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# European Union Governance

Effectiveness and legitimacy of  
European Commission Committees

**Karen Heard-Lauréote**



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# European Union Governance

The European Commission has increasingly focused on the benefits it can derive from the greater participation of organised civil society in its role and activities. In the face of general decline in public trust in the institutions of government, it facilitated and encouraged new channels of access and consultation opportunities as a means to legitimise its position within the European political system.

Karen Heard-Lauréote's comparative analysis of four European Commission advisory forums innovatively investigates the existence of a conflict between the capacities of such forums to deliver standards of good governance. The author questions whether these venues can provide efficiency gains via the production of sufficient policy output without delays or deadlocks at reasonable cost and sustain adequate democratic credentials such as legitimacy.

This study makes a significant contribution to its field by pursuing contemporary legitimacy debates asking whether under certain conditions or in certain policy-making contexts, legitimacy and efficiency may be reconciled or become at least partially compatible in European Commission committees.

*European Union Governance* will be of interest to students and researchers of European Union politics and policy-making.

**Karen Heard-Lauréote** is Senior Lecturer in European Politics and Public Policy, University of Portsmouth.

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Effectiveness and legitimacy in European Commission Committees

*Karen Heard-Lauréote*

**To my daughter Madeleine.**

# Abbreviations and acronyms

AAE	Aids Action Europe
AAG(s)	Agricultural Advisory Group(s)
A&E AG	Agriculture and Environment Advisory Group
AEC	Association of European Consumers
AER	Association of European Regions
AESGP	Association of the European Self-Medication Industry
AGE	European Older People's Platform
AHWGs	Ad-Hoc Working Groups
AIM	Association Internationale de la Mutualité
APRODEV	Association of World Council of Churches Related Development Organisations in Europe
ASPHER	Association of Schools of Public Health in the EU Region
BEUC	Bureau Européen des Unions de Consommateurs
BI	Birdlife International
BUSINESSEUROPE	The Confederation of European Business (formerly UNICE – Union des Industries de la Communauté européenne)
CAP	Common Agricultural Policy
CAP AAG	Common Agricultural Policy Advisory Group
CB(s)	Competent Bodies
CBO(s)	Community based organizations
CD	Commission Decision
CED	Council of European Dentists
CEJA	European Council of Young Farmers'
CF	Consultation Forum
CIAA	Confederation of the Food and Drink Industries of the EU
CIDSE	International network of 16 Catholic development agencies
COFACE	Confédération des Organisations familiales de l'Union européenne
COGECA	Comité Général de la Coopération Agricole de l'UE
CONECCS	The database for Consultation, the European Commission and Civil Society
COPA	Comité des Organisations Professionnelles Agricoles de l'UE
CPE	European Farmers Coordination
CPME	Standing Committee of European Doctors



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CSD	Civil Society Dialogue
CSO(s)	Civil Society Organization(s)
DG(s)	European Commission Directorate(s) General
DG SANCO	Directorate General for Health and Consumers
EATG	European Aids Treatment Group
EC	European Commission
ECAF(s)	European Commission Advisory Forum(s)
ECH	European Committee for Homeopathy
ECJ	European Court of Justice
ECL	Association of European Cancer Leagues
ECPC	European Cancer Patient Coalition
ECSC	European Coal & Steel Community
EDF	European Disability Forum
EEA	European Economic Area
EEB	European Environment Bureau
EEC	European Economic Community
EESC	European Economic and Social Committee
EFA	European Federation of Allergy and Airways Diseases Patients' Associations
EFFAT	European Federation of Food, Agriculture and Tourism Trade Unions
EFN	European Federation of Nurses Associations
EFPIA	European Federation of Pharmaceutical Industries and Asso- ciations
EGA	European Generic Medicines Association
EGAN	European Genetic Alliances' Network
EHMA	European Health Management Association
EHN	European Heart Network
EHTEL	European Health Telematics Association
EMA	European Midwives Association
EMAS	Eco-Management and Audit Scheme
ENGO	Environmental Non-Governmental Organization
ENSP	European Network for Smoking Prevention
EP	European Parliament
EPF	European Patients' Forum
EPHA	European Public Health Alliance
EPSU	European Federation of Public Service Unions
ER-WCPT	European Region of the World Confederation for Physical Therapy
ESF	European Services Forum
ESIP	European Social Insurance Platform
ESMHD	European Society for Mental Health and Deafness
ETUC	European Trade Union Confederation
EU	European Union
EU15	The EU comprising 15 Member States as it was until 2004

EU27	The 27 Member States of the EU
EUCOMED	Representation of designers, manufacturers and suppliers of medical technology
EUEB	European Union Eco-Labeling Board
EUHPF	European Union Health Policy Forum
EUPHA	European Public Health Association
EUROCARE	Advocacy for the prevention of alcohol related harm in Europe
EUROCHAMBRES	The Association of European Chambers of Commerce and Industry
EuroCommerce	The retail, wholesale and international trade representation to the EU
Euro Coop	European Community of Consumer Cooperatives
EUROGROUP	Eurogroup for Animals
EuroHealthNet	European Health Network
EUROPA DONNA	The European Breast Cancer Coalition
EURORDIS	European Organisation for Rare Diseases
EWC	European-wide constituency
F&C AG	Forestry and Cork Advisory Group
FoEE	Friends of the Earth Europe
FOEI	Friends of the Earth International
FTA	Foreign Trade Association
FTAs	Free Trade Agreements
GAMIAN-Europe	Global Alliance of Mental Illness Advocacy Networks
GIRP	Groupement International de la Répartition Pharmaceutique
HA	High Authority
HAI	Health Action International
HOPE	European Hospital and Healthcare Federation
IAPO	International Alliance of Patients' Organizations
IPPF EN	International Planned Parenthood Federation European Network
ISC	Inter-Service Consultation (within European Commission DGs)
IUHPE	International Union for Health Promotion and Education
MAI	Multilateral Agreement on Investment
MHE	Mental Health Europe
MS(s)	Member State(s)
MTP	Minimum Threshold Principle
NGO	Non-Governmental Organization
PGEU	Pharmaceutical Group of the European Union
QMV	Qualified Majority Voting
RC/EU Office	Red Cross/EU Office
SEA	Single European Act
SHP	Stake-Holding Principle
SME(s)	Small and Medium-sized Enterprise(s)
SOLIDAR	European network of NGOs and labour movement organisations

SPS	Sanitary and phytosanitary measures
TCG	Trade Contact Group
TEU	Treaty on European Union
RD	Rural Development
RD AG	Rural Development Advisory Group
RELEX	European Commission DG for External Relations
UEAPME	European Association of Craft, Small and Medium-sized Enterprises
UEHP	Union Européenne de l'Hospitalisation Privée
UEMS	European Union of Medical Specialists
WG	Working Group
WIDE	European feminist network of women's organizations
WTO	World Trade Organization
WWF	World Wildlife Fund
YFJ	Youth Forum Jeunesse

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# Introduction

Since at least the late 1990s, the European Commission has increasingly focused on the benefits it can derive from the greater participation of organised civil society in its role and activities. It has done this in the face of increasing deficits in legitimacy, including its perceived alienation from the public, a decreased level of public trust in so-called ‘faceless Eurocrats’ and a more general decline in public trust in the institutions of government. It has, in fact, found it necessary to create and open new channels of access and consultation opportunities to encourage and facilitate the increased direct participation and involvement of multiple and diverse civil society stakeholders. This, it regards as a means to legitimise its position within the European political system and compensate for the lack of democratic accountability with which it is often charged.<sup>1</sup>

The basis of this charge is two-fold. First, the Commission lacks an electoral mandate and therefore the involvement of a broader cross-section of outside groups representing societal interests in the policy- and decision-making processes may increase its legitimacy and political accountability. Second, the incorporation of expertise and knowledge detained by external groups may improve the quality of policy proposals that result from its policy initiation task, its principal *raison d’être* in the European level institutional framework. While business groups are thought to provide technical expertise, economic significance and financial resources, the NGO community has leverage on its constituencies. External groups, of course, have their own pressing concerns. First is their lack of regular and intimate access to decision-makers. Second, they require information about the Commission’s future policy proposal plans and other Civil Society Organizations’ (CSOs’) positions. Third, they are often seeking a sort of ‘badge of official recognition’ as formal stakeholders vis-à-vis the Commission, which they can then publicise to their (potential) membership base as a justification for joining and paying fees. As a result, CSOs are willing to cooperate in helping plug the legitimacy and knowledge gaps in exchange for greater access. Because it may be possible to plug EU legitimacy gaps by encouraging civil society participation or facilitating active citizenship,<sup>2</sup> politics and policy-making can be opened up to citizens and CSOs as part of the solution to these deficits (Warleigh-Lack 2007: 58).

## 2 *Introduction*

Since at least the late 1990s, a Commission-propelled discourse has emerged and developed, which attributes increased importance to the participation of organised civil society as a means to legitimise the institution's own role and activities. It is increasingly keen to point out, in fact, that its legislative proposals are based on wide consultation with civil society. Gradually, the EU generally and the Commission specifically have shifted their 'rhetorical emphasis' away from 'groups as a necessary source of expertise and implementation power (to aid output legitimacy)' towards an emphasis on 'groups as agents to enhance core democratic functions through participation (to aid input legitimacy)' (Greenwood and Halpin 2007: 195–96).

More than a decade after the launch of its civil society participation discourse, the Commission seeks to portray itself as inclusive. One of the means by which it assures stakeholder participation is via the constellation of advisory groups, advisory committees, advisory forums, consultative committees, consultative groups, expert committees or expert groups, as they are variously labelled. For the purposes of this volume, the label of European Commission Advisory Forums (ECAFs) will be employed as an all encompassing one for the four advisory structures explored: the EU Eco-Labelling Board (EUEB);<sup>3</sup> the European Health Policy Forum (EUHPF);<sup>4</sup> the Trade Contact Group (TCG) and associated Civil Society Dialogue (CSD);<sup>5</sup> and the Agricultural Advisory Groups (AAGs).<sup>6</sup> These are all examples of participatory mechanisms.

The overall task of committees established at European Union level and thus ECAFs is to assist the Community institutions and they are involved at all stages of the legislative process. For its part, the European Commission regularly consults committees of experts at the pre-proposal stage, before drawing up a new proposal for legislation. These committees are generally comprised of private sector or national government experts who are representatives of the milieux involved. The Commission's main aim in working with committees is to ensure that it remains open to the concerns of those who will be affected by the legislation. At the time of writing the Commission's Register of Expert Groups lists over 1000 formal and informal expert groups. The ECAFs examined in this volume are composed wholly or in part of organised civil society representatives, who are perceived by the Commission, their convenor and sponsor, as those most interested and affected by the issues discussed as part of their mandates.

Given their status as participatory mechanisms, these ECAFs can be linked to the Commission's discourse that participation can be a legitimising credential. It is, however, significant that these types of forums in their earliest 1960s manifestation were not in fact primarily created and developed as a means to boost input legitimacy but rather to provide a different kind of value to the EU, that is, to boost output legitimacy. It is equally noteworthy that, in parallel to its contemporary pursuit of civil society participation as a legitimising tool, the Commission has also continued to promote it as a means to improve policy-making performance and the quality of outputs and outcomes.



The question posed by this volume is whether ECAFs possess the capacity to contribute simultaneously to a legitimising discourse by adding value in terms of inputs while at the same time contributing to the quality of policy by reinforcing output legitimacy. In so doing, this analysis complements existing debates as to whether input legitimacy<sup>7</sup> can only be improved by compromising output legitimacy<sup>8</sup> or effectiveness and efficiency,<sup>9</sup> or whether the two standards can be pursued in tandem. The ECAFs may provide proof that legitimate and effective governance does not necessarily have to be mutually exclusive but can be complementary – even mutually reinforcing. While effectiveness cannot compensate for a lack of legitimacy, better participation and deliberation can bring more effective policy outcomes by strengthening inclusiveness and accountability.

Following a brief outline of the main rationale underlying this volume, the remainder of this introductory chapter proceeds as follows. First, it tracks the Commission's discourse regarding participation as a legitimising tool. It does this via a short examination of several major policy documents produced by this institution since 1997. Second, it introduces at a general level the European participatory governance structures at the heart of this discussion: the ECAFs. Thereafter, it more specifically introduces the Forums forming the focus of the case studies: the EUEB, the EUHPF, the TCG and CSD, and the AAGs. Although these can be linked to the Commission's participation discourse as a legitimising tool, it is significant that they were first developed to boost policy- and decision-making effectiveness. The Commission's discourse of participation to enhance effectiveness is thus also briefly tracked using some of the same major policy documents as in part one. Having set the scene for the remainder of the volume, this introductory chapter ends by charting the aims and content of the remaining chapters, as well as considering the methodology utilised.

A systematic investigation into the EU's capacity for conducting effective and legitimate governance using the ECAFs as illustrative cases is timely for several reasons. First, such studies are 'hard to find' in existing literature (Neyer 2004: 19). Moreover, any available literature predominantly focuses on the EU's problem-solving capacity without fully operationalising the term or collecting systematic empirical data (Neyer 2004: 19). Second, the EU's legitimacy is a priority for academic research (Lord and Magnette 2004: 183), particularly given the uncertainty which preceded the ratification of the Lisbon Treaty. Third, ECAFs are key components of the EU's administrative infrastructure, the study of which has been described as 'an intriguing affair' (Wessels 1998: 209). At risk of falling in with that category of 'strange academics' who study the Union's administrative networks of governance, the author considers a deeper exploration of these institutional structures worthwhile both from the standpoint of political debate and academic research (Wessels 1998: 209). As locations for 'low politics' and informal decision-making, ECAFs offer, for instance, an excellent opportunity to study an example of the EU's informal