ways in which this can be done are not so clear.

4. Can specialised and strong publics foster general deliberation?

This section critically reviews the discourse about civil society deliberation as a way of increasing awareness among EU citizens. The main difficulty for extending deliberation beyond specialists thanks to consultation processes can be explained by analysing the underpinnings of the deliberative theoretical framework in which this assumption rests.

Deliberation seems to be too many things at the same time. A "de minimis" definition consists in considering it as a way of policy making between actors belonging to different social groups and with different positions in the political field which does not pertain to bargaining but to convincing. However, when formulated as part of a political theory the ways of use of this concept are different and indeed opposed.

A first opposition concerns problem solving and self expression of a people. For authors reading deliberation as a way of problem solving (Joerges 2002, Chalmers 2003) deliberation is an useful method to find consensus between close positions, in which those who deliberate consider the others as members of an in-group. Opposed to this, in republican theories (Eriksen and Fossum 2000, Giorgi 2006 but as well Chalmers 2003) deliberation is a way of self expression of the people. In this sense, it has a value for identity formation and self determination, but it does not pertain to the same ontological and epistemological frame as problem solving, as in pluralist societies (and that is a differing assumption in liberal and republican theories) the whole range of interests and identities cannot be resumed to a common position, and examples of deliberation are difficult to find, beyond the moments of constitution making.

A second set of opposing readings are those which pertain to deliberation as self expression of an objective constituency (be it **the** people or otherwise) by contrast with an understanding of deliberation as an "antechamber" for the creation of new constituencies, because of the link with identity and interest formation.

This does not mean that deliberativism cannot explain ways to enlarge debates on the EU. However, the question to ask is who deliberates in the EU? It is not because some deliberative practices can be detected in the EU public space, consultations and in general epistemic communities could be considered as being part of these, that the EU can become a sphere of strong debate among general publics. As there

is "missing link" between both spaces (Eriksen 2007), the analysis of specialised publics cannot be simply translated to general publics

Associating citizens, either through debates in the delegations of the EU in the member states or encouraging them to submit proposals for consultation as the White Paper on Communication (European Commission (2006a) proposes, can not be a way to foster a general space of publics in Europe. The most obvious essay is the website 'Your Voice in Europe'[18], where the Commission expects input from citizens. Not only does this website receive a reduced number of contributions, but it is clear that these do not have a strong influence in policy decisions[19] and there is no possible way to ensure that these are representative of the general population or stakeholders. Finally, these ways of participation only reach citizens who are already aware about the EU and know how to find the information and remain too dependent on policy making. Proposals like citizens' panels or deliberative polls[20] have the advantage that they build on a given methodology to ensure representative sampling. These experiences indicate citizens' opinions on the EU are strongly influenced after joining deliberation on the EU (Boucher 2009), which would support deliberative interpretations. However, this device is still closer to surveying than a "governance technology". Couldn't the Commission rather use consultation for extending deliberation though the vertical association of citizens' already active civil society organisations?

The issues that are normally discussed in consultations would not be the object of very intense debates in general publics, but they are of great concern for citizens active in NGOs or professional associations in this field. A policy combining communication and participation is coherent with the "democratic functionalism" accounts (Eder and Trenz (2004) which considers that deliberate on the EU, including about its democratic shortcomings, will necessarily cause an increased interest among general publics. This seems to be confirmed by the "postfunctionalist" account of Hooghe and Marks (2009: 13) on the role of political entrepreneurs (skilled actors for Stone Sweet, Fligstein and Sandholtz 2001) in shaping public opinion on Europe by priming, framing and cueing.

Consultation could thus be a way of enlarging debates on the EU. However, there are some reasons why this is unlikely to happen in the present configuration, despite the discourse constructed on this subject by civil society organisations and the Commission (see section 1). As it has been said[21], both the internal organisation of civil society and the rules on consultation tend to cause that the civil society groups do not associate their grassroots organisations and prefer to engage in epistemic communities or other forms of

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[18] http://ec.europa.eu/yourvoice/consultations/index_en.htm

[19] A data supporting this is that the Commission encourages organisations to register in the interest groups register by informing that contributions from unregistered groups will be treated as coming from individuals.

[20] http://www.tomorrowseurope.eu/

[21] See supra footnote 17

insiders' discussions. Using consultation as a way to involve the public closely would imply that the rules impose internal consultation constraints on organisations, so that the Commission could and rely on the fact that the positions of civil society are the result of internal deliberation.

This does not only pose the problem of the independence and self-organisation of civil society (Fazi and Smith 2006). It would imply a substantial change in the way in which consultations are carried out. The 2002 rules demand organisations to be transparent, and the register of interest groups serves this purpose. However, the lack of recognition of representativity criteria as well as the tight deadlines does motivate organisations to involve their constituencies.

Beyond, this change would have deeper implications than a mere change in consultation rules. It pertains to a mode of policy making. If civil society groups would have a clear mandate the policy making process would become more controversial and representative organisations would be less able to take part in epistemic communities. It must be said that these will remain in the form of consultative committees or otherwise, as they are an invaluable source of information for the Commission. Moreover, a dynamic specialised sphere, as it is today the case, needs input from non representative interest groups. However, a claim to obtain input legitimacy without an extended and to a certain extent more contentious debate will not take place.

5. Conclusion

The consultative practices of the Commission have been analysed as an example pertaining to two dimensions. Consultation has always been a practice used by the Commission in order to obtain good technical input from interest groups and to ensure that its policy proposals were endorsed by a constituency. In this sense the second dimension of debate, arguing and learning has always been present, although it is clear that the properly communicative practices have bourgeoned after the introduction of rules on transparency. Furthermore, this dimension can be expected to increase, as organisations have been successful in framing a call for participative democracy and "civil dialogue" (Fazi and Smith 2006) that has made its way into the Treaty.

This has been possible thanks to the compatible discourse by the European Commission in favour of the realisation of complementary models of democracy at European level. This paper has presented the drawbacks of this discourse. Firstly, the Commission has not endorsed the discourse on "civil dialogue" fully as it does not make a difference between interested parties and voluntary associations. In this sense consultation is a large and diverse procedure with different objectives and results in each sector.

Secondly, involving citizens is not an easy task, due to the nature of the subjects and to the position of European associations towards their grassroots members. Finally the realisation of the discourse about participative democracy would reshape the set of relations between the EU and civil society, in the sense that those are still oriented towards the production of output legitimacy, as the importance of technical knowledge demonstrates.

However, this paper has showed that consultation can be one of the tools to "close the gap" between strong publics and general publics in Europe.

The analysis of the European public space divided in three sectors has been useful to get to this conclusion. Firstly, it allows understanding communicative processes that would be ignored otherwise. Paying attention to exchanges between interest representation groups, NGOs and institutions shows the existence of a burgeoning public space, as limited it may be. It would be wrong to reduce these processes to selfish bargains on behalf of private interests, as some of these arenas have a real epistemic value. Secondly, it has been seen that civil society is active in these spheres, what can turn them into adequate fields for participation and hence democratisation of the EU. In this sense, it is not because that these spaces are specialised or limited that they do not play a role in the extension of information and debates about the European Union.

6. Bibliography

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