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### 7. Protection, participation and legitimacy: the European Union’s public consultation system and ethnic and national minorities

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The focal point of this chapter is the question of how the wish of ethnic organizations to participate in the policy process interferes with the need of the EU to legitimize itself in the face of a persistent ‘democratic deficit’. Are the colour-blind consultation and lobbying channels established by the European Union well suited as a link between ethnic groups and the European Union, or is a more agonistic approach needed in order to address the different needs of these groups that add significantly to the deep diversity in Europe? By ethnic organizations, we mean organizations that identify with ethnic groups in three categories: regional national minorities like the Catalans, national minorities like the Roma who are diffusely spread over member states, and immigrants (third country nationals) like the Turks in Germany. We focus on organizations – like political parties, social movement organizations (SMOs) and non-governmental organizations (NGOs) – which try to influence the policy process on the (inter)national level.

The ongoing development of the European Union has radically changed the possibilities of influencing the policy process, both in member states and internationally. The most obvious change is the development of a new supranational level of governance. A significant share of new legislation in member states is actually made in Brussels. Therefore, political actors like lobby groups, think tanks and political parties have an interest in influencing the European policy process. For small, local or national organizations it may be too large a burden to be present in Brussels, and they may actually lose influence as a result of European integration. But, under some circumstances, similar small organizations that are present in many countries may gain influence by joining forces on the European level in for example an umbrella
environmental organizations. Environmental issues are by nature inter­national in character, and it seems logical that environmental organ­izations try to influence EU politics in this field. Moreover, their legitimacy (cf. Schlesinger and Fossum 2007). Hence, in any modern democracy a prerequisite for the legitimacy of the government is the existence of an accessible, inclusive and independent public sphere and media landscape.

However, on the European level, a mature public sphere of the kind that we find in democratic nation states is lacking. In the first place a shared European identity and culture are at best weakly developed, and there is no such thing as a 'European demos'. The underlying reason is the vast ethnic, cultural and linguistic diversity within the EU. More particularly, (linguistic) diversity and the lack of a truly pan-European language are an impediment for the development of pan-European media, which are virtually non-existent or (like Euronews) only reach a small, elitist audience. For all those reasons, the first generation of researchers investigating the existence of a European public sphere were quick to point out that such a sphere did not – or even could not – exist (de Vreese 2007). In the last decade or so, there has been ample literature moderat­ing this vision, pointing at a process of ‘Europeanization’ of national public spheres (Esmark 2007). However, the fact that political decision making is increasingly done at the European level, while public debates are still mostly confined to the national level, can be seen as the core of the democratic deficit of Europe (Koopmans 2007).

One of the effects of the juvenile European public sphere is that it negatively affects those organizations that seek to influence the policy process by attracting media attention with actions or participation in media-covered public debates. This point is well illustrated by the environmental organizations. Environmental issues are by nature interna­tional in character, and it seems logical that environmental organ­izations try to influence EU politics in this field. Moreover, environmental issues were accorded legitimacy by the EU early on and consistently sanctioned and supported by various EU institutions (Marks and McAdam 1996). Nevertheless, environmental organizations do not find much of a stage in Brussels:

Environmental organizations depend for their legitimacy and their resources upon their ability to command public support, and in the absence of a genuinely European public opinion, it is primarily public opinion at national level to which they must be responsive. Therefore they tend to invest in strengthening their national organizations rather than providing for substantial resources required for collective action at European level. Moreover, action at the EU level is often made disproportionately expensive by the costs of travel, communication and translation, while its effectiveness may be hard to evaluate, since the implementation of policies is still national. (European Parliament 2003)

Hence, for this type of organization, European integration is not a matter of scale, but forces them to change tactics and strategy in order to be influential.

Another effect of the lack of a fully fledged European public sphere is that it increased the relative importance of lobbying as a way of influencing EU policy making. This in the first place applies to the volume of lobby activities in Brussels. EU lobbying has grown considerably over time, and today some 1000 trade associations, the representa­tive bodies of 500 large companies, about 750 NGOs and around 150 offices representing regions are present in Brussels, together with many specialist consultants and law firms (European Parliament 2003: 5). Most of the approximately 5000 accredited interest groups in Brussels are linked to businesses and networks of professionals, but about one-fifth are non-governmental organizations (Coen 2007; Greenwood 2003). All in all, the 15 000 civil servants of the European Commission and the European Parliament face roughly 20 000 lobbyists on a daily basis (Coen 2007; Messer et al. 2011).

Besides, the lack of a nation state-like public sphere and the demo­cratic deficit also have a more subtle effect on lobbying activities. The undemocratic and opaque EU decision making is often parboiled in hardly visible consultative commissions, workgroups and the like for an extensive period of time. During this period, lobbyists may have the opportunity to steer the weeding out of possible policy options in a direction they prefer. This, in combination with the relative high degree of rational ignorance of EU agenda-setting institutions like the European Commission, gives lobbyists a considerable indirect agenda-setting power (Varela 2009).
The democratic deficit shapes the character of EU lobbying in yet another way. In general, there is a strong mutual dependency between EU officials and lobbyists, based on the exchange of expert knowledge and information. Often the juridical and technical complexity of laws and regulations is simply too high, and it is difficult to envision an EU regulation on dangerous chemicals without some involvement of the chemical industry. For actors in for example the industry, financial sector and other corporate branches, the situation is not much different from lobbying on the national level and, for them, European integration is mostly a matter of increasing scale. If we differentiate between consultation and codecision as the two principal legislative procedures (Crombez 2002) this kind of lobbying would be predominantly aimed at codecision.

For lobby organizations like NGOs and SMOs that try to further civic interests, the mutual dependency between EU officials and lobbyists has an extra dimension: legitimacy. The democratic deficit creates an incentive for EU institutions to actively search for sources of legitimacy. This works two ways: for a civic organization, say an NGO, having access to EU institutions adds to its legitimacy with its constituency. Conversely, owing to the democratic deficit of the EU and the resulting lack of legitimacy, EU institutions gain by close cooperation with the NGO because it is a way to gain legitimacy. By consulting NGOs and other civic organizations the EU institutions gain influence and improve their image as responsible political actors (cf. Faist 2004). Since cooperation with NGOs is an alternative source of legitimacy, EU institutions stimulate the formation of for example umbrella organizations of migrant communities in the member states (Geddes 2000; cf. van de Beek et al. 2010). This need of the EU to gain legitimacy has contributed to what is called the EU consultation system. It also has contributed to some specific characteristics of EU lobbying, which in comparison to US lobbying is less aggressive and more geared towards reaching consensus (Woll 2006).

We want to focus the rest of this chapter on the mutual dependency of EU institutions and organizations that identify with ethnic groups. In this, we make a distinction between national minorities and ethnic minorities, where 'national minority' refers to a group that obtained its minority position through the process of (nation) state formation, and 'ethnic minority' refers to a group of people that obtained its minority position through immigration into an existing nation state (cf. Kymlicka 1995: 10–11). For the sake of simplicity we call the latter group 'immigrants', though strictly speaking many second and higher generation individuals of migrant descent never migrated themselves. Among the national minorities we make a further distinction between regional national minorities (like the Catalans and Frisians) and two non-regional national minorities, namely the Jews and the Roma. Among the immigrants, we distinguish between Muslim immigrants and non-religious immigrants.

As said, we are interested in the mutual dependency between those ethnic groups and the EU. First of all, we choose to analyse the structure and degree of institutionalization of the EU consultation system for each of these groups. Furthermore, we want to know what both parties expect to gain by consultation. With regard to the EU we want to look at how consultation feeds into the legislative process and to what degree consultation helps to increase the EU's legitimacy. With regard to the five ethnic groups, we want to know what expectations and preferences they have about the EU. These considerations lead to the following research question:

a. What is the structure of the EU consultation system for each of the five ethnic groups;
b. what do organizations affiliated with these ethnic groups expect from the EU; and

c. to what extent does EU consultation of those groups increase EU legitimacy?

After section 1 on methodology, we will first answer sub-question (a) by sketching the EU consultation system vis-à-vis each of the five ethnic groups (section 2). Then, to answer sub-question (b), we will look into the preferences and expectations each ethnic group has about the EU (section 3). Finally we will tackle sub-question (c) by analysing how consultation affects EU legitimacy and to what extent consultation is congruent with the preferences and expectations of the five groups (section 4).

1 METHODOLOGY, DATA AND ACTOR SELECTION

In order to answer the research question, we make use of data from two different types of sources. Firstly, we make use of secondary literature, EU reports and other sources to sketch the EU consultation system in section 2. For the analysis of the expectations and preferences about the EU of the five ethnic groups, we make use of the Euroshphere project. This project is geared towards understanding the interaction between the development of the European polity, a European public sphere and ethnic and national diversity. For this research, leading figures of organizations in 16 European countries were interviewed on this subject. These were
all organizations that somehow influence the policy process: political parties, social movement organizations and think tanks. From the Eurosphere database we selected a total of 29 organizations that are affiliated with one of the five ethnic groups. The classification of the organizations was done with help of the Eurosphere Country Reports and in consultation with the Eurosphere partners, who revised our initial judgement when necessary. Besides that, we selected 30 political parties that can be seen as ‘mainstream’. Those mainstream political parties are used as a control group. For each country several (in most cases two) political parties were selected that belong to the political middle of the country. Again, we used a similar procedure of consultation of Eurosphere partners to reach the final selection of mainstream political parties.

We need to make some remarks on our use of the data. In the first place, the number of respondents per ethnic group is rather limited. To be exact, we have for regional national minorities 26 respondents representing five organizations, for Roma 12 respondents representing four organizations, for Jews 8 respondents representing three organizations, for Muslim immigrants 12 respondents representing seven organizations and for non-religious immigrants 11 respondents representing three organizations. Obviously, this severely limits the validity of our sample. We however feel that the data are suited for illustrating the preferences and expectations about the EU of the five ethnic groups and carefully draw some preliminary conclusions. To reach sufficient validity, more research on a larger sample is needed.

Furthermore, some of the questions of the (structured) interviews we used allow for multiple overlapping answer categories. In Figures 7.1 and 7.2, those answers are aggregated. For each answer category we took the fraction of respondents who deemed that answer category applicable to their situation. Then we added all fractions in order to form bar charts. Because a fraction may vary between 0 (=0 per cent) and 1 (=100 per cent), the bars may add up to more than 1 (=100 per cent). Therefore, one should be careful with interpretations, since the length of the bars partly depends on the number of overlapping answer categories. For example, it makes a big difference whether the respondent can only choose ‘European polity’ or has multiple possible answer categories, one for each institution forming the European polity, as is the case with Eurosphere interview question V5.10 (see Figure 7.1). Also, in those cases where many overlapping answer categories are aggregated, the bars may be rather long, which might give the false impression that no answer category was mentioned often. However, with a high number of answer categories even a score of 1 (=100 per cent) may cover a relatively small part of a bar. Despite those limitations, the data are well suited to comparing the five types of organizations with each other and with the control group of mainstream political parties.

2 THE EU PUBLIC CONSULTATION OF ETHNICALLY AFFILIATED ORGANIZATIONS

As said before, EU lobbying has grown considerably over time. However, the number of lobbyists, lobby organizations and their resources are quite unevenly distributed over the types of actors that want to influence EU politics. Following EU categorization (European Parliament 2003), lobby organizations can be divided into civic and producer organizations. The producer’s interests can be subdivided into labour, professions and business, which are all well represented by often resourceful lobby organizations. Likewise, the civic organizations can be further subdivided into four somewhat heterogeneous categories, those representing consumer, environmental, regional, and social and community interests. Though only the latter two are of direct relevance to us, it’s insightful to look at the first two as well for comparative purposes.

Consumer lobby organizations are in general well resourced and well organized and in that sense do not deviate much from the producer lobby organizations. As said before, environmental organizations operate in Brussels, but despite their international character and early recognition by EU institutions their influence is curbed owing to the lack of a mature European public sphere. Lobbying by regional organizations is well developed and much institutionalized. This contrasts sharply with the degree of organizations and resourcefulness of organizations that lobby for social and community interests:

Organisations of women, human rights activists and other societal interests tend to be weaker than their counterparts in the sectors of industry, trade and agriculture and for the most part lag behind in the pace of Europeanisation set by the latter groups. This is even more true of other groups of the population, for instance welfare recipients and pensioners, who lack transnational ties and are widely dispersed - not to mention immigrant workers, minority ethnic groups, and the unemployed. (European Parliament 2003)

As we will see shortly, the degree of self-organization of immigrants and non-regional national minorities indeed falls behind that of the regional national minorities, though the first have been catching up a bit during the last decade. We will now sketch the way EU institutions consult each
of the five groups; regional national minorities, Roma, Jews, Muslim immigrants and non-religious immigrants.

2.1 Regional National Minorities

The development of the consultation structure regarding regional national minorities is strongly related to a process of regionalization that started in the 1980s. The meaning of territory to the dispersion of political and economic power has changed dramatically over the past few decades. Some forces like globalization deterritorialize in the sense that they tend to disconnect ties between place and culture. Likewise, European integration weakens the importance of the nation state and its hold on territory. At the same time, European integration makes regionalism a more prominent force in European politics (Keating 1997). Increasingly, cities and industrial regions are lobbying for resources in Brussels (McAleavey and Mitchell 1994). By the end of the 1990s Brussels counted some 150 organizations representing sub-national governments (European Parliament 2003). Furthermore, those organizations combine forces in two overarching organizations: the Council of European Municipalities and Regions (CEMR) and the Assembly of European Regions (AER). The AER - founded in 1985 - is made up of delegates of over 200 regional parliaments who claim to represent 80 per cent of the European population (European Parliament 2003).

The power of the regional organizations varies greatly with the power of the sub-national governments they represent. Some of the more peripheral regions are weak, poor and not well organized, while others like the Belgian region of Flanders, Spanish autonomous communities like Catalonia and the German Länder like Bavaria are powerful and relatively independent political entities within their respective states (Hooghe and Marks 1996). In particular the German Länder felt they were underrepresented in European politics and lobbied for the creation of a chamber representing the regions in the European polity. This ultimately led to the installation of the Committee of the Regions (CoR), first mentioned in the Maastricht Treaty (Christiansen 1996).

The foundation of the CoR is the culminating point in what Hepburn (2007: 233–235) has coined ‘the Rise and Fall of a “Europe of the Regions”’ (cf. Elias 2009; Hepburn 2008). In the early 1980s, the attitude of regional politics was characterized by ‘nationalist and left-wing animosity to the European project’ and a vision of the nation state as a ‘giver of autonomy’ (Hepburn 2007: 233). Gradually regional parties started to appreciate the decentralization of government in member states and visualized ‘an alternative form of autonomy ... available to [regional] political parties previously seeking independence, which amounted to a special place in a “Europe of the Regions”’ (Hepburn 2007: 233). For some time regional organizations saw the EU as a third way between nation state centralism and full autonomy. Conversely, the EU reached out by founding the Committee of the Regions in 1994 and embedding the principle of subsidiarity in EU treaties. So, to regional actors, the CoR and the idea of a ‘Europe of the Regions’ seemed a means to ‘bypass the nation state’ (Keating and Hooghe 2001).

However, rather quickly the Committee of the Regions turned out to have little influence on the EU policy process, and participating parties grew more and more frustrated (Christiansen 1996). One of the reasons was that the EU saw the CoR predominantly as a way to solve its persistent legitimacy problem, without sharing real power with the regional level: ‘For the supranational institutions, the creation of such a committee was attractive because it carried the advantage of added legitimacy to European policymaking, while CoR’s advisory nature carried little potential for obstructing decision processes’ (Christiansen 1996: 95). Furthermore, it turned out that ‘influence in EU decision making derive[d] largely from effective coalition building, both with other like-minded actors but also, inevitably in the case of sub-national authorities, with central governments’ which contributed to further scepticism about the feasibility of a “Europe of the Regions”’ (Bomberg and Peterson 1998: 219).

From the mid-1990s onward regional parties began to lose their belief in a Europe of the Regions, mainly because of the continuing weakness of the CoR, but also the unwillingness of the EU to embed regional recognition in the European constitution. Increasingly, they began to see the EU as a threat to regional autonomy, and many regional parties reverted to their original state-centred position, searching for ways to receive protection, recognition and resources not from the EU but from the state (Hepburn 2007: 234). In short, despite the fact that the consultation structure developed in the 1980s and 1990s is still in place and has a high degree of organization, it continues to give regional organizations a more limited say in European politics than they actually want.

2.2 Roma

In recent years, an EU consultation structure has been built around the Roma minority. One of the key players is the European Roma Information Office (ERIO). ERIO – founded in 2003 – works as an interlocutor for EU institutions and links those institutions with an extensive
European network of Roma organizations. Moreover, ERIO promotes the participation of Roma communities in decision-making processes at European, national and local levels. ERIO works to sensitize EU institutions to the importance of developing and ensuring the accessibility of equal opportunities for Roma in EU Member States as well as in Candidate Countries. In 2008, Roma consultation was further institutionalized when the European Commission received a request from the member states 'to organise, initially, an exchange of good practice and experience between the Member States in the sphere of inclusion of the Roma, provide analytical support and stimulate cooperation between all parties concerned by Roma issues, including the organisations representing Roma, in the context of an integrated European platform' (Council of the European Union 2008: 52). This resulted in the so-called Roma Platform, in which Roma representatives and representatives of the EU and national governments meet each other on a regular basis.

A driving force behind this recent development is the eastward expansion of the EU. This resulted in two related problems. In the first place, the accession of countries like Slovakia, Hungary, Romania and Bulgaria with a relatively large Roma population brought a large share of Europe’s largest minority (European Commission 2011a) under the shared responsibility of the EU. Many Roma in those countries live in deplorable socio-economic circumstances and face systematic discrimination and exclusion on a daily basis (Maryniak 2004).

In the second place, the freedom of movement within the enlarged EU made it possible for East European Roma to migrate to the West. Countries like Italy and France saw a relatively large influx of Roma seasonal workers and travellers. In many cases, this influx put pressure on local authorities and provoked anti-Roma sentiments among the population. Moreover, the governments of those countries reacted with harsh and sometimes very discriminatory measures. Notorious examples are the Italian ‘Roma camps’ and the French ‘deportations’ of unwanted Roma immigrants. Some scholars argue that the old EU countries apply double standards, demanding strict application of minority rights in acceding countries, and simultaneously violating those very rights in the case of the Roma (Johns 2003; Vermeersch 2002).

All in all, the EU saw itself confronted with a very unwanted and difficult situation. Despite the fact that minority rights are securely anchored in the Lisbon Treaty and in directives on racial equality and free movement and residence (European Commission 2011b), both old and new member states behave discriminatorily against the Roma and anti-Roma feelings seem deeply entrenched among their populations. This led to the foundation of the above-mentioned Roma Platform and more recently to the development of an EU Framework for National Roma Integration Strategies up to 2020 (European Commission 2011a, 2011b). All in all, in the case of the Roma, the EU has firmly positioned itself as the protector of minority rights, neglected by many member states.

2.3 Jews

EU institutions do not behave as proactively towards the Jews as in the case of the Roma, though the European Union Agency for Fundamental Rights is for example regularly monitoring trends in anti-Semitism (FRA 2011). On the other hand, during the last two decades, Jews in Europe have founded several organizations aimed at lobbying the EU. For a considerable part, this lobbying is aimed at influencing the foreign policy of the EU regarding the Middle East peace process. In that sense it can be seen as part of the more general phenomenon of Diaspora lobbying (cf. Koínova 2010; Shain 2002). One of the players that tends to side more with Israel is the Centre Européen Juif d’Information (CEJI), founded in 1991. Another much smaller organization, founded in 2002, is the European Jews for a Just Peace (EJJP), which lobbies the EU for a ‘just peace’ in which both Israel and the Palestinians are treated fairly. Both are umbrella organizations representing many nationally based Jewish organizations. An important recent development is the foundation of the European Jewish Parliament. This Brussels-based parliament represents Jews throughout Europe, both inside and outside the EU. This parliament could have a large influence on the future development of the EU consultation structure vis-à-vis the Jewish minority in Europe.

The identity of the European Jews is rather complex and has a national dimension (in relation to Israel), a religious dimension (to those Jews who are orthodox) and also an ethnic or minority dimension. Therefore, besides lobbying aimed at EU foreign policy, Jewish organizations in Europe deploy many other activities. For example, CEJI is quite active in combating racism in horizontal cooperation with for example organizations fighting racism and discrimination and Muslim organizations (van de Beek et al. 2010). Especially with regard to the religious dimension, Jews increasingly feel threatened by new or proposed laws and regulations that prohibit ritual slaughter or circumcision in some member states. Hence, it is not unlikely that religious matters may play an important role in future EU consultation of the Jewish community. However, so far the religious representation of the Jews in Europe seems limited, with the Conference of European Rabbis as the most important, but a hardly visible, player (Foret and Schlesinger 2007).
2.4 Muslim Immigrants

This last observation is a direct link with the EU consultation of Muslim immigrants. Though the EU is 'certainly not a nation state' (Schmidt 2004) like centralist France, the federal German Bundesrepublik or the US federation, it is nevertheless a state-like structure. In its development, a form of laïcité or separation of 'state' and 'church' has always been presupposed. Religion is not seen as an EU competence and left to the national level (Foret 2009; Pastorelli 2009). In general, EU legislative measures make little reference to religion (Steven 2009). In fact, EU institutions are often seen as surprisingly secular (Leustean and Madeley 2009), despite Jacques Delors's action to 'give Europe a soul' (Foret and Schlesinger 2007) and, more recently, the heated debates on the Christian character of the EU in relation to the European constitution (Menéndez 2005).

However, phenomena like Muslim terrorism and the subsequent 'moral panic ... about the role of religion in public life' (Leustean and Madeley 2009), a 'growing islamophobia' (van der Brug and van Spanje 2009) and discontent in many member states about Muslim immigrants have pushed the EU towards active consultation of religious minorities. The Lisbon Treaty has a provision stating that the EU shall maintain an open, transparent and regular dialogue with churches, religious associations or communities and also non-confessional organizations in the member states (Houston 2009; Leustean and Madeley 2009). So far religious representations seem to be mainly limited to Christian churches, the Roman Catholic Church in particular. Other denominations are hardly represented in Brussels (Foret and Schlesinger 2007). However, in recent years religious lobbying has increased considerably. This resulted in 'the incorporation of religious communities as partners of dialogue in the EU legislation' (Leustean and Madeley 2009: 13) and 'political mobilisation in the European Parliament' (Foret 2009). Nevertheless 'their lobbying tends to be defensive, aimed at ensuring that established positions at the national level will not be threatened' (Foret 2009: 39).

Conversely, EU institutions actively search for religious dialogue partners (Geddes 2000). Foret (2009) relates this directly to the EU's ongoing quest to increase legitimacy. 'The 2000s have been a period of political decay for the EU', he argues, pointing at the problems with the referenda on the constitution, the eastward enlargement and the euro, and 'that is the reason why the EU has tried - once more - to tackle the legitimisation issue' (Foret 2009: 38). This all being said, one must conclude that Muslim lobbying in the EU is still in an early phase of development and small in comparison to its Christian counterparts, with the Strasbourg-based Muslim Council for Cooperation in Europe as its most prominent organization (Foret and Schlesinger 2007).

2.5 Non-religious Immigrants

With regard to the EU consultation of non-religious immigrants there is a less proactive attitude of EU institutions. Besides, the European Migration Forum (EMF) seems to be the only, somewhat influential NGO lobbying on behalf of immigrants in general, though there are several other organizations that represent minority and immigrant interests in a more general sense, such as the Human Rights Contact Group and United, a European-wide anti-racism network (European Parliament 2003).

3 EXPECTATIONS AND PREFERENCES OF ETHNIC ORGANIZATIONS REGARDING THE EU

The next task at hand is to examine the expectations and preferences of ethnic organizations regarding the EU. First of all, we look at the degree to which each type of organization is geared towards influencing the EU polity. This is done with the help of the answers to a Eurosphere interview question with regard to the actors the organization wants to reach with its actions (see Figure 7.1). In Figure 7.1, we are primarily interested in the relative degree to which the respondents want to reach EU institutions like the European Parliament (EP), the European Commission, the European courts and other institutions that are part of the European polity. 

This picture shows three striking trends. Firstly, there is a marked difference between immigrants on the one hand and regional national minorities - Roma and especially Jews - on the other hand. The latter turn out to be aiming most at influencing EU institutions, even more than mainstream political parties. This contrasts sharply with the low tendency to influence EU institutions displayed by the organizations affiliated with immigrants. Secondly, regional national minorities do not show an above-average tendency to influence the Committee of the Regions, which confirms the observation in section 2 that the CoR has little influence and dwindling significance for regionalist actors. Finally, among regional national minorities, Jews and Roma, we see relatively high scores on influencing EU institutions like the European Ombudsman and the European Courts of Justice and of Human Rights. This is an indication that those organization types have an interest in the EU as a...
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• European Parliament
• European Committee of the Regions, agencies
• Political parties and/or party families
• Ethnic minority organizations/networks
• Other

• European Ombudsman, Courts of Justice
• Human Rights
• EU other
• Citizens in general
• Religious organizations/networks


Figure 7.1 Which actors on the (inter)national or regional and local level the respondent wants to address with his or her activities

protector of minority rights, next to additional interests like increasing participation for the regions (regional national minorities) or influencing EU foreign policy and securing religious minority rights (Jews).

In order to find out which motive – the EU as protector of minority rights versus regional participation or influencing foreign policy – is more important, we look at another Eurosphere interview question regarding preferences of the ethnically affiliated organizations with regard to shifting power to grant irrevocable minority rights from the member states to the EU level (see Figure 7.2). This question is of importance to all types of ethnically affiliated organizations. Here we see that Roma especially turn out to be strong proponents of a shift of competences regarding minority rights to the member states to the EU level, with levels comparable to or lower than those of mainstream political parties.

It seems that Roma especially have a lot of confidence in the EU as protector of (their) minority rights. This may well be explained by their negative experiences with national governments – in both Western and Eastern Europe – in combination with the recent efforts by the European Commission to put Roma inclusion firmly on the political agenda (see section 2). Finally, the moderately positive attitude of regional national minorities towards shifting power over minority rights to the EU level may be explained by pointing at the fact that the EU can grant new rights or enforce existing rights, while the costs of such minority rights (bilingual education, conflicts with vested interests) are by and large borne by the member states. However, despite the failure of a Europe of the Regions, gaining regional influence must still be seen as a very important motive for lobbying the EU. Finally, regional national minorities still ‘are consistently pro-EU across time, space, and issue area’ (Jolly 2007) and can be shown to be much in favour of a federalized Europe in which power is shifted towards the regions at the expense of the member states (van de Beek and Vermeulen 2011).
4 CONCLUSIONS

Remember that we set out to answer the following research question:

a. What is the structure of the EU consultation system for each of the five ethnic groups?
b. what do organizations affiliated with these ethnic groups expect from the EU; and
c. to what extent does EU consultation of those groups increase EU legitimacy?

We will now give an integrated answer to these three sub-questions. The only type of interest in our sample that comes close to the representational success of business and the professions is that of regional organizations and authorities. Moreover, regional interests are (uniquely) entrenched in the EU polity with the installation of the CoR. This has to do with the attempt to create a ‘Europe of the Regions’. From the perspective of the EU, this move should by and large be seen as an attempt to increase the legitimacy of the European polity as a panacea for the persistent democratic deficit. One could argue that this approach had two dimensions. Firstly, in a more direct way, the introduction of the Committee of the Regions – founded on the principles of proximity to citizens, partnership between all levels of government, and subsidiarity of legislation and administration – would bring EU decision making much closer to the citizens. Secondly and more indirectly, by ‘bypassing the nation state’ (Keating and Hooghe 2001) and diminishing its power, the EU could achieve a more state-like image. However, this scheme did not work out very well, and much of its failure may be ascribed to the fact that both the EU and the member states did not really want to share power with the regional level and gave the CoR only an advisory status. As a consequence, the whole idea of the Europe of the Regions did not contribute much to EU legitimacy. Despite this, representatives of the organizations of regional national minorities in our sample are still positive about the idea of a federal European Union, which indicates that the idea of a ‘Europe of the Regions’ still lives on in some form.

With the Roma, there is a rather clear-cut situation. The Roma are severely discriminated against by ‘old’ and ‘new’ member states alike. This constitutes a painful inconsistency for the European Union, because the EU fosters a self-image of being a community based on human rights. For that reason, the EU has taken up the challenge of swift inclusion of the Roma minority. This has led to a moderately institutionalized consultation system for this group, with regular meetings of the so-called Roma Platform. It seems that the preferences and expectations of the Roma organizations in our sample are rather congruent with this agenda; respondents on average expect much from the EU as a protector of (their) minority rights and are also geared towards influencing EU institutions. However, though EU interference in the case of the Roma will probably increase the EU’s image of being a rights-based community, it certainly does not solve the democratic deficit.

The case of the Jews is somewhat different. Firstly, where in the Roma case the European Commission seems to be the proactive actor, for the Jewish case the initiative seems to be coming predominantly from the Jewish community itself. The recent foundation of the Brussels-based European Jewish Parliament illustrates this point. Furthermore, the Jewish case is more complex, in the sense that it is about minority rights, religion and EU foreign policy on the Middle East. Where it is not unlikely that EU institutions consult Jewish interest groups that operate on the European level on matters of religion or minority rights, it would be more difficult to imagine consultation of such groups on the EU’s foreign policy towards Israel. So it seems that the balance in this case is less on the side of consultation and more on classic Diaspora lobbying. However, over the past few years, EU institutions have been more actively engaged in finding religious interlocutors, and this together with the interference of several EU member states with religious rituals may make for a changing picture and make consultation relatively more important. The preferences and expectations of the Jewish respondents in our sample seem to be partly congruent with this: they show a strong tendency to influence the EU polity, which is consistent with their Diaspora lobbying, but on the other hand do not have much confidence in the EU as a protector of minority (and religious) rights. Lastly, it is not easy to perceive any improvement of EU legitimacy vis-à-vis the EU population at large related to lobbying or consultation of Jewish organizations in Brussels.

Muslim immigrants are organizationally less articulated than national minorities. This may partly be explained by their shorter presence in the EU and lower socio-economic status. However, in recent years, the role of religion – and the Islamic faith in particular – has increasingly been seen as problematic, and this has put religion on the EU political agenda. Nowadays, a dialogue with religions (and also non-confessional organizations) is entrenched in the Lisbon Treaty. Hence, the EU’s more proactive attitude towards religions and increased religious lobbying may result in a much more institutionalized consultation structure for Islam and other religions in the near future. Again, it is difficult to see how the
EU’s legitimacy could be substantially improved by opening up opportunities for religious lobbying, because it does not solve fundamental problems like the selection and representativeness of interlocutors and their precise influence in the murky EU policy process (cf. Foret 2009).

The consultation structure vis-à-vis non-religious immigrants seems to be the least organized of those of the five groups at study here. Only a few organizations represent the interests of immigrants in general at Brussels. Also, unlike religious communities, immigrants do not have special provisions in EU treaties that open up lobby opportunities. Lastly, the EU does not seem to act much differently from member states when it comes to excluding third country nationals, for example at its southern borders, and hence it seems unlikely that the EU can gain extra legitimacy by a more proactive and inclusive attitude towards non-religious immigrants.

With regard to sub-question (c), we may conclude that the regional national minorities are best represented in EU consultation and the EU polity partly because of the influence of some very powerful players like Bavaria. On the other hand, the degree of organization varies immensely between regional players. The structure of participation and consultation built around regions must be seen as a first failed attempt of the EU to gain legitimacy. Today, the EU tries to gain legitimacy by Roma protection and by an ordered dialogue with (non-)religious confessions. Though this may increase the EU’s image as a protector of minority rights, it is unlikely that it is going to solve the fundamental problems underlying the democratic deficit.

In terms of this book’s overall theoretical approach focusing on the agonistic features of the European public sphere, the most important aspects of our findings are:

- the gap that we found between the EU’s objective to legitimize itself, the EU consultation system as a tool of legitimacy, and what minority groups expect from the EU;
- the variety of different groups’ demands of the European Union concerning minority affairs and protection of minority rights;
- the conflicting and contesting nature of different groups’ preferences as to conceiving the European level institutions as a relevant addressee of their demands.

These three aspects may require an agonistic-pluralist policy approach from the EU’s side rather than applying a single overall method to link different groups with the EU institutions. Although the regular consultation and lobbying system provides channels of direct vertical communication between the EU and the ethnic organizations that see the EU as a relevant addressee, such a system may increasingly put the EU in a referee position where it has to choose between the conflicting and contesting claims of different groups, specifically regarding the protection of minority rights. The current democratic deficit of the EU makes such choices all the more suspect. A linkage provided by the current consultation system will not be legitimate before such conflicts and contestations have been negotiated horizontally by ethnic organizations and other stakeholders themselves within the confines of an agonistic European public sphere.

NOTES

1. The term ‘national minority’ is a rather vague term. The International Covenant on Civil and Political Rights speaks of ‘ethnic, religious or linguistic minorities’ without further specification. The European Convention on Human Rights also uses the term ‘national minority’ without specifying it. More importantly, even the Framework Convention for the Protection of National Minorities does not define the term ‘national minority’; this is left to participating states.

2. Note that different entities play a role in our research: the respondents, the organizations they belong to and the ethnic groups these organizations affiliate with. We want to analyse the differences and similarities of each type of organization, but as a matter of convenience we will often refer to the respondents or the ethnic groups involved.


4. The numbers are from the mid-1990s.

5. Another form of cooperation of regional organizations on the European level is the formation of the European Free Alliance, a faction in the European Parliament that represents the interests of many nationally based political parties of regional minorities like the Frisians, Welsh and Catalans.


10. For example see http://www.ynetnews.com/articles/0,7340,L-4144496,00.html (accessed 11 November 2011).

11. The percentage of respondents per organization type who mentioned a certain answer category in response to the question ‘Which actors on the (international or regional and local level do you [the respondent] want to address with your activities?’ The fraction of the total number of respondents of a certain organization type who mentioned a particular answer category are aggregated. Because the respondents were allowed to mention more than one answer category, the answer adds up to more than 1 (1 being equal to 100 per cent).

12. The percentage of respondents per organization type who mentioned a certain answer category in response to the question V3.5a, ‘To which groups should the EU have power to grant minority rights that cannot be revised by the member states?’ The fraction of the total number of respondents of a certain organization type who mentioned a particular answer category are aggregated. The answer category ‘The EU should not have power to grant any minority rights to any groups’ is counted as negative. Because the respondents were allowed to mention more than one answer category, the answer adds up to more than 1 (1 being equal to 100 per cent).
REFERENCES


In the ideal case, political parties provide citizens a real choice among competing visions of policy and/or government. They simplify the choices available to voters to enable them to participate in the complex democratic processes that characterize today’s world. Parties are accountable to the voters, as parties can be held responsible for government performance at election time. Yet parties often fail to perform their roles: they can limit political competition to specific issues only, grab the benefits of the political system and prevent others from entering the political market. The complexity of the European Union only adds to the importance of understanding what contribution political parties have in this super-structure.

Ever since the Treaty on European Union (1992), political parties have been recognized as important factors for European integration. Most notably, national parties have formed European party groups to compete in the European arena, and access to the European Parliament, the Council or other institutions of the EU is mainly through the channels of party politics. Yet it remains unclear whether European parties managed to create a vertical trans-European public space linking national constituencies with the EU by aggregating political preferences to the European Parliament (EP), as many claim that a democratic deficit (Moravcsik 2002), as well as a cultural deficit (Benz 2006; Majone 1998), plagues the EU and its institutions. Critics claim that European elections fought on non-European issues prove that existing essentializing or nationalizing public spaces resist transnationalizing efforts, and national loyalties are often in conflict and contestation with trans-European discourses of democratization, inclusion and Europeanization.

At the same time, transcending nationalizing publics and public spaces does not need to translate into a demand for a unified European public