

# **Involvement of Social Constituency in the EU Commission's Policy Process: The Organic Farming Regulation Policy**

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## Abstract

This thesis analyzes why the Commission fell short of their own goal to include the ‘social constituency’ that is the general public, organized civil society and experts in the policy process. Empirical cases used to illustrate this shortcoming are the organic farming legislations 2092/91 and 834/2007, which were revised from 2004 to 2006 and from 2012 to 2014 respectively. The foundation for this analysis is three hypotheses grounded in rational choice institutionalism, historical-institutionalism and deliberative democratic theory. The analysis, based on tracing the process of the policy revision and a summative content analysis of the documents produced by the Commission as part of the two revision process, shows that rational choice theory and historical-institutionalism are limited in their ability to explain the developing relationship between the social constituency, in particular in terms of the general public. The limitation of these approaches is found in the prioritization of individual and directly beneficial rationales for the involvement of the social constituency. Deliberative democratic theory instead allows for a reflexive discussion allowing a conceptualization of the general public, and an explanation of the Commission’s increasing tendency to describe the European citizen as a consumer. How the Commission discusses sections of the social constituency in turn provides further insight into the limited involvement.

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# Introduction

The European Commission has made apparent its efforts to include various social groups and the public at large as a means of establishing a stronger justification for the legislative process in the European Union. With the White Paper on Governance from 2001,<sup>1</sup> the Commission attempted to elaborate on how this could be achieved, and made “involvement” one of the corner stones of EU governance. This engagement places a heavy weight on the Commission in terms of how to involve a wide set of actors, ranging from experts in the field to the European citizen, which I collectively, drawing reference from Fossum, call the “social constituency.”<sup>2</sup> This thesis assesses the extent to which the Commission was successful in this involvement of the European social constituency, throughout the legislative process using the organic farming regulation as a study.

The foundation for this assessment is placed at an institutional level and is structured around the Commission’s acknowledged commitment to extend and focus on participation. Yet, as this thesis will show, through the analysis of the process taking places as part of the organic farming regulation revision, the Commission fell short of this goal.

While there are obvious limits to what extent and how the Commission can include public and civil society’s preferences, it must be questioned as to why the Commission failed to live up to its own commitments to include the public and civil society in the policy-making process. The question being, what can explain the shortcomings of the Commission’s attempts

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<sup>1</sup> EU Commission, “European Governance - A White Paper” (Brussels, 2001).

<sup>2</sup> John Erik Fossum, “Conceptualizing the EU’s Social Constituency,” *European Journal of Social Theory* 8, no. 2 (May 1, 2005).

to further and more deeply include civil society in the process of revising the organic farming regulation?

How the Commission includes the social constituency affects the role and conceptualization of the public, the civil society and how we think of participation through governance overall. In other words, the types of governance shapes the societies political structure and influence the prevalence of certain groups. The reason for involving the public can be explained differently. The EU, as a new form of governance made this abundantly clear. New structures, venues of communication and methods to transfer political power were needed. Kohler-Koch explained the emergence of these new structures as multi-leveled governance. In this conceptualization of the movements of power in the EU, civil society is a mechanism allowing the Commission to represent a wider public.<sup>3</sup> Eriksen and Fossum connected the incorporation of civil society to a matter of the Commission establishing itself as a legitimate actor where representation had to play a larger role.<sup>4</sup> I place this discussion in the institutional perspective, basing the discussion in the Commission's own narrative to better understand the Commission's specific interests and abilities and its connection to direct participation. This approach is similar to Smismans, who questions the ability of new participatory mechanisms in the EU Commission to effectively form a narrative by the civil society following the White Paper.<sup>5</sup> By basing the analysis in the Commission's own commitment, I circumvent the ontological concern about the social constituency's purpose,

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<sup>3</sup> Beate Kohler-Koch, "The Evolution and Transformation of European Governance" (conference, Pittsburgh, PA, 1999), <http://aei.pitt.edu/2312/>.

<sup>4</sup> Erik Oddvar Eriksen and John Erik Fossum, "Democracy through Strong Publics in the European Union?," *JCMS: Journal of Common Market Studies* 40, no. 3 (September 1, 2002): 401–24.

<sup>5</sup> Stijn Smismans, *Law, Legitimacy and European Governance: Functional Participation in Social Regulation* (Oxford: Oxford University Press, 2004), <http://orca.cf.ac.uk/2999/>.

and can therefore directly question why the Commission was not able to include the social constituency as they intended.

There are several reasons to look at the organic farming regulations to analyze this shortcoming. It is both the timing of the revisions and the area that they concern that make them of particular interest. The first regulation is EC 2092/91, created in 1991 and the second, EC 834/2007, replaced it in 2007. The Commission's revisions of these took place between 2004 to 2006 and 2012 to 2014 respectively, the first revision period initiated right after the White Paper on Governance. By studying both revisions, I can make statements regarding the development and changes from the beginning period of the Commission's established commitment to wide participation. The regulation concerns organic production, processing and labeling in the EU,<sup>6</sup> which is one of the fastest growing sectors in the EU.<sup>7</sup> Organic agriculture is also an intersectional policy area, where environmental, health, trade, and rural development sectors, to name a few, come together. With all these diverging interests, this legislation is subjected to differing interest from a wide set of sectors. Because of the many actors involved in this process, it allows for an assessment of the Commission's interaction with many different types of actors.

To analyze this, I tests three hypotheses based three theories relevant to EU policy-making to assess why the Commission was unable to include the social constituency. These theories are rational choice theory, historical-institutionalism and deliberative democratic theory. To do this, I trace the participatory effects empirically located in the way that the

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<sup>6</sup> European Commission, "Organic Certification," Text, *Organic Farming - European Commission*, (September 19, 2016), [https://ec.europa.eu/agriculture/organic/organic-farming/what-is-organic-farming/organic-certification\\_en](https://ec.europa.eu/agriculture/organic/organic-farming/what-is-organic-farming/organic-certification_en).

<sup>7</sup> "Organic Farming Has Grown Rapidly, Says EU," *EURACTIV.com*, July 28, 2014, <https://www.euractiv.com/section/agriculture-food/news/organic-farming-has-grown-rapidly-says-eu/>.

Commission operates and includes different groups of the European society. I identify the Commission's tendencies using multiple sources: consulting the documents produced by the Commission as part of these revision processes, through interviews with people who were part of the revisions in different capacities and through a content analysis of the Commission's documents. The analysis shows that a formalization of involvement did not lead to increased involvement as suggested by the institutional theories, rather stakeholder and expert involvement reduced between the two revisions. Further, while the reference to the general public increased, in particular due the creating of an online public questionnaire, there is no evidence of a deepened or more engaged public in the process. The methods by which the Commission indicated further involvement, did not suggest the public had any increase political voice. The involvement of the general public was colored by the tendency of the Commission to refer to this section of the social constituency as consumer. While the concept of a wide and inclusive public seems appealing the process shows a more limited type of interaction, despite efforts on the Commission's behalf. The implication of this type of involvement is reduced capacity of the public as citizens to engage in any formative or effective way with the Commission, which I discuss from a deliberative democratic perspective.

The first chapter of this thesis provides a background of academic discourse on the role of social constituency in EU governance, how a civil society can be conceptualized, and then provides an overview of organic farming in the EU. This discussion takes us to the establishment of the research design. In the second chapter, I introduce my empirical framework by outlining the discrepancy between how the Commission stated its goals of participation and the process of involvement that followed in the case of the organic farming revisions. To investigate this process and whether the Commission is applying their stated goal



of including the greater public into their policy-making, I make use of three strands of thought used when addressing why the Commission failed to live up to its objective of inclusion. The theories are: rational liberal institutionalism, focusing on why the Commission limited the type of interactions they had in these processes; historical institutionalism focusing on path-dependence as a limiting factor to why the Commission was unable to transform its procedure; and deliberative democracy theory explaining how and who should be involved in participation. In the fourth chapter, I assess, based on the three hypotheses how the involvement of the social constituency in the revisions was actually carried out in the case of the two organic farming legislations, in order to test the three theories. In the final chapter, I move away from the initial discussion and develop the conceptualization of a European community and whether the Commission's use of 'civil society' encapsulates the broader principles they referred to.

# The the Constituency in the Policy Process

To enter the discussion on how the Commission involves the social constituency in the legislation process, I must first consider how actors are involved and how their role in the context of the Commission is assessed in academic discourse. Following that discussion, I develop my methodological structure which consists of process tracing and a summative content analysis to explain the discrepancy in how the Commission discusses different types of actors role and then how the Commission followed through with that aim in the regulation revisions.

## *The Social Constituency, Part of a Changing EU Governance*

The question of who belongs in the legislative process as part of EU governance led to the production of a range of seminal works questioning the extent to which social constituency played a role in policy making and the reasons behind EU integration. The EU drastically changed the playing field on how to conceptualize representation as the gap between citizens and the government widened, adding several possible instances of interaction in difference shapes between the individual citizen and the EU governance.

### AN INSTITUTIONAL APPROACH

New intergovernmentalists rejected non-state actors and the EU's own political agenda setting power and suggested that nation states have conceded to the integration and therefore maintain the political power, a position developed by Bickerton, based in

Moravcsik's traditional intergovernmentalist perspective.<sup>8</sup> Contrary to this view, supranationalists suggested that the Commission's increased power meant independent preferences by the Commission, emphasizing the EU's supranational character.<sup>9</sup> Nugent and Cini, as neofunctionalists, were important in developing the countering narrative, and demonstrated the Commission as an entrepreneur with independent competences.<sup>10</sup>

Applying an institutional approach to this neofunctionalist perspective enables a conceptualization of why the Commission engages in a particular relationship. The most common institutionalist approaches are rational choice and historical-institutionalist ones, which are therefore tested in this thesis. Rational choice's central claim is that actors operate rationally and delegate to maximize their own position,<sup>11</sup> whereas historical-institutionalism takes a more structural approach looking at the conditions of past choices and their effect on present positions.<sup>12</sup> The underlying condition of institutionalists is that institutions affect their political surrounding and matter as an entity. Sociological and discursive approaches are the other two central dimensions, in this general theory, and they each highlight cognitive and idealist<sup>13</sup> aspects as important variables. While they are relevant alternative conceptual

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<sup>8</sup> Christopher J. Bickerton, Dermot Hodson, and Uwe Puetter, *The New Intergovernmentalism: States and Supranational Actors in the Post-Maastricht Era* (OUP Oxford, 2015).

<sup>9</sup> Mark A. Pollack, "Rational Choice and EU Politics," SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, October 1, 2006), <https://papers.ssrn.com/abstract=1011326>; Mark A Pollack, "The Engines of Integration? Supranational Autonomy and Influence in the European," ed. Wayne Sandholtz and Alec Stone Sweet, *European Integration and Supranational Governance*, 1998, 217–49.

<sup>10</sup> Neill Nugent, *At the Heart of the Union: Studies of the European Commission* (Springer, 2016); Michelle Cini, "Administrative Culture in the European Commission: The Cases of Competition and Environment," in *At the Heart of the Union*, ed. Neill Nugent (Palgrave Macmillan UK, 1997), 71–88.

<sup>11</sup> Jonas Tallberg, "Delegation to Supranational Institutions: Why, How, and with What Consequences?," *West European Politics* 25, no. 1 (January 1, 2002): 23–46.

<sup>12</sup> James Mahoney, "Path Dependence in Historical Sociology," *Theory and Society* 29, no. 4 (August 1, 2000): 507.

<sup>13</sup> Vivien A. Schmidt, "Democracy and Legitimacy in the European Union Revisited: Input, Output and 'Throughput,'" *Political Studies* 61, no. 1 (March 1, 2013): 2–22.

frameworks, sociological is closely linked to the historical approach, making historical-institutionalism a clearer foundation to examine the relationship between the social constituency and the Commission. Discursive institutionalism is in addition a newer approach tying in constructivist aspects linking the power of ideas and communication to the development of institutions.<sup>14</sup> To incorporate the variable of communication and an active involvement of the public, and other stakeholders, deliberative democracy more clearly establishes a link to the construction of a constituency and it therefore a more useful approach in this context.

Because of the distinctiveness of the Commission as an institution with less traditional ways to facilitate representation, new structures are emerging. The distance between people and the governing institutions is increasing. Recently governmental changes that affect the methods of participation have been investigated, some notable examples being the Open Method of Coordination and the Citizen's Initiative. This thesis is situated in the Commission's institutional context and is based on the Commission's attention to informal actors, in the form of the social constituency. The basis is therefore seeing EU's policy as part of a larger process, looking at policy formulation and interactions.<sup>15</sup>

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<sup>14</sup> Claudio M. Radaelli and Vivien A. Schmidt, "Policy Change and Discourse in Europe: Conceptual and Methodological Issues," 2004, <http://cadmus.eui.eu//handle/1814/3473>.

<sup>15</sup> Schmidt, "Democracy and Legitimacy in the European Union Revisited."

## POLITICAL PARTICIPATION: CONCEPTUALIZING THE SOCIAL CONSTITUENCY

Participation in the EU was justified from a variety of positions, one of the most prominent ways being a conceptualization of representation taking place at numerous instances between the European people and EU institutions through multi-level governance.<sup>16</sup> This recognizes the institutional nature of the research, the scope used in this thesis.

The social constituency has made itself relevant in numerous different forms. Often referred to a ‘civil society’ it includes a wide set of groups, and was a prominent tool when discussing the mobilization and formation of a public or a community in the EU. Part of its increased use came through the ideas of multi-level governance and network theory developed by Kohler-Koch, which demonstrate the need to account for the increased number of venues of the Commission and the increased number of actors influencing EU institutions, suggesting there is a social organization level linking the relevant actors.<sup>17</sup> This highlights the interconnectivity between different levels of actors and looks at the broader schemes to assess influence at a meso-level.<sup>18</sup> Then, participation should be seen as delegates with lower limitations to who is considered a member or actor and including interest groups, unlike in the deliberative democracy system with a political public sphere.<sup>19</sup>

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<sup>16</sup> Liesbet Hooghe and Gary Marks, *Multi-Level Governance and European Integration* (Rowman & Littlefield, 2001).

<sup>17</sup> Kohler-Koch, “The Evolution and Transformation of European Governance.”

<sup>18</sup> Thorsten Hüller and Beate Kohler-Koch, “Assessing the Democratic Value of Civil Society Engagement in the European Union,” ed. Beate Kohler-Koch, Dirk de Bièvre, and William Maloney, CONNEX Report Series 5 (Mannheim, 2008), 145–81, <http://nbn-resolving.de/urn:nbn:de:0168-ssoar-195319>; Beate Kohler-Koch, “Civil Society and EU Democracy: ‘astroturf’ Representation?,” *Journal of European Public Policy* 17, no. 1 (January 1, 2010): 100–116.

<sup>19</sup> Jürgen Habermas, *Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy* (Cambridge: Polity Press, 1996).

Connecting participation to democratic legitimacy, is done by suggesting that the incorporation of civil society is a remedy to a 'legitimacy deficit',<sup>20</sup> is another feature of part of the discussion of the constituency's role. This is closely connected to deliberative ideas of democracy and how the public can participate in a dialogue. Similarly to the other conceptions, there is a degree of networking and overlap between actors, but rather than providing a descriptive rationale for the emerging structure, a normative justification stresses the inclusion of voices and a public reasoning.<sup>21</sup> Connecting participation to legitimacy at a normative level was popularized around the White Paper on Governance and later around the time of the Lisbon Treaty, where the European Parliament gained more power. This discussion illustrates another way to conceptualize how the public sphere can and should involve itself in EU governance, and further how the public shapes decision-making.<sup>22</sup> The different ways a European community has been envisioned, and its connection to policy-making illustrates an underlying issue in front of this research project.

As previously mentioned, what I aim to highlight is the interaction between different actors, not only what the EU has labeled civil society, but rather focus on the involvement of people and societies based on the idea that this interaction shapes civil society and its composition. As a point of clarification, it is important to explain in what context I use these

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<sup>20</sup> Beate Kohler-Koch and Barbara Finke, "The Institutional Shaping of EU–Society Relations: A Contribution to Democracy via Participation?," *Journal of Civil Society* 3, no. 3 (December 1, 2007): 205–21; Justin Greenwood, "Organized Civil Society and Democratic Legitimacy in the European Union," *British Journal of Political Science* 37, no. 2 (April 2007): 333, doi:10.1017/S0007123407000166; Kenneth A. Armstrong, "Rediscovering Civil Society: The European Union and the White Paper on Governance," *European Law Journal* 8, no. 1 (March 1, 2002): 102–32; Christine Quittkat and Barbara Finke, "The EU Commission Consultation Regime," ed. Beate Kohler-Koch, Dirk de Bièvre, and William Maloney, CONNEX Report Series 5 (Mannheim, 2008), 189.

<sup>21</sup> Habermas, *Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy*, 359.

<sup>22</sup> Eriksen and Fossum, "Democracy through Strong Publics in the European Union?"

groups because of the unclear definition of ‘civil society,’<sup>23</sup> when discussing the overall and inclusive set of people, organizations and groups. Hereafter I refer to the inclusive set of actors, groups and the general public as a social constituency, i.e. the “structure of demands and expectations that citizens and groups place on the EU.”<sup>24</sup> Social constituency is a term developed by Fossum to describe the community in the EU that places demands on the transnational political structures,<sup>25</sup> and encompasses the homogenous nature that I am here addressing. It refers to a “collective representation of the people,” including the three different types of groups I distinguished in this thesis; the general public, experts and stakeholders in the form of NGOs and associations, etc.

### *A Background on the Case: Organic Farming in the EU*

The regulations in question are ECC 2092/91,<sup>26</sup> which was the first EU regulation establishing the rules for agricultural production of organic products, and 834/2007.<sup>27</sup> In 2007, EC 834/2007 replaced the original regulation and extended the included matters, to cover rules of organic products from third countries. This regulation was under revision by the Commission from 2012 to 2014, and is still under trilogue negotiations.<sup>28</sup> The new

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<sup>23</sup> In the “Minimum Standards for the Involvement of civil society” civil society is limited to social and economic actors. In the Green Paper from 2008, the definition has extended to organizations and associations in general. In academic literature, the definition is used equally ambiguously, although often referring to NGO’s, interest groups and associations.

<sup>24</sup> Fossum, “Conceptualizing the EU’s Social Constituency,” 123.

<sup>25</sup> Fossum, “Conceptualizing the EU’s Social Constituency.”

<sup>26</sup> Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and foodstuffs.

<sup>27</sup> Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91.

<sup>28</sup> “Organic Regulation Review | IFOAM EU,” accessed May 30, 2017, <http://www.ifoam-eu.org/en/organic-regulations/organic-regulation-review>.

legislation has not yet been passed, and although there are numerous reasons for this stalemate, of interest for this thesis are the Commission's two revision periods, between 2004-6 and 2012-14.

Throughout the revision processes, organic production in the EU radically changed, playing an increasing important role for Europeans. When constructing the first legislation EC 2092/91, organic farming was not an interest of the larger market and commercial interest was relatively low. In the past decade, demand has increased drastically, and production has had a hard time keeping up, despite a relatively large increase in production rate. In 2014, the market increased by 7.4%.<sup>29</sup> Production in the EU has had a harder time expanding and it was in this context the Commission began the revision process of 834/2007. The Commission's Impact Assessment Document reflected this awareness noting that the "organic land area only doubles in the last 10 years, while the market increased fourfold."<sup>30</sup>

When it comes to research on the EU legislation the foodstuffs sector, there has been significant interest because of the diverse stakeholders involved and because of the public and political debates surrounding questions like GMO. GMO, in the context of civil society involvement, is notably discussed by Dąbrowska who suggests that lacking "horizontal co-ordination" inhibited extensive public involvement<sup>31</sup>. Another example of food and sustainability is used to discuss public participation is in the case of biodiversity.<sup>32</sup> Food and

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<sup>29</sup> Stephen Meredith, Helga Willer, and IFOAM EU, *Organic in Europe: Prospects and Developments 2016*, 2016, 14.

<sup>30</sup> European Commission, "SWD(2014) 65 Final, Impact Assessment" (Brussels, March 24, 2014), iv.

<sup>31</sup> Patrycja Dąbrowska, "Civil Society Involvement in the EU Regulations on GMOs: From the Design of a Participatory Garden to Growing Trees of European Public Debate," *Journal of Civil Society* 3, no. 3 (December 1, 2007): 287–304.

<sup>32</sup> Felix Rauschmayer, Sybille van den Hove, and Thomas Koetz, "Participation in EU Biodiversity Governance: How Far beyond Rhetoric?," *Environment and Planning C: Government and Policy* 27, no. 1 (February 1, 2009): 42–58.



sustainable agriculture carry a general public interest, and are therefore of particular relevance when discussing public involvement and the possibilities of social engagement in policy development. While coming from a similar perspective, I limit the scope to assess the Commission's role and position in this public and social involvement of legislation recognized to have a public importance and relevance.

Studying these regulations is important for a number of reasons. Firstly, the EU is considered groundbreaking in their creation of the public questionnaires directed to the public, meaning that there is an incentive to highlight and promote this type of legislation, making it politically interesting and under a lot of stakeholder scrutiny. Secondly, organic farming is of growing public interest so studying their input should be of significant importance.

### *Research Design*

The data and topic come from the two policy cycles within the legislation process on organic farming, discussed in the previous section. The level of analysis is placed on the international system since I investigate the Commission's ability to include the social constituency in its regulation revisions, in this case the revisions of the organic farming regulation. The methods deployed are summative content analysis and theory testing process tracing.

I formulated three hypotheses that I then tested using data from the content analysis, the data collected regarding the revisions, secondary sources, and interviews. These hypotheses are grounded in three theories, two conventional and commonly used to describe EU integration: rational choice institutionalism and historical institutionalism, and I also incorporated a third, more critical approach using deliberative democracy to develop an

alternative empirical explanation as to why we fail to see a further involvement of actors in the legislative process. Each theory is meant to highlight plausible causal mechanisms that I then assessed by tracing the events and procedural changes and commitment in two revision cycles of the EU's organic farming legislation. To do this, I first demonstrate a discrepancy in the Commission's stated intention of further cooperation and in addition deploy both qualitative content analysis, (small-n), and theory testing process tracing including interviews with participants of the revisions.

## CONTENT ANALYSIS

For the content analysis aspects, I treated the two revision cycles as two separate events and used them to investigate any significant changes in output by the Commission. I call these Cycle 1 and Cycle 2. The aim is to identify to what extent stakeholders and civil society were actively involved and recognized by the Commission in the policy processes. This way, I could consider whether the relationship between the Commission and the stakeholders became more complex throughout the development of the legislations and if certain actors were more involved than others.

The documents used in this analysis are produced by the Commission and are similar in content and style; both cycles have an explanatory memorandum to the proposal itself, along with action plans. The difference lies in the third sets of documents, which for the first cycle is called the "Analysis of the possibility of a European Action plan for organic food and farming" and in the second cycle there is a document called the "Impact Assessment." The analysis was a background for the action plan whereas the Impact Assessment came alongside the Commission's proposal. This content analysis, covering the documents produced by the

Commission in the two revision cycles leading up to the proposal for the two regulations, is discussed in this section. The reason to use two methods was to demonstrate both the process and how the Commission chooses to incorporate different groups when discussing the process, in order to portray the most complete possible picture.

Here is the breakdown of the frequency of involvement, divided by the two revision cycles:

**Table 1, Overview of Documents used for Content Analysis<sup>33</sup>**

Revision Cycle	Document 1	Document 2	Document 3
Cycle 1	Action Plan	Analysis of the possibility of a Action Plan	Explanatory Memorandum to Proposal
Cycle 2	Action Plan	Impact Assessment	Explanatory Memorandum to Proposal

Qualitative content analysis allows me to derive the meaning of the text that was part of the revision process.<sup>34</sup> I specifically used a summative approach, defined by Hsieh and

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<sup>33</sup> The texts for the first cycle are (1) SEC(2004)739, "European Action Plan for Organic Food and Farming," (2) SEC (2002) 1368, "Analysis of the possibility of a European Action Plan for Organic Food and Farming," (3) COM (2005) 671 Final, "Explanatory memorandum for the Proposal for a Council Regulation on Organic Production and Labelling of Organic Products." The second cycle include (1) COM (2014) 179 Final, "Action Plan on the Future of Organic Production in the European Union" (2) SWD (2014) 65 Final, Impact Assessment accompanying the Proposal, and (3) COM (2014) 180 Final, "Explanatory memorandum for the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on organic production and labelling of organic products, amending Regulation (EU) No XXX/XXX of the European Parliament and of the Council [Official controls Regulation] and repealing Council Regulation (EC) No 834/2007"

<sup>34</sup> S Sofaer, "Qualitative Methods: What Are They and Why Use Them?," *Health Services Research* 34, no. 5 Pt 2 (December 1999): 1103.

Shannon and which also includes an interpretation of content, beyond just counting frequencies of words per paragraph.<sup>35</sup> This approach allowed me to define keywords before and during the reading. First I had to define the scope of the data segments, and then how to group them.<sup>36</sup> Because I did not only count the words, rather the frequency of mentioning in a larger context, I divided the process of coding the data into two sets:

For the initial readings of the corpus, this was the protocol:

- How were different types of groups of social constituencies referred to? How often?
- Were they referred to as sources of influence or were their interests stated, were they said to have contributed to a decision or standpoint?

For the final readings, my code protocol looked for:

- Talking about it as the civil society, stakeholders in general
- Experts, or reports with references to a relevant scientific base
- Specific stakeholder referenced by name
- A General Public, or European citizens
- Consumers, or consumer interests

There are certain limitations to this method. Because I hand coded my data, there is a concern of validity. The two sets of documents have similar qualities and all the official material produced by the Commission regarding the revisions will be used, therefore reliability

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<sup>35</sup> Hsiu-Fang Hsieh and Sarah E. Shannon, "Three Approaches to Qualitative Content Analysis," *Qualitative Health Research* 15, no. 9 (November 1, 2005): 1280.

<sup>36</sup> Deborah Finfgeld-Connett, "Use of Content Analysis to Conduct Knowledge-Building and Theory-Generating Qualitative Systematic Reviews," *Qualitative Research* 14, no. 3 (June 1, 2014): 343.

is high. At the same time, there is not enough data and documents to do a computer-based analysis purely off of frequencies or clusters. I also expected a lot of implicit meanings and context-heavy wording making this a poor choice. Yet, there are several benefits of using documents when reconstructing the discourse, since they remain the same over time, they provide insight in the understanding at the time. Unlike data through interviews, the narrative is unchangeable. Further, because this is a longitudinal study, looking at the documents and the positions articulated at that time was central to understanding the positions and the developments at that time.

#### PROCESS TRACING

This second method as part of the thesis is theory-testing process tracing, which is used to locate the causal mechanisms that explain the Commission's inclusion of actors. According to Beach, this form of process tracing is classified as "theory testing process analysis," which is a case-centric type of process tracing.<sup>37</sup> A case-centric approach allowed me to focus exclusively on the possible causal mechanisms, and look for "alternative paths," discussed by Bennett and George<sup>38</sup> as central in understanding how something came about. I traced the "minimal sufficiency of explanation"<sup>39</sup> and tracked what best explains how and why the Commission is reaching out to attain legitimacy. I used the theories to develop plausible hypotheses, which I then tested by comparing my data to the hypotheses developed.

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<sup>37</sup> Derek Beach and Rasmus Brun Pedersen, *Process-Tracing Methods: Foundations and Guidelines* (University of Michigan Press, 2013), 12.

<sup>38</sup> Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (MIT Press, 2005).

<sup>39</sup> Beach and Pedersen, *Process-Tracing Methods*, 21.

Because the policy process was to a large extent based on meetings and hearings to which I do not have transcripts, talking to the people involved was an important piece of the puzzle. The interviews I conducted are therefore a crucial part of my data. I reached out to a wide range of stakeholders, using the snowball method to identify stakeholders who were part of the revision processes. This helped me in triangulating the document-based content analysis. In addition, because of the nature of the research, with the internal process and relations between actors being a central part, interviews were a key addition to my research. The interviews illustrated how the proposal came to be and how they approached the Commission to gain influence. In this, I have reached out to experts involved in the assessments and reports, stakeholders that participated in the consultations. In my data, I include all the interviews coming from stakeholders and experts involved in both rounds. In total I reached out to 94 groups and individuals and I conducted interviews with 13 stakeholders, including legal experts, organic farming experts, members of stakeholder groups and NGOs. Because some of these interviewees were high-ranking officials, partaking in the revision processes, negotiations and hearings, the interviewees are anonymous. The anonymity helped me to ensure more open and candid responses.

## The Commission's Narrative: The Goal of Including the Social Constituency

This chapter has a twofold purpose: firstly, it covers the Commission's narrative on its commitment to the social constituency and how the Commission represents this commitment, secondly, it bases this discussion in a theoretical context to be able to analyze why the Commission might have fallen short of their own goals, using institutionalism from a rational choice and historical perspective, as well as a deliberative democracy. This is the starting point to then be able to compare the Commission's narrative and the follow-through. The section provides a foundation for how to assess the Commission's involvement and inclusion of a social constituency, using the Commission's own standard and commitments. Investigated is how the Commission declared was an important actor when it comes to participation in the legislative process. To locate this position, an analysis of the statements and priorities made by the Commission itself must be the foundation. I therefore develop the Commission's position towards the social constituency based on their own communications and reports, with the primary document being the White Paper on Governance.

### *The Commission declaring a European public and social community*

Early on the Commission recognized the importance of participation. The Commission's position was articulated in different documents, including papers covering the topic of civil society and EU governance. Of particular importance is the much-referenced White Paper on Governance from 2001, which is a core document indicating how the Commission should interact with Europeans to increase confidence of the public after the

failed Constitutional Treaty and the infamous Irish “No.”<sup>40</sup> It is a cornerstone in the Commission’s clarification of how the community should be included to improve and justify the Commission’s form of governance. Despite the centrality of the White Paper to understand the Commission’s position and understanding of participation by a social constituency, there are several documents that indicate an increased sensitivity to the perception of having a distanced level of governance with new and opaque structures, removed from the public. Other important documents consulted to construct the Commission’s narrative are the the Green Paper on inclusion of civil society in drug policy from 2008 and the Commission’s Communication on the “Minimal Standards for the Involvement of civil society.” Using these documents, with a particular focus on the White Paper, I assess what type of actor the Commission emphasizes as important as a representer for the EU’s social constituency and what role was indicated for the social constituency.

There are three general trends located in how the Commission addresses and commits to a European community. The first, and arguably most used concept is the idea of a “civil society.” The second is an inferred emphasis on a greater public, and the goal of reaching a wide audience. The third general trend is the reference to experts for a practice of “good governance.”<sup>41</sup> How these groups are divided and addressed by the Commission is now discussed.

Complicating this distinction of different groups is the fact that the EU’s own usage of a ‘civil society’ has changed over time, moving from a definition restricted to NGOs, to include a wider set of organizations including social organizations, religious communities and

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<sup>40</sup> EU Commission, “European Governance - A White Paper,” 5.

<sup>41</sup> EU Commission, “European Governance - A White Paper.”



community-based organizations.<sup>42</sup> This wider application is present in the Commissions White Paper on Governance. While the definition of a civil society is somewhat precisely defined, references to the community at large were still incorporated, complicating their definition and how to assess an involvement of the European social constituency. There is a specific emphasis on civil society in the sense of organizations that are “representing social and economic players,” NGOs and grassroots organization,<sup>43</sup> their use is explicitly made in connection to participation by and an opportunity for European citizens to participate and provide an input.<sup>44</sup> This lack of clarity is an important point to keep in mind when evaluating the level of involvement.

Here it is important to clarify the discrepancy between the use of civil society and citizen participation, a line which is not always clearly demarcated by the Commission. Civil society, as a concept, is arguably placed at the center of the discussion around participation, but the ‘general public’ is also often referred to and used as a foundation for legitimizing the EU’s governance. Despite references to a general public, in the concrete suggestions organizations are suggested to play a large part in securing participatory governance, and here references to a ‘civil society’ are made.<sup>45</sup> This focus is further emphasized through the Commission’s Communication on the “minimal standards for the involvement of civil society,” where the communication and methods to link the community to legislations for better governance was included. But then, on the other hand, citizens are connected closely

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<sup>42</sup> Stijn Smismans, “European Civil Society: Shaped by Discourses and Institutional Interests,” *European Law Journal* 9, no. 4 (September 1, 2003): 482.

<sup>43</sup> Commission, “COM(2002) 704 Final” (Brussels, November 12, 2002), 7.

<sup>44</sup> Ibid., 4.

<sup>45</sup> Jan W Van Deth, “European Civil Society: The Empirical Reality in the Multi-Level System of the EU,” *Opening EU-Governance to Civil Society*, 2008, 326.

with the right to participate. This idea were elaborated on in The 2008 Green Paper, where the definition and relevance of a defined ‘civil society’ alongside ‘citizen participation’ was discussed:

Citizen participation takes place at different stages of the policy making process. Civil society can strengthen the legitimacy and accountability of governance, improve the flow of information, and give a voice to those affected by public policies, who might otherwise not be heard.<sup>46</sup>

In the White Paper on Governance, the general public is also referred to, along with Europeans, as citizens.<sup>47</sup> The suggested a way to achieve this would be through the creation of a “trans-national ‘space’ where citizens from different countries can discuss...”<sup>48</sup> what would be used both to convey and to understand a public opinion. This would develop through “active communication” with the general public by Institutions (and Member States).<sup>49</sup> It is possible to deduce that the Commission valued the general public as a group providing legitimacy to the Commission’s work through their participation and that the Commission as this groups as separate from the civil society. When talking about the general public, this is often done in connection to talking about individuals, as citizens.

It is clear that from a practical and rational position, the Commission needed to demonstrate support and to show that relevant actors could improve the end result. Yet, participation, or involvement as it is there referred to, was not the only important aspect that the Commission highlighted as part of a EU governance and policy development, another

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<sup>46</sup> European Commission, “Green Paper on the Role of Civil Society in Drugs Policy in the European Union” (Brussels, 2008), 10.

<sup>47</sup> I continue to use ‘EU citizens’ and ‘general public’ interchangeably, although to refer to specific or individual people, I also refer to them as an “EU citizen,” or “citizen.”

<sup>48</sup> EU Commission, “European Governance - A White Paper,” 10.

<sup>49</sup> Ibid., 9.

factor that revolved around policy was how to reach “better policies, regulation and delivery,”<sup>50</sup> and here, experts play a particular role. This must be taken into consideration when evaluating the relevance of participation. While the Commission had numerous goals and approaches to govern, this should not necessarily be seen as an impediment to the analysis of the revision process focusing only on the involvement of actors, since this has been an objective stated in several different documents, and it is an independent goal. Furthermore, the discussion on ‘better governance’ approaches the legislation process on a macro level, talking about the legislation process throughout the EU institutions, or when the open method of co-ordination should be applied. Because this is only looking at participation within a certain instance of policy it makes sense to consider the involvement aspects in isolation. What will be considered however, is the aim to better involve experts as a means to achieve better governance. The involvement of experts is strongly linked to the idea of better governance, another set of proposals developed in the White Paper.<sup>51</sup> While there were a few stated goals of this thesis, the focus is here limited to the aspects of participation.

### *Rationales for the Commission’s Involvement of Civil Society*

I here discuss some of the most common approaches to the EU institutions reasoning of integration and relationship with actors. By locating some of the major strands, I ground the conversation in familiar territory, namely in the division between an actor being rational, coming from a rational choice institutionalism and secondly by the actor being bounded by

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<sup>50</sup> Ibid., 3.

<sup>51</sup> Ibid., 17.

earlier positions and decisions through path-dependency, coming from a historical institutionalist perspective.<sup>52</sup> Finally, moving away from the most conventional approaches, I also deploy deliberative democracy theory from an informative perspective. These approaches are used to explain the relationship between the states and supranational institutions, but can also be helpful when explaining a more micro perspective where the Commission is affected by actors participating in the process, as laid out in the earlier chapter. The aim is to find potential frameworks to explain the Commission's actions with regards to why they fell short of their own goal of inclusive governance through a more integrated system of participation.

With the emergence of the EU's governance system, which relied heavily upon regulation as a method, removed from traditional debates and participation,<sup>53</sup> the EU, and in particular the Commission, required new methods of representation that responded to the new structures of institutions and forms of representation. A consequence of this form was that transparency and participation took on new and different shapes, as stressed through discussion on the White Paper. Later on these questions were also addressed through the treaty revisions and a number of tools, like the open method of co-ordination and the Citizens' Initiative. While recognizing the importance of these changes and approaches, they are outside of the scope of this thesis, which is looking only into the Commission's revision process of regulations. The larger shifts demonstrate a changing relationship between actors. This, in turn, opened up the discussion about who was to participate in the policy process, which is now the focus. Yet, drawing on theories like institutionalism, that are used to explain the larger

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<sup>52</sup> Paul Pierson, "The Path to European Integration: A Historical Institutional Analysis," *Comparative Political Studies* 29, no. 2 (April 1, 1996): 123–63.

<sup>53</sup> Giandomenico Majone, "The Regulatory State and Its Legitimacy Problems," *West European Politics* 22, no. 1 (January 1, 1999): 1–24.

shifts and trends, is helpful because a reshuffling of the actors' role and power is at the center. Institutionalism should therefore be well adapted to answer the structural shortcomings of these emerging relationships.<sup>54</sup>

Depending on the specific type of institutionalism, different emphasis is given to the actors' ability to shape and effectively convey a position. Rational choice suggests that the discrepancy is a rationale in itself whereas historical institutionalism would place a greater emphasis on the structural contingencies. Here, I still take both as possibilities and develop hypotheses based on both. Because the role and extent of actors is unclear, I continue to base my analysis off the groups that the Commission itself outlined as important actors in the legislation process. I present two possible hypotheses to explain the rationale behind the relationship between the Commission and the social constituency through the revision process of the 2092/91 and 834/2007, starting with a rational choice perspective.

#### RATIONAL CHOICE

This theory is concerned with the distribution of power between actors and assumes that there is a rational motivation behind giving certain agency to a different actor, with the power stemming originally from the member states.<sup>55</sup> Traditionally, in the context of the EU, this theory looks at legislative powers given to supranational actors at a EU level,<sup>56</sup> defined by external influences on the agents, looking at costs, administrative regulations along with

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<sup>54</sup> J. Steffek, C. Kissling, and P. Nanz, *Civil Society Participation in European and Global Governance: A Cure for the Democratic Deficit?* (Springer, 2007); Stijn Smismans, "Civil Society and European Governance: From Concepts to Research Agenda: Civil Society and Legitimate European Governance," April 26, 2006, <https://www.elgaronline.com/view/9781843769460.00007.xml>.

<sup>55</sup> Pollack, "Rational Choice and EU Politics," 33.

<sup>56</sup> Pollack, "The Engines of Integration? Supranational Autonomy and Influence in the European."

information asymmetries.<sup>57</sup> This new institutionalism departs from an intergovernmental perspective, following in the line of Moravcsik, and moves further, beyond keeping the explanation at a state-level, to also account for individual policy choices at a transnational level. It is these individual policy choice that will now be analyzed, using the case of organic farming legislation.

Here, I apply rational choice institutionalism, while having a slightly different focus by looking at the Commission's relationship to non-state actors and not the member states' connection to EU integration. Rather, the focus is a more broadly conceptualized constituency. This different focus should, however, not be considered a disadvantage to the idea of new intuitionism from a rationalist perspective since the assumption of 'distributional effects of institutions'<sup>58</sup> is still the center. In particular, focusing on the Commission as a rational actor and how certain actors benefit or suffer based on position and alignment is at the center of attention. Rather than seeing the Commission as isolated and of a monolithic character, I can ask what the Commission and other involved actors, as part of the policy process, have a say and influence on the Commission, as part of the policy process.

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<sup>57</sup> Knud Erik Jørgensen, Mark Pollack, and Ben Rosamond, *The SAGE Handbook of European Union Politics* (SAGE, 2007), 38.

<sup>58</sup> Jack Knight, "The Mechanisms of Institutional Change," ed. John L. Campbell, *The Rise of Neoliberalism and Institutional Analysis*, 2001, 27–50.

Based on rational choice institutionalism and building off of the empirical puzzle, a plausible hypothesis is:

H<sub>1</sub>: The Commission was interested in maintaining the policy-making power close to itself without losing input that could help the Commission develop a strong regulation. The Commission would receive technical support through expert advice, with direct and technical knowledge to improve the regulation, rather than input from the general public and NGOs.

The Commission has traditionally been quite dependent on outside expertise due to its rather small size, compared to other EU institutions. It makes use of this advice to position themselves as competent legislation makers, where “[k]nowledge, rather than budget, is the critical resource in regulatory policy-making, and the Commission utilizes this resource extensively.”<sup>59</sup> This would suggest that the Commission would seek a stronger relationship with experts and that there would be a weaker involvement of actors that do not seem directly valuable to the Commission for the sake of the policy-process.

## HISTORICAL-INSTITUTIONALISM

For an alternative explanation of the how the Commission would involve actors in the legislation process, I turn to historical institutionalism to discuss an alternative position. Due to the diverse applications of this framework, shifting the possible causal mechanisms can be deduced from a path dependent perspective, including time constraints, costs and unanticipated consequences.<sup>60</sup> To differentiate from rational choice theory it is important to

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<sup>59</sup> Claudio M. Radaelli, “The Public Policy of the European Union: Whither Politics of Expertise?,” *Journal of European Public Policy* 6, no. 5 (January 1, 1999): 759.

<sup>60</sup> Sven Steinmo, Kathleen Thelen, and Frank Longstreth, *Structuring Politics: Historical Institutionalism in Comparative Analysis* (Cambridge University Press, 1992).

point out the key difference from rational intuitionism, which is the historical-institutionalists' endogenous explanation of acts and positions: "the definition of interests and objectives is created in institutional contexts and is not separable from [the institution itself],"<sup>61</sup> unlike the external rationale in the case of the earlier approach.

Now, the focus is on the explanation of why institutions evolve through a historical process, which is in recent discourse called 'path-dependency.'<sup>62</sup> Pierson notes that this framework allows for an accounting of why there are gaps of interests between the policy in place and the preferences of actors, applied in the case of the EU Commission and the legislation - this theory suggests a bridge between the will of the Commission and its ability to further include stakeholders more closely. Historical institutionalism is often argued to have developed from an economic theory background, with sensitivity to 'costs' that come with earlier decisions.<sup>63</sup> This allows for a more nuanced perspective compared to pure rational choice theory, which suggests that the actors are in control of their own position. With historical institutionalism highlights the position and preference of actors and positions that in the context of as consequences of earlier decisions and events. Past decisions impact new decisions because of the current position.<sup>64</sup> Thelen describes this as institutions being "embedded in concrete temporal processes,"<sup>65</sup> and Ikenberry, one of the early developers of path-dependency, saw this as a process determined by "critical junctures and developmental

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<sup>61</sup> Kathleen Thelen, "Historical Institutionalism in Comparative Politics," *Annual Review of Political Science* 2, no. 1 (1999): 375, doi:10.1146/annurev.polisci.2.1.369.

<sup>62</sup> Pierson, "The Path to European Integration," 133.

<sup>63</sup> Edoardo Ongaro, "The Administrative Reform Trajectory of the European Commission in Comparative Perspective: Historical New Institutionalism in Compound Systems," *Public Policy and Administration* 28, no. 4 (October 1, 2013): 356.

<sup>64</sup> Thelen, "Historical Institutionalism in Comparative Politics"; Wolfgang Streeck and Kathleen Thelen, "Introduction: Institutional Change in Advanced Political Economies," ed. Wolfgang Streeck and Kathleen Thelen (Oxford et al.: Univ. Press, 2005), 1–39, <http://nbn-resolving.de/urn:nbn:de:0168-ss0ar-194981>.

<sup>65</sup> Thelen, "Historical Institutionalism in Comparative Politics," 371.



pathways.”<sup>66</sup> From this perspective, the idea of increased institutionalization and past connection to the Commission could account for the limited interaction and involvement of a larger set of actors in the policy process. Complementing this position this is the idea that in an already established field of legislation, like organic farming, the Commission as an actor sees itself already set in a specific direction.

Building off of this, I derive the hypothesis:

H<sub>2</sub>: Already existing relationships with different parts of the social constituency led to a further integrated community and close-knit operation throughout the policy processes, which limited new voices’ ability to be heard and the extent to which the Commission focused on the public as a whole in the later stages.

Based on this hypothesis, I should expect to see a continuance of relationships between the two policy processes, not necessarily dependent on the actor.

## DELIBERATIVE DEMOCRACY

Deliberative democracy has a different focus from the other conceptions discussed in this chapter. These take a stronger democratic theory stance, but at the same provide a functional response to decision making. While the focus is different, in that it actively ties into democratic legitimacy and builds on both “empirical and normative insights,”<sup>67</sup> these theories can be successfully applied as they provide an alternative way of grouping and prioritizing the public and the individual in the EU. Not only is it possible to apply deliberative democracy in

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<sup>66</sup> G John Ikenberry, “History’s Heavy Hand: Institutions and the Politics of the State,” *Unpublished Manuscript*, 1994, 16.

<sup>67</sup> Jürgen Neyer, “The Deliberative Turn in Integration Theory,” *Journal of European Public Policy* 13, no. 5 (August 1, 2006): 780.

this research, but, it is also important, because this approach more directly addresses the European community as a whole as a legitimizing force, which is a reference made by the Commission. As discussed, the Commission made use of references to a public participation and therefore legitimizing the legislative process, notably through the White Paper where the goal is to “communicate more actively with the general public on European issues.”<sup>68</sup> This could be explained through of EU governance under change with new practices and structures, where parliamentary democracy is no longer considered a sufficient form or explanation, instead, there was a “need for own supranational resources of legitimacy.”<sup>69</sup>

In deliberative theory, *who* the public is and *how* representation takes place are at the center. In its empirical dimension, detecting arguments or discussions are of particular importance.<sup>70</sup> Decisions using this approach “ought to emerge from careful and informed judgement,”<sup>71</sup> with some form of public consideration and involvement.<sup>72</sup> Taking an empirical approach, applying the “deliberative turn” is an increasingly popular approach in a European governance context. Some of the new empirical approaches seek to identify whether there were institutional changes based on public arguments or discussion.<sup>73</sup> I am less ambitious and limit the investigation to question whether there were conditions provided to

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<sup>68</sup> EU Commission, “European Governance - A White Paper.”

<sup>69</sup> J.h.h. Weiler, “Does Europe Need a Constitution? Demos, Telos and the German Maastricht Decision,” *European Law Journal* 1, no. 3 (November 1, 1995): 219–58.; Neyer, “The Deliberative Turn in Integration Theory,” 780.

<sup>70</sup> Christian Joerges and Jurgen Neyer, “Transforming Strategic Interaction into Deliberative Problem-Solving: European Comitology in the Foodstuffs Sector,” *Journal of European Public Policy* 4, no. 4 (December 1, 1997): 611.

<sup>71</sup> Loren A. King, “Deliberation, Legitimacy, and Multilateral Democracy,” *Governance* 16, no. 1 (January 1, 2003): 25.

<sup>72</sup> *Ibid.*, 26.

<sup>73</sup> See Nicole Deitelhoff, *Überzeugung in Der Politik: Grundzüge Einer Diskurstheorie Internationalen Regierens* (Suhrkamp, 2006); Cornelia Ulbert and Thomas Risse, “Deliberately Changing the Discourse: What Does Make Arguing Effective?,” *Acta Politica* 40, no. 3 (September 1, 2005): 351–67.

reach such a discussion, and I thus derive at the hypothesis:

H<sub>3</sub>: The Commission is unable to reach a wider public because there because of their limited definition of who should reach out to and how, making extensive involvement difficult in terms of a general public and lacking in dialogue.

Coming from a deliberative perspective, we should expect to see an increased level of participation. Since an organized civil society can from a deliberative perspective be an “intermediary between the citizen and the state,”<sup>74</sup> the extent to which associations, experts and other stakeholders are able to translate and continue the conversation to a general public is also of interest. More important for the empirical discussion is the detection of interaction, where there is an exchange of positions and clearly communicated arguments.

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<sup>74</sup> Alex Warleigh, “Civil Society and Legitimate Governance in a Flexible Europe: Critical Deliberativism as a Way Forward,” *Civil Society and Legitimate European Governance* 200 (2006): 70.

## The Process of Including the Social Constituency

Here, the question is to what extent the Commission was actually able to engage the groups they themselves targeted, and to what extent that involvement took place in the case of the two organic farming legislations EC 2092/91 and EC 834/2007. This chapter, in the context of the last chapter, which explored the Commission's narrative of how they aim to include the social constituency, sets up the discrepancy later investigated. The chapter discusses how that process unfolded in the process leading up to revised legislations on organic farming, with regards to the inclusion of a public sphere. The goal is to highlight the discrepancy between the narrative on what the Commission stated it achieved in terms of providing an inclusive and transparent policy process and how the Commission in fact included civil society.

The analysis shows that there is a disconnection between the Commission's portrayal of their inclusion and how civil society is included in the policy process, is the foundation for the following empirical work on what process can explain this occurrence. The revision cycles demonstrate that the Commission's commitment to incorporate the social constituency in the policy-making process was indeed ambitious in that a stated ambition was to involve citizens and a wide set of stakeholders and that the Unit of Organic Agriculture involved a wide set of tools, like the online questionnaire. The discrepancies are located in the extent to which the experts and civil society experienced a similar involvement and how active of participation was enabled with the general public, which reflected the engaged narrative portrayed by the Commission.

## *The Revision Process of the Organic Farming Regulation*

To demonstrate this, I trace the different steps and actors from the social constituency who took part of these revisions. In order to do this I as conducted interviews with individuals involved in this process, either as member of stakeholder groups, experts and outside observers. Minutes, agendas and research projects in connection to the revisions have been central to understand the process and interactions. To account for the Commission's position, I also analyzed documents produced by the Commission throughout the policy revisions, looking for references to actors and their level of involvement.

Overall, the aim was to find a discrepancy in how the Commission included different groups from the social constituency. I have divided the processes up by different actors to highlight in what different ways they were each involved and how this has developed over time. From the content analysis, I demonstrate more closely how these involvements were represented in the official output. I have followed the division emphasized by the earlier chapter, looking separately at the general public experts, an organized civil society, and experts respectively.

The general public experienced the largest shift between the two revision cycles. In the second revision, the Commission incorporated a “public hearing” based on an online questionnaire directed to citizens. The online consultation is hailed, by the Commission, as one of the large successes of including the public owing to the widespread response by Europeans. The idea to enable a sharing of concerns and interests stems directly from the

White Paper referring to a “general public.” With over 40,000 respondents,<sup>75</sup> this new method deserves recognition as a successful tool to reach the public in a new form. The responses meant that the Commission could refer to an actual position of the public in the second revision process, and it was frequently used in this context. The Commission, in the following communications and documents made use of the reports and supported their positions and arguments with it being what the citizens wanted.

There are two main reasons to question this position on the public questionnaire, with regards to how the questions were phrased, and whom the Commission reached. Through the interviews, it became clear that actors involved in the process were skeptical of the phrasing and the structure of the questions, arguing that the survey itself limited the usefulness of the responses. The questions were formulated, limited the information that would be deduced from the responses.<sup>76</sup> The most common example was the question concerning a threshold; number 4.4, asking “Should the level of pesticide residues for organic products be set at a lower level than for conventional products?”<sup>77</sup> The answer seemed obvious to most, evoking the idea that the Commission was stating obvious questions, because of course the people want lower levels of pesticide residues in organic products. IFOAM EU commented on this

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<sup>75</sup> EU Commission, “Report on the Results of the Public Consultations the Review of the EU Policy on Organic Agriculture” (Brussels, September 19, 2013), 4.

<sup>76</sup> This comment was present throughout all the interviews with members of stakeholder organizations and experts involved.

<sup>77</sup> EU Commission, “Report on the Results of the Public Consultations the Review of the EU Policy on Organic Agriculture,” 29.

process in their position paper, and their take on this consultation report is worth quoting at some length:

The report seems to base the majority of its assumptions on the European Commission's public consultation carried out at the beginning of 2013 and seems not to give the same weight to other parts of the impact assessment, such as to the stakeholders' opinions or the Thünen external evaluation report published in January 2014. The public consultation was based on a self-selected and unrepresentative sample so the results cannot reliably reflect consumer opinion, nevertheless, it has been taken as the justification for drafting the proposal for a new regulation. At the same time it seems that the opinion of organic producers and experts has not been given the same weight.<sup>78</sup>

This point was further emphasized in many of the additional responses that people who took the questionnaire could provide.<sup>79</sup> An example of this skepticism was the comment:

I appreciate your effort (questionnaire) for giving Eur. population the opportunity for taking a consultative role in the matter of policy and regulation. The questionnaire is however missing a set of important questions that would have allowed providing a much clearer and probably better balanced opinion...<sup>80</sup>

The second criticism concerning the questionnaire raises the issue of who was reached and who partook in this. There is the understanding that the consultation should reach a wider, European public. French individuals made up 56% out of all respondents.<sup>81</sup> The report itself states that this is not sufficient to present any statistical data on the public, rather the answers

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<sup>78</sup> IFOAM EU, "Position on the Commission Proposal for a New Organic Regulation: A Roadmap towards Sustainable Growth of the EU Organic Sector," June 11, 2014, 4.

<sup>79</sup> While the responses were written in several different languages, I was only able to consult the English and German responses. The French responses were the most numerous.

<sup>80</sup> Contribution for individual citizen in English, number 7. European Commission, "Consultation on the Review of the EU Policy on Organic Agriculture: Contributions and Report on the Results," Text, *Agriculture and Rural Development - European Commission*, (March 12, 2014), [https://ec.europa.eu/agriculture/consultations/organic/contributions\\_en](https://ec.europa.eu/agriculture/consultations/organic/contributions_en).

<sup>81</sup> Ibid., 6.

and positions are meant to provide insight to different stances. Yet, the Commission later refers to the report as part of the revision, where that line is blurred, by talking in general terms about the EU citizens' position based on this consultation. One example of this is the Impact Assessment that states "in particular that EU citizens would like environmental issues to be more fully taken into account."<sup>82</sup>

Experts have played a large role in this scientific-centric field, and their incorporation is therefore an important piece to see how the Commission addressed outside input and central actors. How experts were involved changed significantly between the two revision processes, moving towards a more formal and structured interaction in the second revision. In the first revision cycle, reviewing EC 2091/92, experts were primarily involved through a research consortium and a project revolving the revision called the "Organic Revision," which was initiated by researchers, coming mostly from Germany and Denmark.<sup>83</sup> In the second process, more formalized relationships had been formatted, including many of the same researchers as the previous time, and experts were primarily involved through Expert Groups, called EGTOP, which were developed in 2010 and established through the Decision 2009/427/EC.<sup>84</sup> The first Action Plan was, for example, based on conversations with experts and stemmed from national action plans developed by researchers in the field.<sup>85</sup>

Through interviews with experts, it became clear that there had been several drastic changes in how experts were asked for advice by the Commission, but also that there was a certain level of distance or disconnect between the Commission and the experts, regardless of

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<sup>82</sup> European Commission, "SWD(2014) 65 Final, Impact Assessment," 21.

<sup>83</sup> "Organic Revision," accessed May 15, 2017, <http://www.organic-revision.org/>.

<sup>84</sup> European Commission, "Expert Advice," Text, *Organic Farming - European Commission*, (September 19, 2016), [https://ec.europa.eu/agriculture/organic/eu-policy/expert-advice\\_en](https://ec.europa.eu/agriculture/organic/eu-policy/expert-advice_en).

<sup>85</sup> Interview with expert 2, May 2<sup>nd</sup>, 2017, over Skype.



the revision cycle. A general consensus among the interviewees discussing the involvement of experts was, however, that they felt less involved or consulted to when the revisions of 834/2007, despite the Expert Groups. One expert stated, “the Commission had their own agenda” and that it was more “interventionist.”<sup>86</sup> In the earlier revision, taking place between 2004 and 2006, the perception of the Commission’s position towards experts and their communication was warmer. Some experts talked purely positively about the experience, while two more skeptical voices noted that in the end it was clear that the Commission had listened to their positions and at least considered them, reaching a “fair compromise that involved the weighted response to be expected by civil service.”<sup>87</sup>

In the first revision cycle, the research project, supporting the revision, was funded by the EU’s Research Funding program, targeting policy-focused research and was therefore not directly linked to the Directorate General of Agriculture (DG AGRI), and there was therefore not a dependency on the DG AGRI for this research.<sup>88</sup> While this enabled a certain level of independence from the policy-process, it also prevented a very close cooperation between the policy-process and the experts.<sup>89</sup> Experts, many connected to IFOAM EU, seem to have had more autonomy throughout this research project worked in more general and conceptual discussion expanding beyond only the proposal, while still having a specific set of objectives.<sup>90</sup> In addition to this project, communication took place through the Commission seeking technical advice of experts, and there were ‘trilogues’ with the Commission, the Council and

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<sup>86</sup> Interview with expert 3, May 4<sup>th</sup>, 2017, over Skype.

<sup>87</sup> Interview with expert 2, April 21, 2017, over Skype.

<sup>88</sup> Interview with expert 1, April 20, 2017, over Skype.

<sup>89</sup> Interview with expert 2.

<sup>90</sup> “Revision > Objectives,” accessed May 26, 2017, <http://www.organic-revision.org/objectives/index.html>.

other stakeholders, which took place on an ad hoc basis. And parallel to this there were also three conferences, which discusses the revisions organized.

Despite these existing methods, an evaluation project produced by FiBL, proposed that an expert panel for input evaluation and that “they should take the major load of the technical evaluation of inputs,” leaving the political aspects for the already existing Committee on Organic Farming.<sup>91</sup> The EGTOP was established in 2010, and was part of the second cycle. At the same time, despite this established link, experts portrayed a more negative picture of the communication with researchers. The Expert Groups and the public hearings, which laid down the foundation for the Impact Assessment, demonstrated this formalization in the second cycle. The formalization came as part of a request of both the Commission itself, seeking to further establish its outreach efforts and from actors already involved, in particular experts requesting a formal expert group.<sup>92</sup> In spite of these formalized structures, which suggested a potential in dialogue, there was no increase in the exchange between the Commission and other actors, according to the experts and the stakeholder groups that participated in the second revision.<sup>93</sup> The meetings and hearings with stakeholders through the Advisory Groups<sup>94</sup> took place between late 2012 and mid-2013. By many interviewees this was considered too late since the “Commission had already formulated its positions on many topics.”<sup>95</sup> Because the Commission set the agenda, the times of meetings and controlled the hearings and meetings themselves, they must be considered to be in charge of the level of

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<sup>91</sup> Bernhard Speiser and Forschungsinstitut für Biologischen Landbau, “Evaluating Inputs for Organic Farming - a New System” (FiBL, 2005), 5.

<sup>92</sup> Speiser and Forschungsinstitut für Biologischen Landbau, “Evaluating Inputs for Organic Farming - a New System.”

<sup>93</sup> Interview with stakeholder members and experts.

<sup>94</sup> These groups are now called Civil Dialogue Groups.

<sup>95</sup> Interview with stakeholder 1, April 12, 2017, over Skype.

interactions in this case. To sum up, based on the interviews with experts, in the second cycle, they had a reduced influence.

Civil society has in the EU's language been translated to stakeholders, meaning associations and organizations representing economic and societal aspects of the European Community,<sup>96</sup> which are the groups considered here. In questions on organic farming, interest groups therefore range between trade organizations, soil or farmer associations, and NGO's focusing on animal welfare. These diverse voices should, if submitting that civil society are those carrying the weight in participating in the legislative process, all have a say. When observing agendas,<sup>97</sup> the range of consultations and involvement seems extensive, suggesting that a wide set of stakeholders were consulted.<sup>98</sup> This is also the group that has the most consistency in their involvement, which took place mostly through hearings and meetings with the Commission as part of the Action Plan and analysis in the first revision cycle, and as part of the background for the Impact Assessment in the second round. One change was the formalization of the groups and the extended type of actors that took place later on in hearings. In 2014, the "Advisory Group" was renamed "Civil Dialogue Groups," which also involved an extended list of participants and not only NGOs.<sup>99</sup> Based on the interviews with stakeholders, it was clear that larger stakeholders with an established connection to the Commission, like IFOAM EU, played a much larger role than other smaller actors. This is

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<sup>96</sup> EU Commission, "European Governance - A White Paper," 13.

<sup>97</sup> Most agendas and minutes available came from the second revision cycle. Although requesting access to the earlier cycle, I did not get access to the documents from this revision process.

<sup>98</sup> EU Commission, "Consultation with Stakeholders," Text, *Organic Farming - European Commission*, (September 19, 2016), [https://ec.europa.eu/agriculture/organic/eu-policy/policy-development/consultation-with-stakeholders\\_en](https://ec.europa.eu/agriculture/organic/eu-policy/policy-development/consultation-with-stakeholders_en).

<sup>99</sup> EU Commission, "Advisory Group on Organic Farming," Text, *Agriculture and Rural Development - European Commission*, (December 3, 2014), [https://ec.europa.eu/agriculture/consultations/advisory-groups/organic\\_en](https://ec.europa.eu/agriculture/consultations/advisory-groups/organic_en).

both reflected through the interviews, but also through the NGOs' and organizations' communication and through informal communications. IFOAM EU and COPA COEGA were for example the only actors that consistently published press releases and other communication regarding the revision process. Here is a commentary from the IFOAM EU on their involvement:

IFOAM EU ... has contributed greatly by participating in stakeholder hearings, consultations and meetings, as well as by drafting concrete recommendations for how the regulation could be improved.<sup>100</sup>

Through the interviews, the informal communications and access to the Commission were also highlighted as valuable tools for the stakeholders. These informal communications seemed to decrease in the second cycle.<sup>101</sup> Many institutions listed on the agendas of the second revision cycle that dealt with the stakeholder meetings and hearings, as part of the do not take part in the meetings themselves, such as FooddrinkEurope and others were silent observers, like the European Crop Protection Agency (ECPA). The list of stakeholders can therefore not be taken as a direct indicator of the groups directly involved. When reviewing the minutes of the second revision, only a half of the invited organizations participated in the meetings.

Finally, to complement this discussion, is the summative content analysis, which compiles the frequency by which specific parts of the social constituency are mentioned in the Commission's official documents produced as part of the revision cycles. The frequency is calculated over paragraphs, to provide a statistically large enough sample. Below is the

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<sup>100</sup> IFOAM EU. "EU Commission's proposals for a new EU organic regulation and Organic Action Plan are now public." March, 25 2014.

<sup>101</sup> Interview with stakeholder 3, April 23, 2017, over Skype.

breakthrough of the mentioning of different parts of the social constituency, divided between the two revision cycles:

**Table 2, First Cycle**

Type of Group	Freq. Doc. 1	Freq. Doc. 2	Freq. Doc. 3	Mean of Frequency
Commission	0.23	0.18	0.19	0.2
Experts	0.09	0.16	0.04	0,10
Stakeholder, general	0.48	0.1	0.06	0.19
Stakeholder, specific	0.02	0.01	-	0,01
Public, general	0.02	0.03	0.05	0,02
Individual, consumer	0.07	0.05	0.11	0.09

**Table 3, Second Cycle**

Type of Group	Freq. of Doc. 1	Freq. of Doc. 2	Freq. of Doc. 3	Mean of Frequency
Commission	0.54	0.09	0.19	0.22
Experts	0.1	0.07	0.02	0,06
Stakeholder, general	0.14	0.11	0.06	0,1
Stakeholder, specific	-	0.12	-	0,04
Public, general	0.03	0.07	0.09	0,06
Individual, consumer	0.42	0.35	0.15	0,31

Through a close, summative analysis of the texts produced throughout the two policy revisions by the Commission, it was possible to analyze the frequency specific groups were mentioned or discussed. Looking at the frequency of groups discussed, I demonstrate the Commission, in terms of whom they emphasized in the texts themselves, demonstrating a prioritization of that type of actor. Table 2 and 3 indicated the two cycles and the frequency of words per paragraph in the three official texts produced by the Commission in these revision processes, except for the official internal dialogue directed to other institutions and the proposal texts themselves.

The main finding was the increase of focus on the individual as a consumer in the second revisions. , From the content analysis it is clear tat commenting on the importance of the consumer was twice as frequent as in the first revision and it was most often in the context of ‘consumer confidence’ or ‘consumer confusion.’ On a citizen level, meaning not in the context of an organization, it was far more common to discuss the consumer, rather than an individual in another context. In the second cycle, emphasis was also placed on the public, but only in the context of the public online consultation taken. This complements the idea that the focus involving a greater public was rather misplaced, since the public was reduced to a consumer with only ‘consumer interests’ represented. The shifting attention to the citizen as a consumer is one of the most notable shifts in this analysis. The increase of mentioning of this part of the social constituency shows the Commission’s heightened attention to justify certain decisions and changes, but do not suggests any active engagement.

## *Possible Explanations to the Commission's Process*

Having reviewed the process that came along with the Commission reviewing the legislations, and discussed the most prominent features of this process, alongside the analysis of the relevant legislation documents, I now turn to the evaluation of this process. It is clear that significant changes took place throughout the revision processes. The changes included formalization and that there were in some senses an increased communication with certain parts of the social constituency. But how can these changes be understood?

### RATIONAL CHOICE INSTITUTIONALISM

The hypothesis developed from a rational choice perspective revolved around the question of whether the involvement of experts would increase as a result of their ability to provide technical advice that would help the Commission in the process. The hypothesis stating:

H<sub>1</sub>: The Commission was interested in maintaining the policy-making power close to itself without losing input that could help the Commission develop a strong regulation. The Commission would receive technical support through expert advice, with direct and technical knowledge to improve the regulation, rather than input from the general public and NGOs.

Having considered the policy revisions and the content analysis, there is little support for this hypothesis as many of the involved experts suggested a reduced involvement and the content analysis suggests a similar level of referencing.

While it is in the Commission's interest to engage with social constituency to imply that there is extensive involvement, it is also in the Commission's interest to maintain policy-

making power internally in order to shape the legislation as they see fit. This would imply that actors have a predetermined and articulate interest, and that they can structurally place themselves in relation to others' interests. When testing this hypothesis I should expect to see a distributional distinction between different social constituency groups' involvement depending on their proximity to the Commission's position and their ability to help create a regulation. The hypothesis indicates that the Commission would be able to direct the level of involvement with the different actors, and that own interests would take a priority, meaning that experts, in particular, would be consulted. And further, that it comes down to not an exchange of views and positions, but that there is a certain level of finding and presenting coherent positions in support the Commission's certain wish. In assessing this hypothesis, I analyze the level of involvement based on the three actor groups as outlined in the earlier chapter, starting with the general public.

In the case of the general public, the main focus would here be the public online consultations in the second cycle and to what extent the general public was involved. This would be the primary example suggesting that throughout the two policy revisions, the Commission became more active including a wider public, since there was no equivalent in the first cycle. But despite being an added venue for exchange, and a potential for increased exchange, through the interviews conducted as part of this, an alternative view appeared. Regarding the questionnaire, these responses follow the logic that the Commission used the questionnaire to reaffirm the Commission's own agenda. Because of these indications, the "involvement of the general public" is questionable. If looking at how the interviewees saw the questionnaire, and then the use of them in the documents, people were mostly referred to as consumers, and it is also how they identified themselves. Because the general public should



not, from the rational choice perspective reflected in H<sub>1</sub>, be considered technically useful to the revision process, an increase of their influence speaks against H<sub>1</sub>.

When it comes to stakeholders, or an organized civil society, the rational choice analysis seems to be an equally ill-fitted approach, in terms of the level of involvement based on usefulness of the actor. Here it is less about the information given by the actors, and what technical advice they can provide, rather the usefulness comes from their presence in the process, in the sense of legitimating the legislative process by being included. What was reflected in the policy cycle was that the interaction between associations and the Commission extended in the second cycle, yet remained superficial.<sup>102</sup> Between the first and the second policy cycle, there was in fact a widening of the organized civil society actors, while the associations that provided technical advice did not experience a closer relationship, speaking against H<sub>1</sub> which suggested that the interaction with technically useful actors would increase.

A final level of consideration is with regards to the experts and their involvement. Also in this case we detect a general formalized structure. The Commission put in place a functioning structure and established a relationship with experts; the level of involvement did not seem to increase, both based on the summative content analysis, and when reviewing the process itself and the interviewees position.

After evaluating H<sub>1</sub>, it is clear that within a certain limitation, the critique does not take into account the larger changes that are also part of a rational choice perspective. Thus, with greater attention to the surrounding factors, I re-evaluate the foundations for why H<sub>1</sub> falls short of explaining the Commission's tendency in the involvement of the social constituency.

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<sup>102</sup> Interview with stakeholder 5, 3 May, 2017, over Skype.

If looking in isolation at the two cycles, then the level of involvement decreased, but at the same time an important aspect, acknowledged by the stakeholders and the experts, was the fact that the number of stakeholders increased before the second cycle, and there were more positions to consider. Because part of the rational choice institutionalism approach is based on the acknowledgement of external influences, contextualizing the influence of external realities and causes, this is a factor that must be considered. When assessing the level of involvement, a possible alternative reason is the changing conditions altering the stakeholders involved. The changing reality of more stakeholders being involved as a result of the growing market could therefore also affect the level each individual stakeholder had. This counter-narrative provides an alternative reason for a reduction of involvement, in the case of the involvement of experts and an organized civil society who did provide technical advice. What can be concluded still is that rational choice institutionalism cannot explain the reason behind experts decreased involvements based on  $H_1$ , since there was no distinction based on the usefulness and traditional support of expertise, and more importantly that while there were increases and changes in how the social constituency groups were included, it does not correspond to  $H_1$ . It suggests that although there was an increased level of exchanged and a formalization of this exchange, there was no increase in the involvement, on the contrary, when it came to experts they experienced less involvement. Moreover, when it comes to stakeholders, there is a limited level of interaction, which corresponds to the hypothesis that there would not be a significant increase because stakeholders will have diverging interests that could potentially be contradictory. When coming from a rational choice perspective, to analyze the superficial but increased mentioning of the general public in the form of consumers, the conclusion would have to be that there is no strong need to include civil society or citizens in

the process, rather a demonstration of the inclusion is necessary. This would explain the formalization and the attention to justifying certain positions and reference by the Commission. What cannot be explained here is the shift towards talking mostly about consumers.

## HISTORICAL-INSTITUTIONALISM

While a rational choice outlook gives some insight into the superficial involvement of stakeholders like associations and NGOs, an approach which can better explain the shift in formalization while taking into consideration the gap between what the Commission prescribed and what was achieved in the policy processes is still needed. I now turn to the historical-institutionalist perspective, which outlines the hypothesis that existing relationships would continue to develop, prohibiting new stakeholders from becoming influential and limiting the involvement of a non-descriptive general public. The second hypothesis stating:

H<sub>2</sub>: Already existing relationships with different parts of the social constituency led to a further integrated community and close-knit operation throughout the policy processes, which limited new voices' ability to be heard and the extent to which the Commission focused on the public as a whole in the later stages.

The relevance of considering the shifting relationship based on the drastic developments concerning organic farming in the EU is clear, and was emphasized in the analysis of H<sub>1</sub>. Here, when looking at a path dependency, the internal relations will play a more central role. When assessing to what extent historical institutionalism can explain the level of involvement, of particular interest is social contexts and individual relationships. Going from the idea that individuals shape the policy and the format of policy in the later revision, I should

expect many of the same actors, and a continuance of already made processes. On a general level, it is clear from the review that the process structurally evolved, for a more formalized process and relationships. What I found through the analysis and the process tracing was that these developments can only partially be explained through an internal and path-dependent explanation suggesting that the formalization was a result of growing relationships, and only in the reference to the an organized civil society and to experts.

In terms of the general public, through individual participation, it is clear that the White Paper influenced the incorporation of the public consultation, which developed in the second revision cycle. Earlier decisions now play into the development of the new process, regardless of the interpersonal relationships, which extends rather than restricts the involvement of actors. A general decision coming from the Commission was the reason behind this questionnaire. Because this was a new approach, with little of the like coming before it, the consultation with the general public cannot be considered a decision rooted in old decisions, rather it is a quite innovative mechanism. Hypothesis H<sub>2</sub> must therefore be rejected when it comes to the general public.

When assessing how past relationships affected the stakeholders' ability to work with the Commission, it was clear that well-established organizations fared better. During interviews with members of the central organizations, they emphasized the need to keep informal communication through notes and comments sent to the DG AGRI throughout this process.<sup>103</sup> This shows how important a well-established relationship was for successful

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<sup>103</sup> Interview with stakeholder 2, 3.

communication. Yet, stakeholders in core organizations and associations with a closely established relationship did not feel more listened to with the formalized structure.<sup>104</sup>

When it comes to the involvement of experts, there was a general decrease of the level of involvement based on the experts themselves in the second cycle, yet there seems to be some consistency when it comes to the specific individuals being involved. One expert commented on her relationship with a colleague in the revision process, “we go a long way back.”<sup>105</sup> These lasting relationship and consistent work by a few individuals speaks in favor of this analysis is the fact that many of the experts involved with the revision taking place between 2004 and 2006 were also involved in the revision of 834/2007 and there was a high level of informality between the different actors, with a lot of exchanges and involvement. One indication of this was the three conferences in the first revision where different parts of the proposals and its components were discussed.

Based on this analysis, paying special attention to the past trends and positions, it is clear that historical institutionalism fails to better explain the disconnect between the Commission and the social constituency, especially when it comes to the general public, although the relationship with the experts can be partially explained. The structures formalized the relationships with actors, through the example of the Expert Group and the continued relationship with IFOAM EU. Despite this development, building off of the initial relationship, these developments do not demonstrate the Commission’s involvement with other actors. What this type of approach does highlight is the process of formalization, but this does not seem to explain who the Commission chose to interact with.

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<sup>104</sup> Interview with stakeholder 4.

<sup>105</sup> Interview with expert 4, May 3, 2017.

## DELIBERATIVE DEMOCRACY

The hypothesis developed from a deliberative democratic theory approach is based on the possibility that the Commission was unable to reach a wider public because there because of their limited definition of who they should reach out to and how, making extensive involvement difficult in terms of the general public, where an argument could be located.

H<sub>3</sub>: The Commission is unable to reach a wider public because there because of their limited definition of who should reach out to and how, making extensive involvement difficult in terms of a general public and lacking in dialogue.

From this perspective, I take a more holistic approach, looking at whether the Commission was able to communicate with the public, which is one of the core components of deliberative democracy. What we should expect to see is an ambiguity in how the Commission involves groups, in particular the general public, which prohibits an effective dialogue.

I therefore turn to the question of whether the Commission's direct address of the wider public can be challenged to address H<sub>3</sub>. The limited set of individuals that it reached, being mostly individuals that had a strong involvement with organic farming and that were mostly French, it could in no way be said to be representative of a wider European public directly. The online consultations therefore did not reach a wider audience since they were not particularly advertised, but reached the interested public, with a very skewed national representation. Further, because of the extensive critique of the questionnaire's setup, whether there was a direct dialogue with a meaningful exchange seems doubtful, supporting H<sub>3</sub>.

That interaction with stakeholders moved to wider hearings and took place at multiple times, seems to have provided a possibility of an exchange of views. These interactions, as discussed in the historical-institutionalist discussion, placed responsibility on the stakeholders to be included. Some stakeholders who were invited to participate in the hearings had to decline because they “did not have the capacity to follow the debate close enough.”<sup>106</sup> This arguably limits civil society involvement by making discussions inaccessible. Out of the stakeholders that had been close partners throughout the development of these legislations, informal relations and internal communication was a key part in why they felt they had a successful influence and relationship with the Commission and the Unit on Organic Farming.<sup>107</sup> Other, smaller associations felt excluded from the process or only participated as observers, which would limit the extent to which people and groups were actively involved.

With regards to expert involvement, the analysis follow the same logic as in previous chapter. Despite a formalization of the exchange, it did not improve communication. Rather, informal communications and links were central for experts to have an impact in the process. The lack of discussion and evaluation of experts’ work, is notable in the second process. While evaluations were produced in both cycles, the integration of the work of the Commission and the experts is missing. It suggests a siloing of discussions, contrary to the deliberative theoretical directives. Important to note is, however, the question of to what extent the consultations with experts led to a debate or further communication. The involvement of the general public has been indirectly addressed through the analysis of whether stakeholders and expert consultations provided a foundation for a wider and more effective dialogue.

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<sup>106</sup> Interview with stakeholder 4.

<sup>107</sup> Interview with stakeholder 2.

## Representing the European Public, but is there such a thing?

I now turn to a final discussion reflecting on the shortcomings of the Commission's involvement of the general public located in the first analysis. Focusing in particular on the findings from the content analysis, I investigate the tendency to equate consumers with the general public. Arguably, this was a reductionary way to convey and represent the general public from the Commission's side. By referring to a constituency as a consumer, a level of agency is reduced, and the suggested political influence is lost. This was the tendency elaborated upon in the third hypothesis dealing specifically with the limitation of reaching a wider public. But, rather than focusing on the number of interactions, I examine the normative position developed in particular by Habermas and Dahl, concerning how the community was conceptualized, or *who* was represented. First, I engage in a brief analysis on the conclusions using the institutionalist perspective when it comes to understanding the general public, and why there are certain limitations regarding the conceptualization of the composition of the European public, or community, complicating an incorporation of it, using this approach.

### *What Institutional Assumptions Fail to Grasp about the European Social Constituency*

Earlier discussions revolved around the idea that the EU's limitations when reaching out to the social constituency can be explained institutionally. What could be concluded from the analysis regarding the Commission's limitations in outreach, is that there were a number possible explanations as to why the experts, associations and organizations were included differently from how the Commission might have intended. While historical-institutionalism



helped shed light on the internal and informal relationship between the stakeholders and the Commission, they were not very effective approaches to explain the main difference in the Commission's tendency, namely how the general public was included. This approach was also helpful in providing a better understanding of the social and political context in which the Commission moved, whereas rational choice theory suggested a potential disinterest in further integrating a heterogeneous and disassociated public. Yet, these approaches do not provide any conclusive evidence to the wider sets of explanation. One unanswered question in particular remained, concerning the public and whose participation it is that the Commission makes use of. The use of deliberative theory, while looking for causal mechanisms, helped to demonstrate the limitations in the Commission's method of reaching the wider public.

In order to carry out a discussion on the causal mechanisms that affected the relationship between civil society and the Commission, the question was approached differently, highlighting whom the Commission spoke with and about, and how that exchange took place. When taking the sets of groups at face value without examining the formation they take, the larger picture is excluded, the main case here being how the general public is addressed. The institutionalist hypotheses were rejected when it comes to the general public, because the emphasis was placed on the usefulness of the more closely involved actors that had a clear and established purpose for the Commission. When it came to the general public on the other hand, here the only fitting hypothesis was deliberative theory, arguing that the Commission was inconsistent in how they addressed citizens, prohibiting an effective communication. This deserves more attention since that is the variable that changes the most throughout the process, and where I found the most discrepancy in how much they were referenced to and how large a role they had in the revision process.

*Deliberative Democracy, An Alternate Level of Explanation: How can the Commission reach the General Public?*

Here I turn to the idea of the general public, and by this I move away from the involvement of the expert and the stakeholders. This allows me to unpack the composition of the general public and how they were addressed. The main question here is why the public was referred to as consumers in the second policy cycle, and the implications of this. Addressing this change enables further insight into why the Commission fell short of their goal. While I do not mean for this to demonstrate causality or validate any normative assertions, this discussion is intended to reflect the Commission's use and description of the general public in the case of the organic farming revisions in the light of deliberative theory. A deliberative democracy approach was discussed in the context of an empirical approach in the previous chapters. I now turn to emphasize the normative foundations of that initial argument to place the critique in context.

The White Paper on Governance raised the question of who was the target in EU participation, concerning the consultation, when noting that there “is currently a lack of clarity about how consultations are run and to whom the Institutions listen.”<sup>108</sup> Despite being addressed before the two revisions, which are here used as a case study, no more clarity is in sight. Who, and in what capacity, groups from the social constituency are included is directly linked to the initial question regarding the discrepancy between the Commission's intent and follow-through, following the third hypothesis on the general public. But now, the normative

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<sup>108</sup> EU Commission, “European Governance - A White Paper,” 17.

considerations play a larger role since the discrepancy comes down to how the general public is referred to and the implications that it has on whether they are successfully included. It is clear there has been a shift in how to use this approach, moving from a purely normative discussion through Habermas, central in specifying who the public sphere contained,<sup>109</sup> and Dahl who distinguished how deliberation ought to be by the people.<sup>110</sup>

Emphasis is placed on civil society as an intermediary method of presentation forming a “missing link”<sup>111</sup> and, as an additional way of creating a “strong democracy.”<sup>112</sup> I have suggested that the Commission, though the White Paper on Governance and how they in general refer to representation, is aiming for an even stronger form, seeking a direct interaction and support from the European people. While clearly being the most challenging form of representation, as it requires a connection to individuals, research suggests there is a point in seeking representation at this level, directly with the European public. Deth notes, for example, that civil society actors tend to be both “acting on the basis of their national commitments” and that there is a professionalized elite that “sustain the specific interests they represent in the European multi-level system.”<sup>113</sup> Because of this, civil society cannot be seen as an empty vessel able to translate the public as a whole, and the character of it is different to representation through organizations and associations.

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<sup>109</sup> Habermas, *Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy*.

<sup>110</sup> Robert Alan Dahl, *Polyarchy: Participation and Opposition* (Yale University Press, 1973).

<sup>111</sup> Hüller and Kohler-Koch, “Assessing the Democratic Value of Civil Society Engagement in the European Union.”

<sup>112</sup> Benjamin R. Barber, *Strong Democracy: Participatory Politics for a New Age* (University of California Press, 2003).

<sup>113</sup> Van Deth, “European Civil Society: The Empirical Reality in the Multi-Level System of the EU,” 339.

## IMPLICATIONS OF SEEING THE EUROPEAN PUBLIC AS ‘CONSUMERS’

I have analyzed the Commission’s misconception of the general public with the idea of consumers of organic products. While the Commission initiated the discussion of how to establish legitimacy through citizen’s participation throughout the legislative process, what came of it, was justifications by the Commission on behalf of consumers, arguably quite removed from a democratic discussion. Arguably, the referral of citizens as consumers is not only a misconception, but it also reduces the agency of the public.

The questionnaire was the primary way for the Commission to demonstrate general public participation. The report on the questionnaire and its later use in the revision cycles are the key documents.

How the Commission distinguishes between the public and the consumer is not immediately clear. Other distinctions are also needed, in particular the one between the civil society and citizen, this difference, the Commission is however clear on. It makes sense to separate the general public from organized society since 96% of those that took the questionnaire did so in the capacity as an EU citizen, by indicating themselves as citizens.<sup>114</sup> I argue that the questionnaire was a success for the Commission, in that it opened up a new venue of communication between individuals and the Commission. But, it was not a method to convey or engage with political deliberation. The questionnaire was addressed to a limited set of the public – the interested individuals, and engaged with the public in an already specific capacity, namely as a consumer. Thus, it was not a foundation for a political debate or exchange of ideas. While a questionnaire has the potential to be a more democratic tool in that

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<sup>114</sup> EU Commission, “Report on Public Questionnaire on Organic Agriculture.” 13.

it supports a dialogue with people as political constituents, it was in this case not to be. As highlighted by the empirical deliberative discussion, the “open public consultations do not make a market place of political concerns and ideas.”<sup>115</sup> This is going back to the idea that there was no exchange from where to develop a constituency’s position. Speaking in favor is the direct referral of EU citizens as consumers in the questions themselves. Some questions were directed only to EU citizens,<sup>116</sup> and these concerned only consumer patterns, specifically asking about where people bought organic products and on affordability.<sup>117</sup> On the other hand, some questions were more open-ended, and directed towards organic standards or controls where respondents were referred to as citizens. These answers were also used by the Commission in the revision processes, but utilized to a much smaller extent. There is no clear distinction between how the Commission refers to citizens and consumers, rather, they appear synonymous in these questions.

The previous discussion highlighted the need for an evaluation of the consumer and how they seemed to be used as a proxy, leading to a reduced involvement of citizens as a social constituency, since the general public did not fit its own description. In this perspective, there would have to be some exchange with the public, rather than regard for a specific aspect of the organic sector.

One reason is obvious - the way that Europeans most commonly interact with organic farming is through products on the market, making them in fact consumers. This can be understood in the context that the consumer base grew along with the increased demand, and

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<sup>115</sup> Hüller and Kohler-Koch, “Assessing the Democratic Value of Civil Society Engagement in the European Union,” 173.

<sup>116</sup> Not the 4% stakeholders, who also took the questionnaire.

<sup>117</sup> EU Commission, “Report on the Public Consultation,” 15.

that the Commission was responding to consumer demands. Yet, the Commission spoke differently about European citizens when talking about an involvement in the process. There, references to the market and consumer clarification were not at the center, rather legitimacy and citizenry was. Of course, this type of interaction places pressure on the Commission to interact with the European public, yet it was an objective the Commission placed alongside talking to an organized civil society and consulting experts for “better governance.” Moreover, references to citizens were often made in context to justifying a legitimacy claim, suggesting that having a dialogue and the involvement with Europeans, as citizens, would work to support the EU, and the Commission in particular with their type of governing and legislation process. While central to the topic itself, it is not enough in terms of involvement, from a deliberative perspective.

The idea that many still regard the Commission as shying away from a political debate and sticking to support-building efforts<sup>118</sup> could explain the reluctance to more directly and in a more challenging way include actors. By involving the public as consumers there is a clear rationale for including them, without being controversial. This also fits with the perspective shared by some stakeholders, i.e. that the Commission should not ask questions they already knew the answer to for this to be an effective method of participation.<sup>119</sup> Closely related to the idea of deliberative democracy is the idea that transmission of information is not sufficient. Using this strand of deliberative theory, the very format of the participation is in question. Yet, as the organic product is becoming increasingly commodified, does this limit the way in which the individual can participate in the legislative process?

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<sup>118</sup> Hüller and Kohler-Koch, “Assessing the Democratic Value of Civil Society Engagement in the European Union”; Quittkat and Finke, “The EU Commission Consultation Regime.”

<sup>119</sup> Interview with stakeholder 4.

To conclude, the place of the individual in the revision process of the organic farming legislation remains uncertain. I have in this chapter reflected upon the Commission's conflation of the public, and reasons as to why the general public's inclusion in the second revision cycle remained in the context of them as consumers. The aim was to explore why EU citizens were reduced to consumers in this process and whether there could be a benefit in expanding that definition. I argue that seeing the citizens as primarily consumers is reductionist when addressing the discussion to the "public" and referring to citizens. The attempt to reach out to a European public in this way is still beneficial and a cause in itself.

## Conclusion

In this thesis, I elaborated on why the Commission did not succeed in including the social constituency as part of the legislative revision process. I did this by establishing hypotheses based on institutionalism assessing rational choice and path-dependency as well as deliberative democratic theory. Through the assessment of the Commission's attempts in involving different parties with the social constituency, it was possible to detect different tendencies and explanations when it comes to how the Commission includes different groups the social constituency contrarily.

This process allowed for a consideration of how the Commission interacted and developed its process throughout the revision of the organic farming regulation. I demonstrated that rational choice theory was ill equipped to provide any closer explanation as to why the Commission's interaction was more limited than they suggested it should be in the case of the organic farming regulation revision. By suggesting that the usefulness of the actors that the Commission with engaged would be an indication of the extent to the interaction, I hypothesized that experts would have an increasingly large role. Yet, when reviewing the process, the opposite took place. When it came to historical-institutionalism, I hypothesized that a close-knit community among stakeholder groups and experts would prevent a more extensive exchange with other actors. In this case, I could not reject this hypothesis, since long relationships and commitments were clear with certain stakeholders and experts playing large roles in the two processes. When it came to the inclusion of the general public, these two approaches could not explain the curious inclusion of the citizens, where the Commission referred to this group increasingly as 'consumers.' One of the most significant changes in this



analysis was the inclusion of a public questionnaire. To analyze this development, and the seeming increase in the attention to the general public, I tested a hypothesis based on deliberative theory suggesting that what was significant was *how* and *who* were included in the revision process. Based on this approach I concluded that the inclusion of the general public was inconsistent and faulty in that the conclusion was limited, by virtue of it being a superficial increase without further engagement and exchanges of views between the EU citizen and the Commission. A misconstruing of the general public to a consumer limited an effecting engaged the EU citizen in the revision process.

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