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Special Report

'Have your say!': Commission's public consultations engage citizens, but fall short of outreach activities



EUROPEAN
COURT
OF AUDITORS

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Executive summary

I According to Article 11 of the Treaty on European Union, the Commission has a duty to consult citizens and representative associations in all areas of Union action.

Stakeholder consultations – in particular public consultations – collect information and views from citizens and other stakeholders when the Commission is preparing a policy initiative or evaluating existing interventions.

II Since its White Paper on ‘European Governance’ of 2001, the Commission has been strongly committed to engaging with stakeholders and citizens throughout the policy cycle in order to increase the EU’s democratic legitimacy and accountability in the EU law making process. On average, the Commission carries out more than 100 public consultations per year.

III Our audit assessed whether the Commission’s public consultations were effective at reaching out to citizens and stakeholders and making use of their contributions. We examined the design of the Commission’s framework; the way that the Commission prepared and conducted a selection of public consultations; and how it provided information about and made use of the consultation work. We reviewed a sample of 26 Commission public consultations that were conducted between 2016 and 2018 by five Directorates-General. We carried out a perception survey to find out how satisfied the participants in public consultations actually were. We also set up a panel of experts to enhance our analysis, and help us to focus on particularly relevant areas that could be improved.

IV We found that both the performance of the sample of the Commission’s public consultations and the participants’ perception thereof were satisfactory overall. We concluded that the Commission’s framework for public consultations is of a high standard, but that outreach activities need improvement.

V Our audit identified further areas for improvement in the public consultation process: the focus on monitoring and assessment; the content of and publicity for the Commission’s public consultation strategies; outreach activities; the criteria for categorising initiatives; the languages in which the consultation documents are available; the quality of questionnaires; data processing and security; and feedback for respondents about the outcome of the consultations.

VI We recommended that the Commission should: better monitor the public consultations; improve public consultation strategies; translate key consultation

documents for priority initiatives and initiatives of broad public interest into all official languages; prepare general questionnaires for the public and specific questions for specialists; apply high standards of data processing and security; and provide participants with timely feedback on the outcome of consultations.

Introduction

01 Results of a public consultation may shape EU policy-making. As a prominent example, on 12 September 2018, in his 2018 State of the Union speech entitled ‘Delivering on our promises’, Commission President Juncker said that “there is no applause when EU law dictates that Europeans have to change the clocks twice a year. The Commission is today proposing to change this. Clock-changing must stop”¹. The European Commission proposed to end seasonal clock changes in Europe in 2019, giving Member States the freedom to decide whether they want to apply summer or wintertime permanently.

02 A few months previously, between 4 July and 16 August 2018, the Commission held a public consultation which yielded 4.6 million responses, the highest number ever received in any public consultation it had organised.

The Commission’s commitment to engage with citizens

03 Article 11 of the Treaty on European Union (TEU) requires the Commission to perform broad consultations, giving citizens and other stakeholders an opportunity to contribute to policy-making². On 25 July 2001, the Commission adopted the White Paper on ‘European Governance’³, the aim of which was to open up the policy-making process in order to involve more people and organisations in shaping and delivering EU policy, and so increase the EU’s democratic legitimacy and accountability. In order to meet those commitments, the Commission prepared a paper on consulting interested parties⁴, which also contributed to the ‘Action Plan for Better Regulation’⁵.

04 Better Regulation guidelines define stakeholder consultation, including citizens as ‘stakeholders’, as “a formal process by which the Commission collects information and

¹ P. 6 of the 2018 State of the Union speech by Commission President Jean-Claude Juncker. 12 September 2018.

² Article 11 of the Treaty on European Union on participatory democracy: (3) The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.

³ COM(2001) 428 final.

⁴ COM(2002) 704 final.

⁵ COM(2001) 726 final and COM(2002) 278 final.

views from stakeholders about its policies”⁶. This is a key part of the Commission’s Better Regulation policy. ‘Better Regulation’ is not about regulating or deregulating: it is a way of working to ensure that political decisions are prepared in an open and transparent manner, informed by the best available evidence and backed by the comprehensive involvement of citizens and other stakeholders, such as civil society organisations and representative associations⁷. In our report, when referring to ‘citizens’, this notion also includes ‘other stakeholders’.

05 The current EU Better Regulation agenda of the Juncker Commission was published in 2015⁸ and was accompanied by guidelines, including a toolbox. In 2017, the Commission completed a major update of its internal guidelines and tools for Better Regulation with a view to increasing the legitimacy of what it does⁹.

06 In October 2017, the Commission stressed that it was strongly committed to engaging with citizens¹⁰. It rolled out the ‘Contribute to law-making’ website, which is meant to allow citizens to participate in its work throughout the policy cycle¹¹. Citizens can share their views from the initiation to the evaluation of EU policies, through the ‘Have Your Say’ website portal¹² (*Picture 1*).

⁶ SWD(2017) 350 final: Better Regulation guidelines, p. 69.

<https://ec.europa.eu/info/sites/info/files/better-regulation-guidelines.pdf>

⁷ Better Regulation guidelines, p. 4.

⁸ SWD(2015) 111 final.

⁹ Better Regulation guidelines SWD(2017) 350 final:

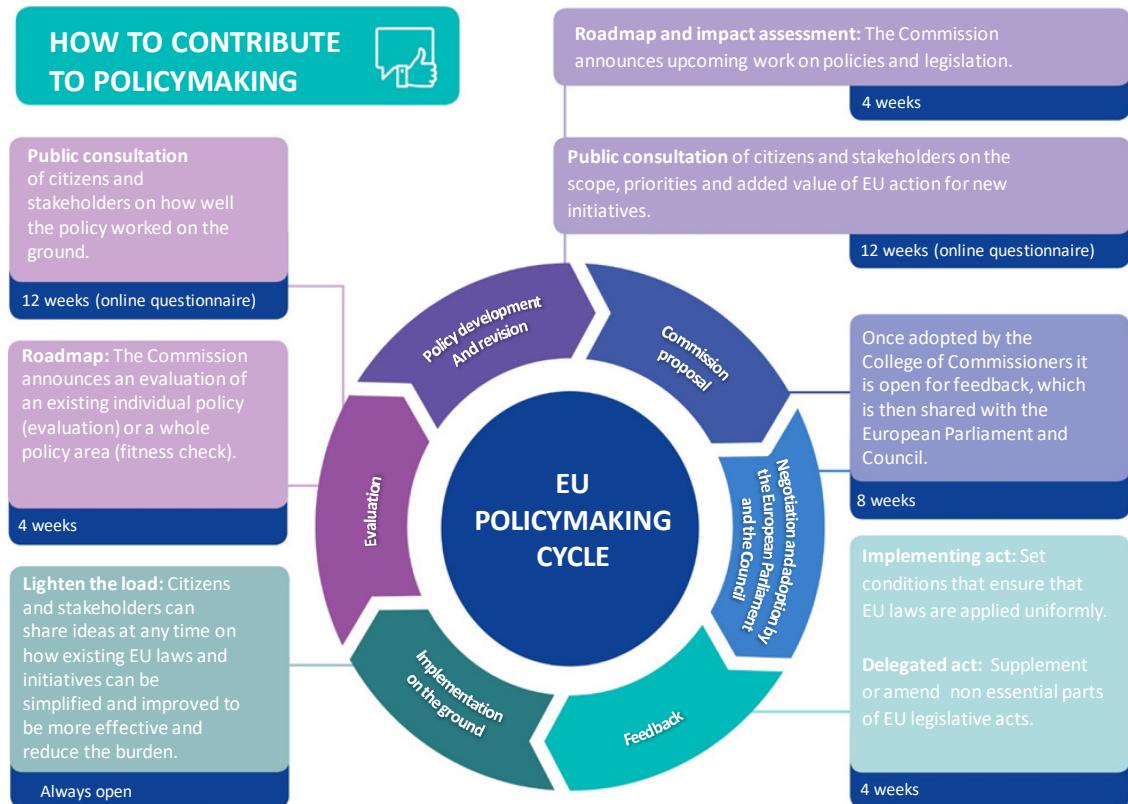
<https://ec.europa.eu/info/sites/info/files/better-regulation-guidelines.pdf>

¹⁰ Completing the Better Regulation agenda: Better solutions for better results.
SWD(2017) 675 final.

¹¹ “Contribute to law-making” website: https://ec.europa.eu/info/law/contribute-law-making_en

¹² https://ec.europa.eu/info/law/better-regulation/have-your-say_en

Picture 1 – Opportunities for citizens to participate in the EU policy cycle



Source: Commission Staff Working Document, COM(2019) 178.

07 In 2018, the Commission upgraded the ‘Contribute to law-making’ website and made several improvements to the ‘Have Your Say’ website portal. The main improvements were: displaying feedback opportunities on a timeline; incorporating all open and closed public consultations; publishing upcoming initiatives; and translating general information relevant for all public consultations into all EU languages.

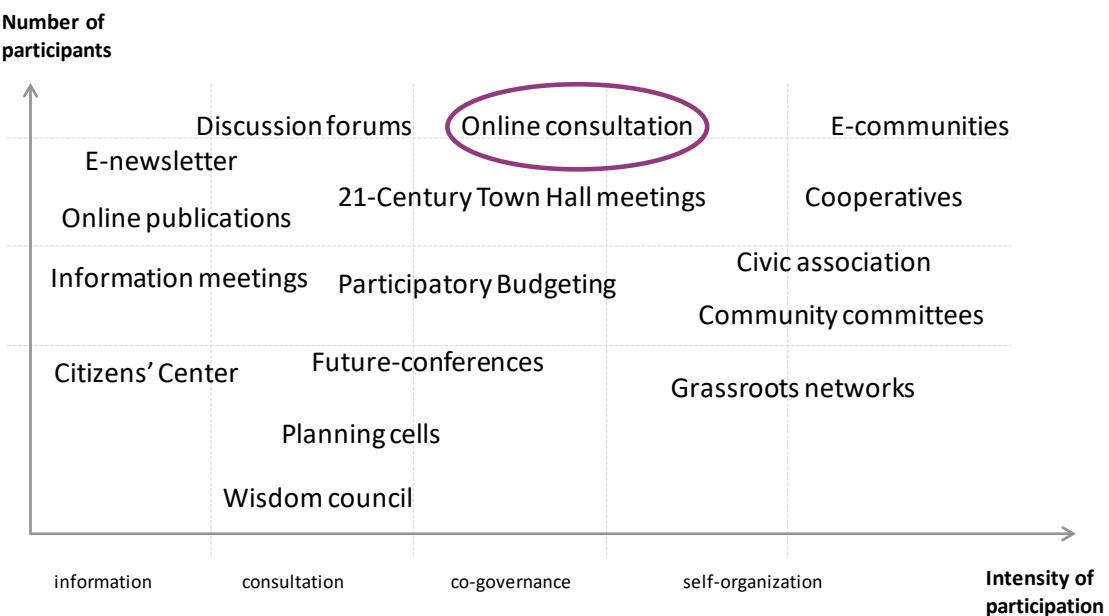
08 The Commission’s commitment to engage better with citizens was internationally acknowledged. In its 2018 Regulatory Policy Outlook report, the Organisation for Economic Co-operation and Development (OECD), ranked the Commission first among all OECD countries for ‘stakeholder engagement’, which includes citizens as ‘the public’, in developing both primary and subordinate laws¹³. According to the report, countries continue to make use of a variety of tools to consult both with the public and – in a more targeted way – with selected stakeholders¹⁴. This variety of consultation tools is discussed in numerous other reports on the subject. For example, a study for the Council of Europe and others analyses the relationship between participants and

¹³ OECD (2018), OECD Regulatory Policy Outlook 2018, OECD Publishing, Paris, p. 48.

¹⁴ OECD (2018), OECD Regulatory Policy Outlook 2018, OECD Publishing, Paris, p. 55.

the intensity of participation (*Picture 2*). Online (public) consultations, on which our report focuses, are thought to generate a high number of participants.

Picture 2 – Spectrum of information and public participation procedures



Source: <https://rm.coe.int/public-participation-and-democratic-innovations-assessing-democratic-i/168075f47b>, with 'Online consultation' highlighted by ECA.

09 By its very essence, the electoral process of voting for people representatives is the most fundamental democratic tool by which citizens participate in law-making. Apart from democratic elections, democratic participatory tools which contribute to law-making throughout the policy cycle range from plebiscites and referendums, through other forms of consultation (e.g. Eurobarometer surveys, focus groups and public hearings), to Citizens' Dialogues¹⁵ and citizen assemblies selected at random¹⁶. The Commission conducts public consultations online to collect information and views from its stakeholders about its policies. According to the OECD report, the most popular forms of stakeholder engagement are web-based public consultations (the 'online consultation' shown in *Picture 2*), where citizens have an opportunity to comment, and advisory groups or preparatory committees where stakeholders are pre-selected¹⁷.

¹⁵ Citizens' Dialogues are public debates with European Commissioners and other EU decision-makers, such as members of the European Parliament, and national, regional and local politicians. https://ec.europa.eu/info/events/citizens-dialogues_en

¹⁶ See 'Citizens' Participation Using Sortition', Bertelsmann Stiftung, October 2018.

¹⁷ OECD (2018), OECD Regulatory Policy Outlook 2018, OECD Publishing, Paris, p. 55.

The Commission's public consultations

10 The Commission's consultations are intended to complement its broader interaction with citizens and other stakeholders¹⁸. The Better Regulation guidelines explain the two ways in which the Commission carries out these consultations¹⁹:

- public consultation gives access to anybody who wishes to contribute. The Commission carries out public consultations using online questionnaires. Citizens express their views on a given topic by replying to a questionnaire in EU Survey²⁰, the Commission's official survey-management tool; and
- targeted consultation addresses specific well-defined stakeholder groups. In a targeted consultation, stakeholders are pre-selected, and only explicitly invited stakeholder groups or individuals can participate in the consultation.

11 Of all consultation activities carried out by the Commission²¹, the Commission believes that public consultations have the highest level of transparency and accessibility²². In addition, according to the results of the public consultation on 'Taking Stock of the Commission's Better Regulation', the best known and most valued way to contribute to policy-making is through public consultations²³.

12 Public consultation may reach a wide spectrum of respondents who give feedback on a voluntary basis. The Commission Better Regulation guidelines make it clear that data gathered through public consultations does not provide a representative view of the EU population²⁴. This is due to the self-selection of

¹⁸ Better Regulation guidelines 2017, p. 69 (2015, p. 64).

¹⁹ Better Regulation guidelines 2017, p. 79 (2015, p. 76).

²⁰ <https://ec.europa.eu/eusurvey/>

²¹ Better Regulation toolbox 2017, p. 395 (2015, 317): Conferences, public hearings and events; Eurobarometer surveys; expert groups; focus groups; interviews; public consultations; consultations targeting SMEs, SME panels; workshops, meetings and seminars.

²² Better Regulation toolbox 2017, p. 396 (2015, p. 319). Strengths of open public online consultation: Reaches a broad range and large number of stakeholders).

²³ COM(2019) 178, p. 15.

²⁴ Better Regulation toolbox 2017, p. 424 (2015, p. 319).

respondents, which means that the responses are not drawn for a representative sample²⁵.

13 According to the Commission's Better Regulation guidelines, public consultations are mandatory for: initiatives with impact assessments; evaluations; fitness checks; consultative Commission communications; and Green Papers²⁶. Some of the new initiatives will result in legislative proposals but others (mainly evaluations) will be non-legislative initiatives (e.g. reports to the European Parliament and Council and recommendations for negotiations of international agreements).

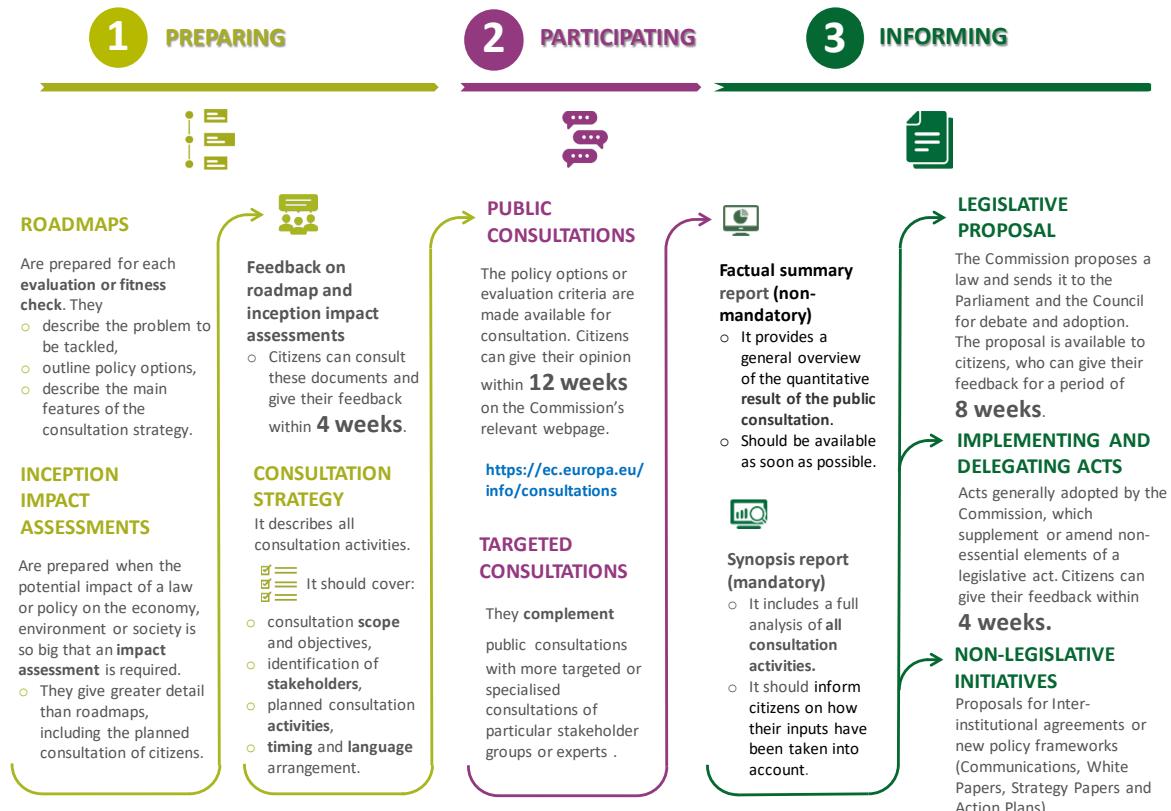
14 The Commission's Better Regulation guidelines divide the consultation process into three interacting phases: (1) establishing the consultation strategy; (2) conducting consultation work; and (3) informing policy-making. Each phase consists of several consecutive steps, which should provide the framework for high quality, transparent stakeholder consultation²⁷ (*Picture 3*).

²⁵ Better Regulation toolbox 2017, p. 423 (2015, p. 319).

²⁶ Better Regulation guidelines 2017, p. 71 (2015, p. 66).

²⁷ Better Regulation guidelines 2017, p. 73 (2015, p. 69).

Picture 3 – The consultation process



Source: ECA, based on the Commission's Better Regulation guidelines.

15 On average, from 2015 until the end of 2018 the Commission conducted more than 100 public consultations per year (417 in total)²⁸. Participation levels varied considerably. The top one for each year was:

- in 2018, the public consultation on summertime yielded 4.6 million responses, the highest number ever received in any public consultation by the Commission;
- in 2017, the public consultation on modernising and simplifying the common agricultural policy had 63 000 responses (not including a large campaign of 260 000 responses);
- in 2016, the public consultation on the European Pillar of Social Rights had 16 500 responses; and
- in 2015, the EU nature legislation (Birds Directive, Habitats Directive) public consultation had 550 000 responses.

²⁸ COM(2019) 178, p. 5.

16 The annual average number of participants in all public consultations, not including the top consultation for the year in question, was around 500 participants in 2015 and 2016, and around 2 000 participants in 2017 and 2018.

Audit scope and approach

17 Our strategy for 2018-2020²⁹ identified the perceived distance between citizens and EU institutions as a threat for the EU. In February 2018, the European Parliament asked us to evaluate how citizens can directly participate and contribute throughout the EU law-making process, and to assess the effectiveness, appropriateness, transparency and openness of the tools used. Our audit focuses on public consultations because citizen engagement in the public consultation process is a key to fostering trust in the EU and achieving high-quality legislation.

18 We assessed whether the Commission's public consultations were effective in reaching out to citizens and making use of their contributions. We examined in particular whether:

- (a) the design of the Commission's framework for public consultations reflects good practices;
- (b) the Commission prepared and conducted the selected public consultations in such a way that citizens could participate easily and effectively (phases 1 and 2 of the consultation process in *Picture 3*);
- (c) the Commission analysed data input from questionnaires reasonably and presented transparent and comprehensive information on the consultation work and its outcome (phase 3 in *Picture 3*).

19 We examined a sample of 26 public consultations carried out by the Commission between 2016 and 2018. We sampled five Directorates-General (DGs) based on the number of consultations carried out, the range of initiatives, the level of participation and the relevance of the topics for citizens. The sample included two consultations carried out by the Secretariat-General, two by DG Agriculture and Rural Development (AGRI), five by DG Education, Youth, Sport and Culture (EAC), seven by DG Migration and Home Affairs (HOME) and 10 by DG Mobility and Transport (MOVE) (*Annex I — The Commission's public consultations we reviewed*)³⁰.

²⁹ <https://www.eca.europa.eu/en/Pages/Strategy.aspx>

³⁰ The public consultations reviewed are referred as PC (see references from PC-1 to PC-26).

20 Our audit work entailed:

- (a) interviewing staff from all the DGs we sampled and contacting a number of other relevant DGs, EU institutions and bodies³¹;
- (b) visiting two Member States³² and the OECD, so as to obtain a better understanding of the Commission's framework in an international context;
- (c) we reviewing and analysing key documents on stakeholder engagement, the Commission's consultation framework and the performance of public consultations we selected;
- (d) consulting a group of experts to enhance our analysis, thus helping us to focus on particularly relevant areas that could be improved (*Annex II — Panel of experts*).

21 We also carried out a perception survey of 16 007 citizens that had participated in our sample of public consultations, and received 2 224 replies. We analysed the replies and used them to complement our own audit findings. The participants ranked their level of satisfaction with each of the phases of the consultation process and their level of agreement with the Commission's general statements (*Annex III — Perception survey*). They also provided us with their views and suggestions on the public consultation process (*Box 1* to *Box 8*)³³. The sections of our report that present respondents' views are indicated by this symbol:



22 Our audit criteria drew on:

- (a) the OECD Guiding Principles for Open and Inclusive Policy Making³⁴;

³¹ DG for Communication, DG for Informatics, DG for Communications Networks, Content and Technology from the Commission; European Parliament; European Committee of the Regions; European Ombudsman; and Regulatory Scrutiny Board (within the Commission).

³² Estonia and Germany.

³³ In the Boxes, we have translated a selection of citizens' opinions and views we received into our report's language. Original versions of all selected comments are available in *Annex IV — Translation of citizens' responses*.

³⁴ <http://www.oecd.org/gov/46560128.pdf>

- (b) the OECD recommendation on Regulatory policy³⁵;
- (c) the Commission's own Better Regulation guidelines and toolbox.

23 Although the ECA does not need to seek the Commission's consent or approval in order to process personal data³⁶, the Commission did not provide some of the data we requested during the audit, citing its interpretation of data protection rules. In order to meet our audit objectives, we found alternative solutions in cooperation with the Commission, at significant time and resource cost, which slowed down the reporting process.

³⁵ <https://www.oecd.org/governance/regulatory-policy/49990817.pdf>

³⁶ Article 287(3) TFEU: "The other institutions of the Union, any bodies, offices or agencies managing revenue on behalf of the Union, any natural or legal person in receipt of payments from the budget... shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task".

Observations

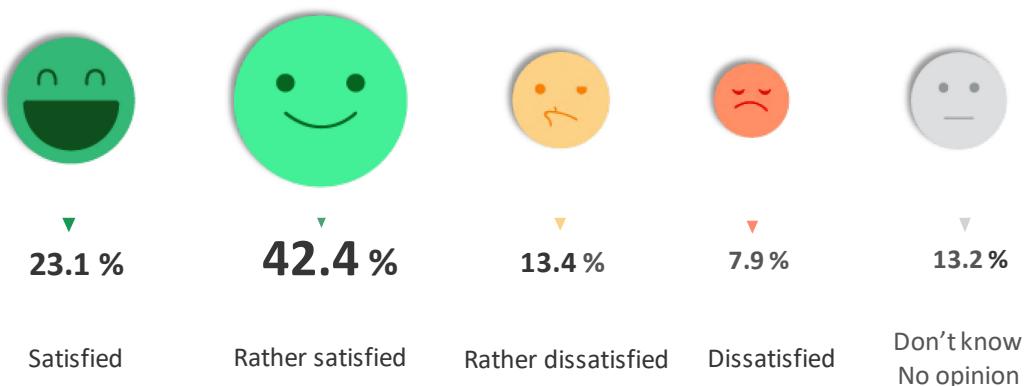
The Commission's framework for public consultations



Overall satisfaction of participants with the consultation process

24 Our perception survey showed that, overall, 65.5 % of participants who confirmed that they had participated in one of the public consultations in our sample considered the consultation process satisfactory or rather satisfactory (*Picture 4*).

Picture 4 – Overall satisfaction with the Commission's public consultation process



Source: ECA survey.

25 The results of our survey show that participants recognised the overall objective of the public consultation process, i.e. giving citizens an opportunity to contribute to policy-making (paragraph *03*). Regarding our question as to why they had participated in a Commission public consultation, respondents stated that the three most important reasons were that:

- they wanted to influence the legislative outcome (58 %);
- they were interested in the topic (56 %); and
- they considered their participation a civic responsibility (49 %).



Respondents appreciated the chance to participate in EU law-making and a democratic process promoting active EU citizenship

- 26** The three aspects which respondents appreciated most about the public consultation they had participated in were that (**Box 1**):
- it gave citizens a chance to participate in EU law-making;
 - it helped strengthen the democratic legitimacy of the EU; and
 - it contributed to the development of European citizenship.

Box 1

Examples of citizens' responses: They liked having the opportunity to participate in public consultations

Citizen 1: "The opportunity to share my opinion outside elections and so help to shape Europe." (original DE)

Citizen 2: "The opportunity to express an opinion directly without intermediaries." (original IT)

Citizen 3: "Opportunity to express your thoughts and wishes as a farmer." (original LV)

Examples of citizens' responses: They liked the fact that public consultations are democratic

Citizen 4: "Apart from voting for the European Parliament, there are very few opportunities to have a say in how the EU deals with issues, so having an input into an EU public consultation helps to fill the democratic gap." (original EN)

Citizen 5: "...That it's even happening. An important milestone on the way to democratizing the EU." (original DE)

Citizen 6: "I find this type of consultation interesting, as long as its results are used to make decisions and citizens are not consulted only at elections. We need to move towards forms of direct democracy. Representative democracy is making us lose interest: every time we're asked to vote, abstention increases. I think this is serious." (original ES)

Examples of citizens' responses: They liked the fact that public consultations promote active European citizenship

Citizen 7: "The chance to be heard, as a European citizen." (original EN)

Citizen 8: “That I finally felt like a European citizen.” (original EN)

Citizen 9: “To ask for the views of ‘ordinary’ citizens and small businesses.” (original HR)

Source: ECA survey.

High standard of the Commission’s framework but insufficient focus on monitoring and assessment

27 The Commission’s framework for consultations is defined in its Better Regulation guidelines and toolbox. These were adopted in May 2015. In July 2017, the Commission approved an updated set of guidelines that confirmed and clarified the general rules on how the Commission should consult citizens.

28 In line with the Commission’s Better Regulation guidelines, consultations should be governed by four general principles³⁷:

- (1) **Participation:** Adopt an inclusive approach by consulting as widely as possible;
- (2) **Openness and Accountability:** Make the consultation process and how it has affected policy making transparent to those involved and to the public;
- (3) **Effectiveness:** Consult at a time when citizens’ views can still make a difference, respect proportionality and specific restraints;
- (4) **Coherence:** Ensure consistency of consultation processes across all services as well as evaluation, review and quality control.

29 These four general principles are complemented by standards³⁸, which are applicable to the three phases of the consultation process (*Picture 3*). Based on these principles and standards, the Commission was ranked first by the OECD for stakeholder engagement (paragraph **08**).

30 We compared the Commission’s framework with the OECD Guiding Principles for Open and Inclusive Policy-making and the OECD recommendation on regulatory policy. We found that, overall, the design of the Commission’s framework for public consultations contributes to an inclusive legislative process and transparent public

³⁷ Better Regulation guidelines 2017, p. 70 (2015, p. 65).

³⁸ Better Regulation guidelines 2017, pp. 70 and 71 (2015, pp. 65 and 66).

consultations, to early engagement with citizens and to consistency in its consultation processes. However, there is room for improvement in monitoring and assessment. The Commission's Better Regulation guidelines do not envisage:

- (a) specific indicators to be monitored and reported for individual public consultations at DG level and at Commission level overall;
- (b) methodology for assessing the costs related to public consultations; and
- (c) a systematic assessment of whether public consultations achieve all their objectives.

31 According to the Commission guidelines, 'it is good practice to carry out a proportionate internal quality assessment of the consultation process'³⁹. Collecting information about the quality of public consultations contributes to gaining information about the accomplishment of the consultation strategy and its objectives. In addition, systematic assessments, which focus on achieving objectives, help to identify best practices and learning from past experiences with a view to improve future consultations.

32 We found that in only two out of 26 cases we reviewed, an internal evaluation took place to draw conclusions from lessons learnt, which made use of some indicators. Good practice examples for indicators used in one of the Member States we visited range from number of contributions, diversity of participants (e.g. categories of stakeholders, place of origin or residence, languages used), time needed to prepare, conduct and report on the consultation and level of satisfaction of participants.

Preparing and participating in selected public consultations

33 We examined the following aspects of the Commission's preparation, including its consultation strategy, and implementation of the selected public consultations (phases 1 and 2 in *Picture 3*):

- (a) the information citizens are given about the rationale behind the consultation;
- (b) the activities and communication channels used to ensure that citizens are aware of the consultation;

³⁹ Better Regulation guidelines 2017, p. 88 (2015, p. 85).

- (c) the languages used for the consultation and the reader-friendliness of the questionnaires;
- (d) the timing and length of the consultation.

34 Overall, we found that the preparation and implementation of the Commission's public consultations we reviewed were satisfactory, but we identified some areas for improvement in order to ensure that citizens can participate easily and effectively.

Consultation strategies are not always well prepared and published

Advance information and feedback on upcoming consultation activities

35 A document known as a roadmap or inception impact assessment (IIA) is the first step in explaining to citizens why the Commission is preparing a particular initiative and what it aims to achieve. According to the Commission guidelines, the roadmap or IIA should set out the envisaged consultation activities and be published at an early stage on the Commission's 'Have Your Say' website portal⁴⁰.

36 The publication of the roadmap or IIA is meant to inform citizens about the Commission's planned initiatives and consultation activities, and to prepare their participation in advance⁴¹.

37 According to the Commission Better Regulation toolbox of July 2017, no public consultation should be launched before the related roadmap or IIA is published⁴². The Commission guidelines and toolbox do not specify how long before the public consultation is launched this publication should take place. They only state that roadmaps or IIAs must be finalised and published as quickly as possible, and include an outline of the planned consultation strategy⁴³.

⁴⁰ Better Regulation guidelines 2017, p. 91 (2015, p. 91) and 2017 toolbox, p. 38.

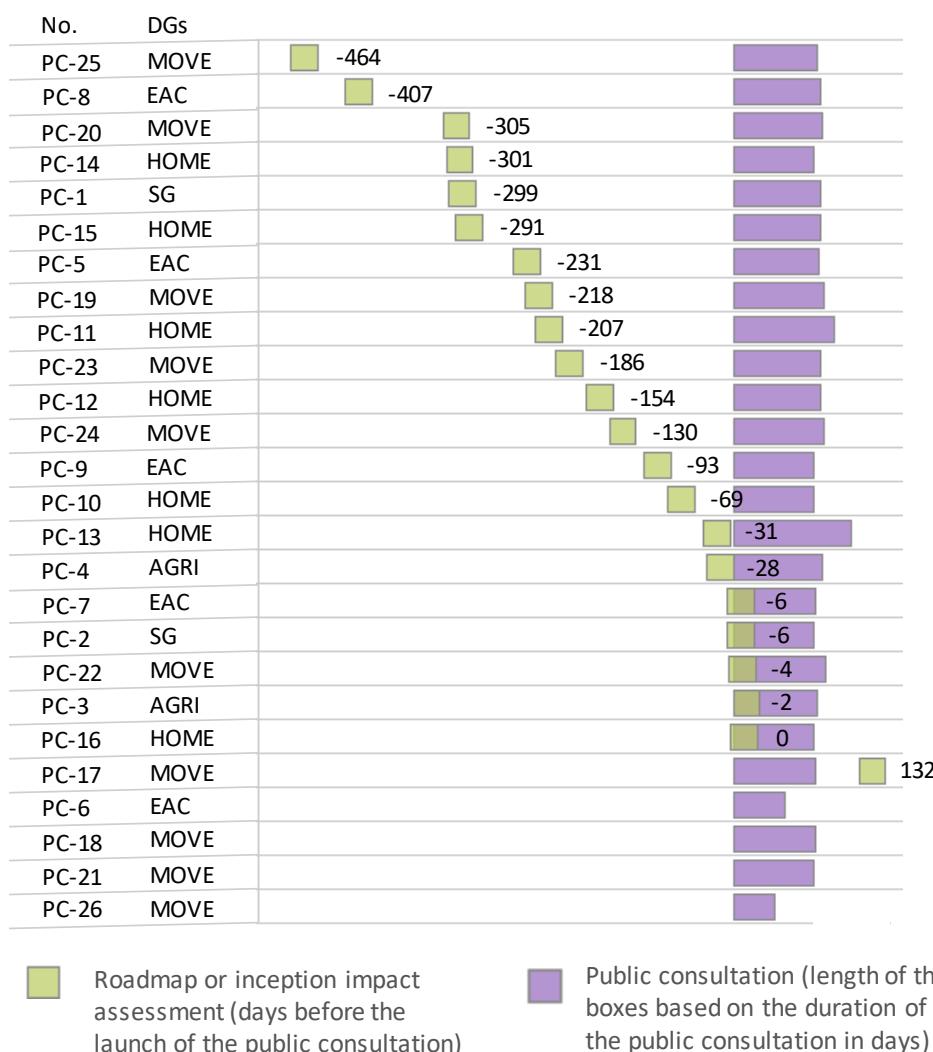
⁴¹ Better Regulation guidelines 2017, p. 91 (2015, p. 91).

⁴² Better Regulation toolbox 2017, p. 37.

⁴³ Better Regulation guidelines 2017, pp. 7 and 67.

38 The requirement to publish the roadmap in advance was not in force at the moment of preparation and launch of several of the sampled public consultations. The Commission prepared the roadmaps or IIAs, including an outline of the consultation strategy, in 22 of the 26 public consultations in our sample, and published only 16 at least four weeks before the public consultation began in order to avoid an overlap between the feedback period (*paragraph 39*) and the launch of the public consultation. On average, when roadmaps or IIAs were available before the public consultation was launched, they were published half a year in advance (*Picture 5*).

Picture 5 – Advance information available about future consultation activities varied markedly



Source: ECA, based on Commission data.

39 When roadmaps or IIAs are published, citizens can provide feedback over a period of four weeks⁴⁴. We found that of the six roadmaps or IIAs published in 2017⁴⁵, four received feedback (22 feedback contributions on average).

40 In three of the four cases, the number of feedback contributions received was very low compared to the number of contributions received during the public consultation. For example, the IIA on the consultation on modernising and simplifying the common agricultural policy received 10 feedback contributions, while the public consultation received 63 000 responses⁴⁶. The Commission acknowledged that the limited number of feedback contributions show a clear scope to improve awareness of EU tools and their reach further⁴⁷.

Key elements of the consultation strategy

41 A consultation strategy is developed after the roadmaps or IIAs. The purpose of the strategy is to design an effective and efficient consultation approach.

42 The consultation strategy must be finalised and updated on the basis of the comments received during the feedback period. We did not find any evidence that the feedback contributions had been taken into account for the consultation strategies (e.g. when deciding on consultation activities or designing questionnaires).

43 The consultation strategy should be published or described on the consultation website for the related initiative run by the DG responsible⁴⁸. It should cover the following key elements⁴⁹:

- consultation scope and objectives;
- identification of stakeholders;
- the consultation activities envisaged; and

⁴⁴ Better Regulation toolbox 2017, pp. 37, 38 and 438 (2015, pp. 264, 280 and 305).

⁴⁵ Roadmaps and IIAs were first posted on the ‘Have your Say’ portal in 2017.

⁴⁶ In addition, there was a large campaign which elicited 260 000 responses.

⁴⁷ COM(2019) 178, p. 12.

⁴⁸ Better Regulation toolbox 2017, p. 380 (2015, p. 303).

⁴⁹ Better Regulation toolbox 2017, p. 379 (2015, pp. 61 and 301).

- o timing and language arrangements.

44 We found that only 12 of the 22 consultation strategies that had been prepared were published on the Commission’s website for the related initiative. In our view, timely information at the preparatory phase about the objective of the public consultation and the intended use of its results makes it more likely that citizens will feel engaged, and is also beneficial for the quality of responses.

45 For example, except for a follow-up to a European Parliament resolution, the Commission did not make available a consultation strategy or any other advance information before it launched the public consultation on summertime. Considering that citizens need to be informed at the preparatory phase about the objective and the intended use of public consultation results, lack of such information is very likely to impact the outcome, not only in terms of overall and regional participation rates, but also in terms of substance. We note that only at the launch of this public consultation did the Commission make available information about the objective of that consultation.

46 All 22 available strategies contained sections dedicated to “scope and objectives”. However, the Commission set only general objectives for all its consultation activities. For public consultations, the most frequently used objectives were “providing the general public and stakeholders with an opportunity to express their views on all elements relevant to the assessment of the area subject to stakeholder consultation”, “[to] collect the views and opinions”, and “[to] gather the views of the non-specialist larger groups of stakeholders”. In other cases, the objective was described in general terms: “the public and targeted consultations will be a fundamental source of input”.

47 The Commission guidelines state that identifying stakeholders is a prerequisite for successfully collecting information and providing stakeholders with appropriate opportunities to contribute to EU policy-making. Subsequently, they should be sorted (or prioritised) according to their level of interest and influence using a “stakeholder mapping matrix”⁵⁰. The Commission prepared a mapping matrix for stakeholders in 18 of 26 PCs. From the remaining eight cases, there were five cases containing unstructured information on stakeholders and three cases which did not contain this important information (neither structured nor unstructured) necessary for the next step, namely the selection of appropriate consultation activities⁵¹.

⁵⁰ Better Regulation toolbox 2017, p. 385 (2015, p. 313).

⁵¹ Better Regulation toolbox 2017, p. 391 (2015, p. 7).

48 Public consultations may be complemented, where appropriate, by other consultation activities in order to engage all relevant stakeholders and to target potential information gaps⁵². This is important in order to adapt communication channels to the needs of all target audiences and to ensure that all relevant parties have an opportunity to express their opinions⁵³. It is also important at the end of the consultation process to compare the results of the different consultation activities in order to identify interdependencies, consistencies or contradictions in contributions and main stakeholder categories. None of the consultation strategies we reviewed explained how the public consultation would complement other consultation activities.

49 As regards language, four consultation strategies contained no indication of the planned arrangements. In these four cases, the translations were late and were not available to the public when the consultation was launched. In three other cases, the strategies reflected the language arrangements only partially, referring solely to the languages used for the questionnaires or feedback.

Respondents found that the objectives of public consultations were unclear

50 The results of our survey confirmed that there is room for improvement when the Commission presents and communicates its objectives and identifies stakeholders for public consultations. The respondents' overall impression was that the objectives of public consultations were unclear (*Box 2*).

Box 2

Examples of citizens' responses: They felt the purpose of public consultations was unclear

Citizen 10: "Difficult to know how they will be used IN CONCRETE TERMS." (original FR)

Citizen 11: „It gives the impression of being a token survey.” (original DE)

Citizen 12: "...it is JUST a token consultation that seems pro forma and unfortunately not yet a genuine exercise of participatory democracy.... But this is surely an opportunity to revitalise the dream and the European project, isn't it? Otherwise,

⁵² Better Regulation toolbox, 2017 pp. 391 and 394 (2015, pp. 59 and 280).

⁵³ Better Regulation toolbox 2017, pp. 7 and 376 (2015, p. 7).

the gap between citizens and Eurocrats will continue to widen, something which can only benefit Eurosceptics and populists." (original FR)

Citizen 13: "...In this situation, what is the point of wasting our time taking part in these consultations?" (original BG)

Citizen 14: "... [I] didn't see the value in taking part." (original PT)

Citizen 15: "It is not always clear if 'regular' citizens are allowed/encouraged to participate. Communication should be adjusted in this regard." (original EN)

Citizen 16: "Ordinary people very much doubt that there is any value in the way you consult because they neither understand properly nor believe that their contribution will even be read, let alone valued. They are also fully persuaded that international business wishes will be the only ones listened to." (original EN)

Citizen 17: "...The EU is not there for ordinary European citizens." (original NL)

Source: ECA survey.

Public consultations with varied levels of participation

51 Web-based consultations are suitable for broad consultation. The Commission guidelines state that a combination of different communication channels works best. To contact citizens in remote and rural areas with lower internet-access rates, the Commission guidelines only recommend engaging with "Commission Representations and Europe Direct⁵⁴ in identifying appropriate tools and channels"⁵⁵.

52 The DGs we reviewed considered a variety of communication channels in more than half (16) of the 26 sampled cases. Overall, the choice and extent of communication methods and channels used (including social media) differed considerably between DGs and public consultations. We noted that the level of participation varied markedly.

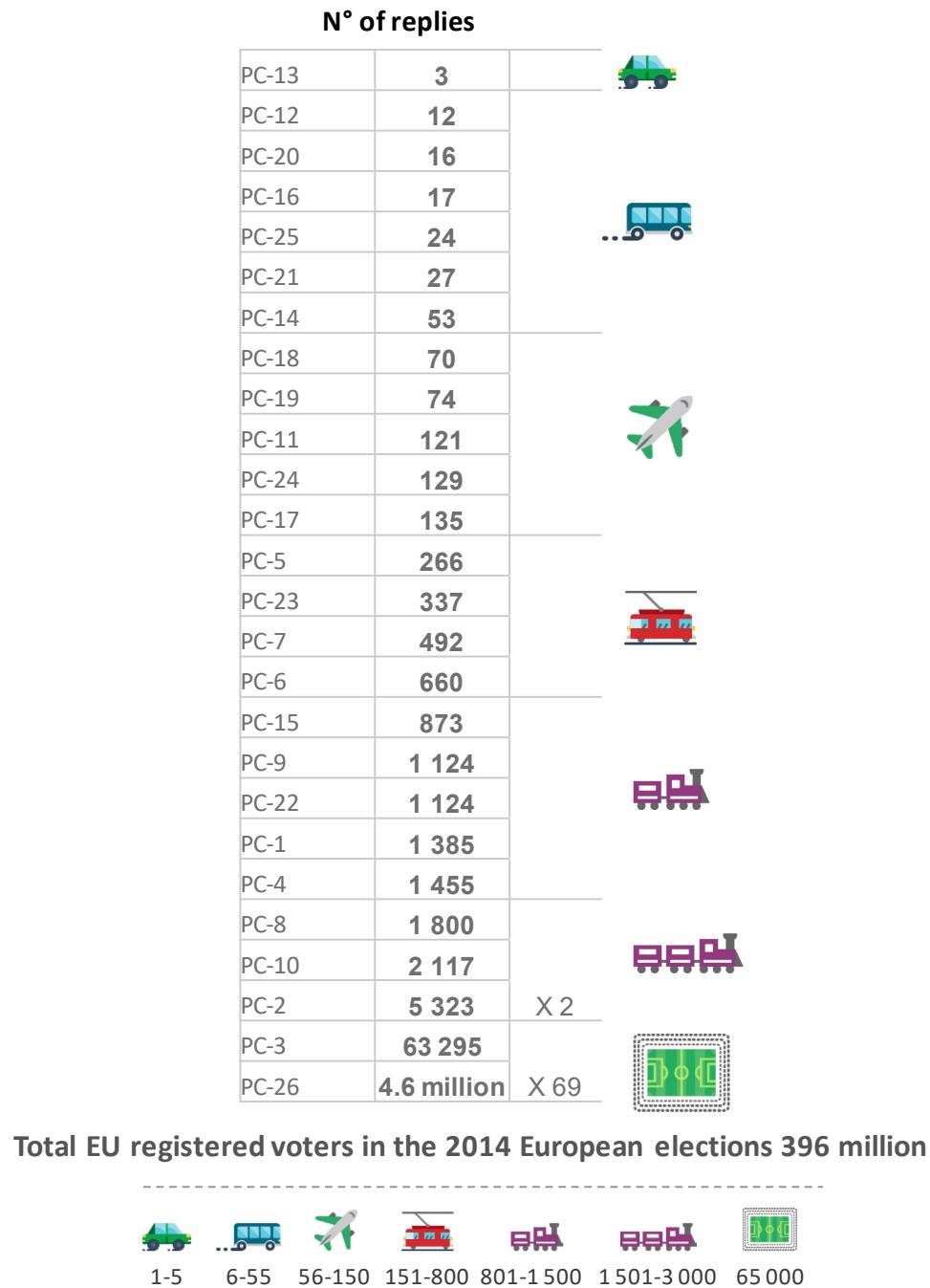
53 The 10 consultations with the highest number of replies all used a variety of communication channels. However, two other cases (an evaluation and a new initiative on a very technical topic) received only 24 and 17 responses, respectively, despite the variety of communication channels used. The three cases with the lowest number of responses were three evaluations for which the DGs did not use a variety of

⁵⁴ Information centres in every EU country: https://europa.eu/european-union/contact/meet-us_en

⁵⁵ Better Regulation toolbox 2017, pp. 399 and 400.

communication channels. *Picture 6* shows the number of respondents for the 26 public consultations we reviewed.

Picture 6 – Number of responses received for selected public consultations



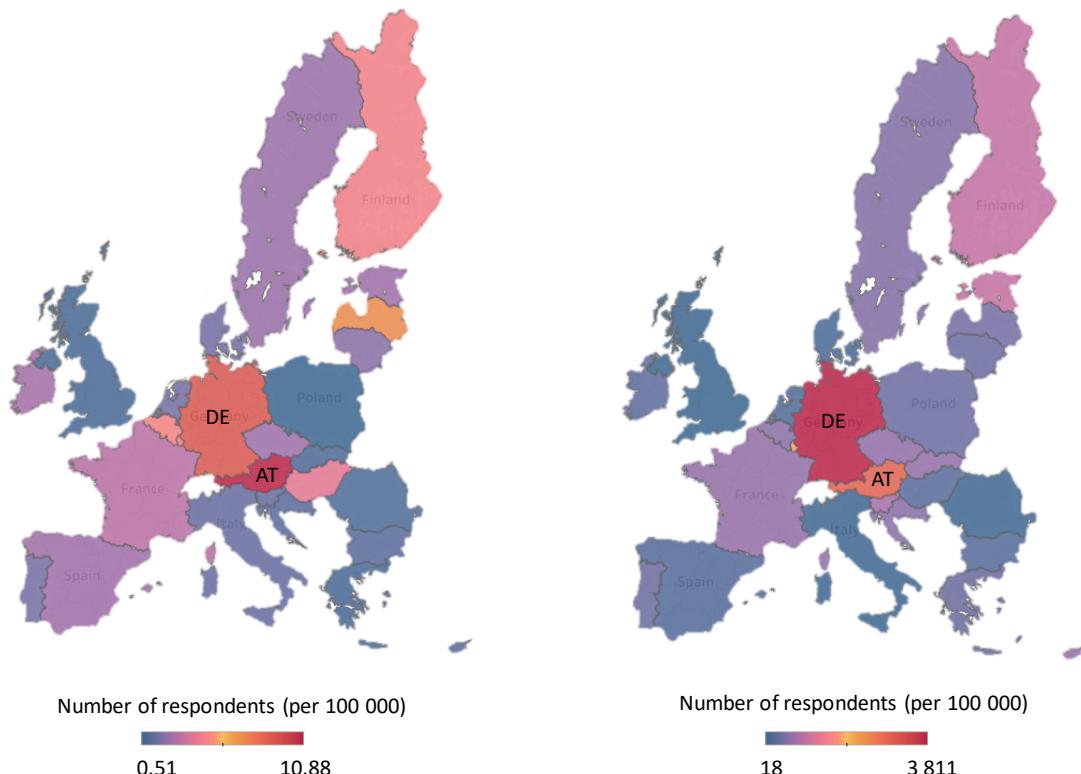
Source: ECA, based on Commission data.

54 Although a number of tools are available for engaging with citizens, the Commission felt that ‘the level of participation had not reached its full potential’. It

also noted that ‘some stakeholders are still unwilling or unable to engage’ and recognised the low level of participation as a problem⁵⁶. The persistence of this problem was confirmed in the Commission’s ‘Taking Stock of the Commission’s Better Regulation’⁵⁷.

55 We analysed the distribution of participants per country both in absolute terms and relative to the national population in our sample of PCs (*Annex V – Number of respondents per country of residence*). In absolute terms, the majority of responses came from Germany. Relative to the national population, Austria was first and Germany second. Looking at the public consultation on summertime, which yielded 4.6 million responses, the distribution was similar (70 % of responses from Germany and 6 % from Austria), with these two countries also first and second relative to the national population (3.8 % and 2.9 % respectively) (*Picture 7*).

Picture 7 – High participation by residents in Austria and Germany



Source: ECA, based on Commission data.

56 In the case of the public consultation on summertime, the Commission’s communication measures and social media advertisement triggered a high level of

⁵⁶ COM(2017) 651 final.

⁵⁷ COM(2019) 178, p. 16.

attention in different media and countries. When the consultation was underway, the Commission tried to boost participation from countries other than Germany and launched paid promotions in the EU-26 (excluding Germany and the United Kingdom) with a focus on the nine countries that were particularly under-represented (including advertisements in local languages). In addition, the Commission's Representations in the Member States contributed actively with posts on Facebook and Twitter. In terms of percentages, submissions from the EU-26 increased by around 30 %. Nevertheless, the geographical distribution of the responses remained unbalanced throughout the consultation period. The Commission's reporting on the results of this public consultation clarified the difference in the distribution of replies across Member States.



Respondents often learned about public consultations through civil society groups

57 Our survey asked participants how they were informed about the Commission's public consultations. Many respondents stressed that they had found out about the consultations through civil society organisations (CSOs) or non-governmental organisations (NGOs) and would otherwise not have participated (*Box 3*).

Box 3

Examples of citizens' responses: Some citizens would have not participated without information from CSOs or NGOs

Citizen 18: "I heard of it through a civil society group of which I am a member; I saw no other information about it anywhere, or on the other consultations you list. There is no value in having a consultation if people don't know about it." (original EN)

Citizen 19: "Perhaps the consultations should be more widely advertised to the general public. If you are not a member of an NGO or other organisation, you are often unaware of them." (original NL)

Citizen 20: "...if it weren't for organisations and foundations, I would never comment on any subject because nothing reaches me, e.g. questionnaires." (original PL)

Source: ECA survey.

58 We asked respondents from where they had obtained information about the launch of the public consultations (multiple responses were possible). Of all possible stakeholders and media, with 48 % civil society organisations had the greatest capacity to raise citizens' awareness. Other important sources of information were news and articles (29 %), Commission's website (17 %) and Commission's social media (13 %).



Respondents wish more publicity to raise awareness of public consultations

59 We asked respondents how they would improve the Commission's approach to reach citizens and stakeholders. Of the 2 224 respondents, 1 184 (53 %) provided us with suggestions about how to raise awareness more effectively.

60 Participants in the survey felt that consultation activities need to be advertised extensively in order to achieve greater visibility and publicity for the process, and so allow more people to participate. They also felt that there should be more advertising through social media, television, the press (e.g. newspapers) and even email. Respondents also emphasised that national or regional governments should be more involved in publicising public consultations by the Commission. Furthermore, better communication and collaboration between Member States and the EU was expected in all areas (*Box 4*).

Box 4

Examples of citizens' responses: They want more visibility and publicity

Citizen 21: "I would like to be able to read in my daily paper about current European Commission topics. I would also like there to be radio, television and press coverage of current surveys." (original DE)

Citizen 22: "I discovered EU public consultations on Facebook even though I'm 31. I think it's a pity we're not told about them at school or elsewhere. More communication about the EU and its future laws is needed." (original FR)

Citizen 23: "Send people newsletters by email about policies they say they're interested in." (original GR)

Citizen 24: "Certainly, as well as reaching out to citizens electronically, a public campaign is also important in order to involve those citizens who are most interested." (original CZ)

Citizen 25: "More information about these surveys in different locations! For example, it would be good if these surveys – and EU-wide citizens' initiatives – were visible on the same website as Finnish civic and municipal initiatives." (original FI)

Citizen 26: "I think the EU needs to work (even more) closely with each member state government to make sure these surveys reach out to a wider population. At the moment, I feel only people who already take an active interest in EU policy will be aware of the consultations. A greater effort is needed to engage the general population." (original EN)

Citizen 27: "Little enthusiasm and involvement in these processes by governments." (original ES)

Citizen 28: "I think there is too little involvement with national parliaments." (original NL)

Source: ECA survey.

Need for wide language coverage and more reader-friendly questionnaires

Language coverage

61 A key aspect for accessibility is the languages used for consultation. The Commission's Better Regulation guidelines of 2015 recommended that translation requirements should be based on the scope and outreach of the consultation method concerned⁵⁸. In April 2017, the Commission's Secretariat-General published further instructions,⁵⁹ including the following measures:

- public consultations (questionnaires and any accompanying documents) on the priority initiatives included in the Commission's annual Work Programme (Annex I) need to be translated into all official EU languages;
- the questionnaires and any accompanying documents for all other public consultations need to be made available in at least English, French and German.

62 The updated guidelines of 2017 recommended that, in general, consultation documents should be translated into as many languages as feasible and appropriate, depending on the scope and target audience of a consultation⁶⁰. The guidelines clarified that the public consultation documents for initiatives included in Annex I of the Commission's Work Programme need to be translated into all official EU languages⁶¹. In addition, the Secretariat-General would consistently screen consultation strategies to identify consultation activities - in particular those with a broad public interest - which should be translated into all or several languages. Lastly,

⁵⁸ Better Regulation toolbox 2015, p. 314.

⁵⁹ "Language coverage of public consultations launched by the Commission", 28 April 2017.

⁶⁰ Better Regulation toolbox 2017, p. 397.

⁶¹ Better Regulation toolbox 2017, pp. 397 and 398.

the guidelines require the language arrangements for consultation activities to be explained and justified in the consultation strategy.

63 We found that there were no clear criteria for classifying initiatives under the category of ‘broad public interest’ or ‘other’, which should serve as a basis for establishing whether an initiative should be translated and, if so, into how many languages. We found that this depended very much on the approach taken by the DG responsible or its policy unit, or on time constraints. We also noted that the Commission classifies initiatives as ‘major’ and ‘other’ for validation purposes. A lack of precise criteria for classifying initiatives hampers clarity of the language arrangements to be used during the consultation process.

64 In our sample, seven public consultations were launched after the Commission’s new language policy had come into force in April 2017. Of these seven, six questionnaires were translated into all official EU languages, while only three were included in the Commission’s Work Programme⁶². The remaining one was translated into three languages.

65 Of the 19 public consultations launched before the Commission’s new language policy came into force, we found six cases of initiatives classified as ‘major’ by the Commission, for which questionnaires, public consultation webpages and background documents were available only in English. Of the remaining 13 cases, seven were translated into all official EU languages, one into six languages and five were only available in English.

66 We found that when questionnaires had been translated into all EU languages, the average number of inputs received was higher than in cases where the questionnaire had been available only in English. Of our sample of 26 public consultations, the questionnaires for 11 of the 12 public consultations with the highest number of inputs had been translated into all EU languages. Of the remaining 14 cases with the lowest number of inputs, only two had been translated into all EU languages.

Design of questionnaires and accompanying documents

67 The Commission’s Better Regulation guidelines require that questions in questionnaires should be relevant, short and simple, be designed in a neutral manner, and contain the right balance between open and closed questions⁶³. The Commission

⁶² One mentioned in Annex I and two in the main text.

⁶³ Better Regulation toolbox 2017, p. 402.

provided us with evidence that questionnaires had been subject to testing prior to use in 22 of the 26 public consultations we reviewed. Overall, we found that the questionnaires we reviewed were well prepared, and followed the guidance provided by the Commission.

68 However, we found that a few questionnaires were too long or too complex. For example, three questionnaires had more than 50 questions in total or for some categories of respondents. As a result, in one of these cases, of the 4 786 respondents who tried to participate, only 1 800 replies were exploitable for the Commission's analysis because not all respondents had completed the questionnaire. In one case, the topic was a technical IT-related subject, but the questionnaire did not target specialists and non-specialists separately. Different sets of questions for these two types of respondent might have made it possible to collect more replies (in total, only 17 contributions were received).

69 We found that, in 15 cases, the DGs we visited had not considered designing different questionnaires for non-specialists and specialists. Although this is not required by the Commission guidelines, we considered the 11 cases with less specific questionnaires for non-specialists as examples of good practice.

70 The questionnaire and the documentation that were made available to citizens for the public consultation on summertime did not highlight the consequences of the respective Member State's individual choice (particularly if neighbouring countries were to decide differently). In addition, the Commission did not specify that the results of the consultation would be an important basis for making its legislative proposal immediately afterwards.⁶⁴ In our view it is important that potential participants are informed precisely about such implications. The absence of such information may have an impact on the outcome of a public consultation.

Respondents like questionnaires in all EU languages that are tailored to citizens and with open questions

71 In our survey, most respondents (82 %) were satisfied with the language used during the consultation process. There was also a strong level of agreement (92 %) that

⁶⁴ On 31 August 2018, Commissioner Bulc said: "Millions of Europeans used our public consultation to make their voices heard. The message is very clear: 84 % of them do not want the clocks to change anymore. We will now act accordingly and prepare a legislative proposal to the European Parliament and the Council, who will then decide together" (http://europa.eu/rapid/press-release_IP-18-5302_en.htm).

it is important for public consultations to take place in all 24 official EU languages to improve outreach.

72 As regards the reader-friendliness of questionnaires, 31 % of our respondents were dissatisfied because questions were unclear or too technical. What many respondents (76 %) appreciated in particular was having the opportunity to answer open questions (*Box 5*).

Box 5

Examples of citizens' responses: They want public consultations in all EU languages, but they do not want technical language

Citizen 29: “Public consultations should immediately upon their publication be available in all 24 languages of the EU, to ensure all citizens have the opportunity to input in their own language.” (original EN)

Citizen 30: “The above documents were mostly available only in foreign languages. Such bureaucratic language is already very complicated in German, so this is a non-starter!” (original DE)

Citizen 31: “Dense language and administrative jargon: such documents should be made clearer and translated into a style that people with an ordinary education can understand.” (original RO)

Citizen 32: “In a new survey, which I have to answer, the questions should be in my mother tongue: Danish. The wording should also be easier to understand, as not everyone has a university-level education.” (original DK)

Examples of citizens' responses: Questionnaires need to be more tailored to citizens

Citizen 33: “Some of the question choices didn't reflect my views, tended to oversimplify complex issues or were leading questions”. (original EN)

Citizen 34: “Some difficult questions for non-specialists in the policy area in question – questions are not always accessible.” (original FR)

Citizen 35: “...The measures need to be adjusted to the people to which they're intended for.” (original PT)

Citizen 36: “Accessible for young people, but not for older people who are less familiar with technology.” (original SL)

Examples of citizens' responses: They like having an opportunity to express themselves freely

Citizen 37: "Open questions are a useful way to express a more detailed opinion."(original EN)

Citizen 38: "I felt that the purpose of the questions was not always clear, so it was extremely important to have extra space for comments where an answer could be explained in more detail." (original DE)

Citizen 39: "...the opportunity to express free comments and attach material." (original SV)

Source: ECA survey.

Timeframe for consultation met the requisite standards

73 The Commission's Better Regulation guidelines state that the minimum period for public consultation is 12 weeks and strongly recommend prolonging this period if it overlaps with holiday periods⁶⁵.

74 Of the 26 public consultations in our sample, 24 observed the recommended 12-week minimum period for replies. For the eight cases where the response period covered (some of) the summer holidays, this factor was not taken into account. We noted that in the public consultation on summertime, the Commission received an exceptionally high number of contributions, even though the consultation took place over a very short (six-week) period in the summer.

Respondents feel that they have sufficient time to participate

75 79 % of respondents to our survey were satisfied with the number of weeks the questionnaires were accessible on the Commission's website.

Providing information about consultation work and outcomes

76 We examined the following aspects of the Commission's analysis of data and the way it presented information on its consultation work and outcomes (phase 3 in *Picture 3*):

⁶⁵ Better Regulation toolbox 2017, p. 400 (2015, pp. 315 and 318).

- (a) secure data collection and processing;
- (b) proper analysis of the replies collected, particularly where response rates were low or campaigns were large;
- (c) transparent and comprehensive information on the consultation work and outcomes.

77 Overall, we found that the analysis of and information about the Commission's public consultations we reviewed was satisfactory, but we identified some areas that could be improved in terms of transparency and accountability.

Weaknesses in data processing

Information on data processing

78 According to the Commission's Better Regulation guidelines, a privacy statement should clearly inform respondents how data are collected and processed⁶⁶. In practice, until the introduction of a single privacy statement in May 2018, a specific privacy statement had to be prepared for each public consultation that involved the collection of personal data, and should have been published on the consultation webpage for the initiative.

79 For 22 of the 26 consultations we reviewed, the consultation webpage contained a disclaimer with references to the Commission's data protection page and to Regulation No 45/2001 on personal data protection. However, the webpages did not contain privacy statements informing respondents how personal data are collected and processed, nor was the data retention period stated. For the remaining four consultations, there was no privacy statement or disclaimer on the webpages.

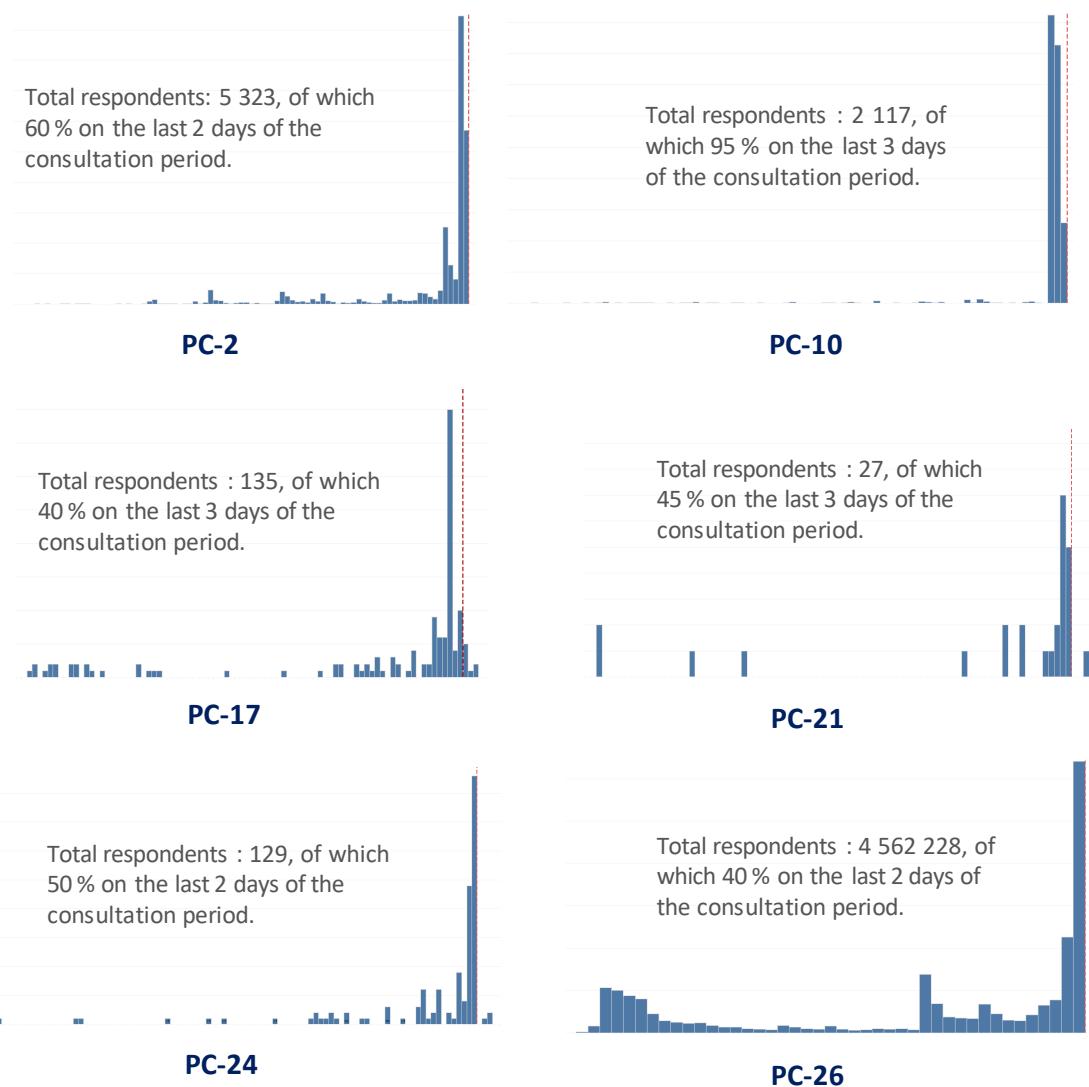
Technology-related risks

80 Information and technology-related checks are particularly important for web-based consultations in order to ensure that the process is secure and that the replies received are valid. We examined the checks performed by the DGs reviewed in order to assess whether proper provision had been made to mitigate technology-related risks.

⁶⁶ Commission toolbox 2017, p. 411 (2015, p. 321).

81 The Commission provided us with timestamp information showing when participants had submitted their contributions. In six of these 24 cases, the number of replies received during the final days of the consultation period was very high, with figures ranging from 40 % to 95 %. For the public consultation on summertime, 1.3 million contributions (40 %) were submitted on the last day (*Picture 8*).

Picture 8 – Some cases with a high number of last-minute replies



Source: ECA, based on Commission data.

82 In our view, a high volume of traffic entails a considerable degree of risk (e.g. a coordinated cyber-attack). We therefore requested information about the Commission's checks on the geolocation of source IP addresses, underlying issues linked to server unavailability (server overload), the potential use of any means of

accessing internet services anonymously (TOR⁶⁷ network), protection against internet bots (web robots), and any other checks to validate respondents' replies.

83 As regards the analysis and treatment of data, the Commission usually defines duplicates as more than one reply with the same email address. For example, this was the case for the public consultation on summertime⁶⁸. However, a single participant can participate several times using different email addresses. In this case, the different contributions may have the same source IP address, which could be a red flag of duplication. In our view, such contributions should be checked to assess whether or not they are unique and/or not artificially created.

84 We requested the source IP addresses for one public consultation. The Commission cited their interpretation of data protection rules not to provide access to this information. Instead, DG DIGIT confirmed that there were five duplicate IP addresses. For the remaining public consultations, neither DG DIGIT nor the other DGs performed similar checks before the results of the public consultations were published.

85 The Commission did not provide any information about the way the geolocation of source IP addresses was handled or about potentially anonymous access through the TOR network.

86 A CAPTCHA is a program used to verify that a human, rather than a robot, is entering data. The Commission used the CAPTCHA as an anti-bot measure to protect participation in public consultations against misuse as it prevents data from being inserted automatically. However, during the public consultation on summertime, CAPTCHA had to be replaced by another mechanism due to concerns about Google's use of private data.

Shortcomings in data analysis

Interpretation of data

87 Public consultation may reach a wide range of respondents, who provide feedback on a voluntary basis; mainly active and interested EU citizens will contribute.

⁶⁷ The TOR (the onion routing) browser is a web browser designed for anonymous web surfing and protection against traffic analysis.

⁶⁸ SWD(2018) 406 final, p. 3.

The Commission's Better Regulation guidelines make it clear that data gathered through public consultations do not provide a representative view of the EU population⁶⁹. This is because respondents are self-selecting, meaning that responses are not drawn from a representative sample⁷⁰.

88 The public consultation on summertime took place between 4 July and 16 August 2018 and received 4.6 million responses from all 28 Member States. The Commission treated these results as an important basis for formulating a legislative proposal. On 31 August 2018, Commissioner Bulc said: "Millions of Europeans used our public consultation to make their voices heard. The message is very clear: 84 % of them do not want the clocks to change anymore. We will now act accordingly and prepare a legislative proposal to the European Parliament and the Council, who will then decide together"⁷¹.

89 In our view, the Commission should have put into context the fact that 84 % of respondents to the summertime consultation were in favour of putting an end to the twice-yearly clock change. In total, less than 1 % of all EU citizens participated, and - in absolute terms - 70 % of the replies came from one Member State. Moreover, the Commission drafted its proposal to abolish the clock change in Europe without first having carried out a proper assessment of the pros and cons of the various options.

'Campaign' responses

90 In cases where several respondents give the same answer to a public consultation, this is either a coincidence or part of a co-ordinated campaign. Campaigns can be very effective at generating interest among citizens and highlighting key messages for policy makers. However, they also present a challenge for those analysing the responses. According to the Commission's Better Regulation guidelines, it is therefore essential to identify campaigns properly, analyse them separately and present results appropriately. If campaigns are identified, the synopsis report should refer to them explicitly⁷².

⁶⁹ Better Regulation toolbox 2017, p. 424 (2015, p. 319).

⁷⁰ Better Regulation toolbox 2017, p. 423 (2015, p. 319).

⁷¹ http://europa.eu/rapid/press-release_IP-18-5302_en.htm

⁷² Commission toolbox, pp. 417 and 419 (2015, p. 333).

91 Of the 26 cases we reviewed, five reported on specific campaigns. However, we found that one of the campaigns was not explained adequately in the synopsis report. Furthermore, we identified two additional cases where campaigns were not reported.

Organisations registered in the Transparency Register

92 Organisations and businesses that wish to participate in consultation activities have to provide information, by subscribing to the Transparency Register, about which interests they represent and how inclusive their representation is. Contributions from registered organisations and businesses should be processed in a different stakeholder category than non-registered ones: those that do not register are processed as a separate "non-registered organisations/businesses"⁷³ category.

93 When analysing and presenting the consultation results, distinction should be made between the different stakeholder categories that contributed to the consultation⁷⁴. Of the 26 cases we reviewed, only eight contained information on registered and non-registered organisations/businesses.

Respondents raise concerns about the use of their contributions

94 Respondents to our survey were concerned about whether and how the Commission takes their responses into account (*Box 6*).

Box 6

Examples of citizens' responses: They are concerned about how the Commission analyses contributions

Citizen 40: "One big problem for the Commission obviously is to accept different views expressed in open questions - they are not considered in further discussions and the drafting - just ignored." (original EN)

Citizen 41: "For one particular consultation with a high participation rate (living land and agricultural unions), the European Commission gave very little information about the methods used to process these data separately." (original FR)

Citizen 42: "There is not enough space for people to question the validity of a Commission intervention; the text boxes are useful but often not taken into account when the Commission does a summary of feedback." (original EN)

⁷³ Commission toolbox, p. 412 (2015, p. 314).

⁷⁴ Commission toolbox, p. 424 (2015, p. 314).

Citizen 43: “We don’t know how the results will be used: how are the replies analysed and weighted? How are the results then used to prepare legislative proposals (if this is actually the purpose they serve)?” (original FR)

Source: ECA survey.

95 For all respondents to our survey, we included a series of statements that are contained in the official communications issued by the Commission. Our respondents expressed low levels of agreement with the statements that “The European Commission takes account of the opinion of citizens” and “EU policies and laws are prepared on the basis of evidence and are backed up by the views of citizens” (both 33 %). The statements “EU policies and laws are designed transparently” (37 %) and “Citizens can contribute throughout the policy and law-making process” (40 %) were rated better, but agreement was also low.

Insufficient feedback for respondents and limited publicity given to results

96 The Commission reports the results of public consultations in factual summary reports and synopsis reports. For legislative proposals, the explanatory memorandum should explain how the contributions were taken into account or the reasons why they were not.

Factual summary reports

97 The Commission’s Better Regulation guidelines recommend that factual summary reports on the input received from citizens should be published as good practice for ensuring transparency. The reports should be published shortly after a public consultation is closed and provide basic statistical information for the public (e.g. types of stakeholder groups, number of participants, geographical distribution, and other relevant basic figures)⁷⁵.

98 In line with this recommendation in the Better Regulation guidelines, the Commission published factual summary reports for 20 of the 26 consultations we reviewed. Some of these reports were only delivered long after the consultation had been closed. The 20 cases were published on average six months after the public consultations had ended (*Picture 9*).

⁷⁵ Commission guidelines 2017, p. 84 (2015, p. 81).

99 Of the 20 factual summary reports that were published, two had been translated into all EU official languages. The remaining 18 reports were available only in English.

100 The 20 reports that were published adopted an unbiased, neutral approach and provided factual information, as required in the Commission guidelines. However, we believe that there was room for improvement on visuals (e.g. charts, figures and graphs). Five of the 20 reports used no visuals at all and, if they were included, they were often difficult to read.

Synopsis reports

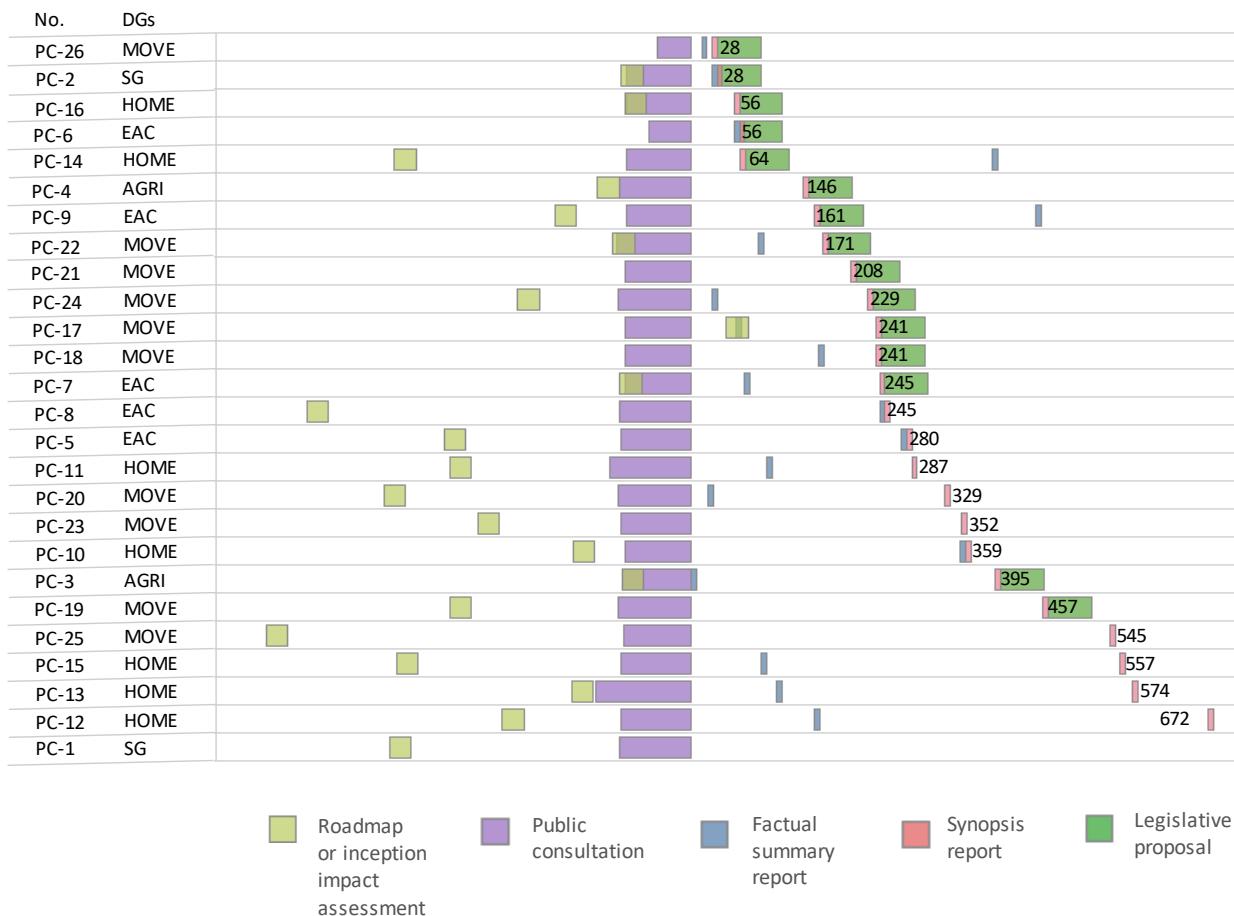
101 The Commission's Better Regulation guidelines require the synopsis report - whether self-standing or attached to the impact assessment or evaluation - to provide a more detailed overview of all feedback and contributions received. It should inform citizens how their inputs have been taken into account and explain why certain suggestions could not be followed⁷⁶. In addition, the Commission guidelines of 2015 stated that the synopsis report should not exceed 10 pages and should be made available in all languages in which the consultation was published on the consultation website⁷⁷. The revised rules of July 2017 do not require translation of the synopsis report. However, it is best practice to do so for the major initiatives in Annex I of the Commission Work Programme or those with a broad public interest.

102 The Commission produced a synopsis report for 25 of the 26 public consultations we reviewed. These reports were published on average nine months after the consultation period had ended (*Picture 9*).

⁷⁶ Commission guidelines 2017, p. 87 (2015, p. 84).

⁷⁷ Commission guidelines 2015, p. 84.

Picture 9 – Number of days needed for public consultations to report their results in a synopsis report



Source: ECA, based on Commission data.

103 Of the 23 published synopsis reports, 19 were available only in English, even though in five out of these 19 cases, the related public consultations had been published in all EU languages on the consultation website, and in one case in six EU languages. In accordance with the Commission guidelines of 2015, these six synopsis reports should have been translated into the EU languages in which the consultation was published on the consultation website.

104 As for the content of the 23 synopsis reports, only seven provided details of the methodology and tools used to process data. All of them provided information on the distribution of respondents by country of residence or origin.

105 Although the synopsis reports are not required to clarify the issue of the representativeness of results, nine of the 23 synopsis reports contained information about the fact that public consultations are not statistically representative. One of these nine cases was the public consultation on summertime, where the Commission's

report stated that public consultations were not representative⁷⁸. In our view, such information can manage participants' expectations.

Explanatory memorandum

106 All Commission proposals and delegated acts should include an explanatory memorandum, the aim being to explain the reasons for - and context of - the Commission's proposal drawing on the different stages of the preparatory process. The memorandum also serves as a basis for national Parliaments to examine the proposal under the subsidiarity control mechanism (Protocol No. 2 to the Treaties).

107 For initiatives that result in legislative proposals, an explanatory memorandum should explain how far the main contributions from a public consultation have been taken into account in the draft policy initiative, or why they could not (all) be taken into account⁷⁹.

108 All 17 cases in our sample that involved legislative proposals produced an explanatory memorandum. We noted shortcomings in three of the 17 cases: they contained only a few descriptive paragraphs and did not explain the link between respondents' input and the options proposed. By contrast, we found four cases that listed all types of consultation activities performed, included a clear link between respondents' input and the legislative proposal, an explanation of the positions of different stakeholders for each option as well as the reasons why certain options were disregarded.

 **Respondents feel that they should be better informed about the outcome of the public consultations**

109 The respondents to our survey were dissatisfied or rather dissatisfied with the factual summary report (41 % satisfaction level) and the synopsis report (38 % satisfaction level). In their comments, they often stated that they had not received any feedback on the survey, did not know where to look for the results, or were unable to read the report because it had been published in only one language or very few others. Respondents pointed out that they would have welcomed an email from the

⁷⁸ SWD(2018) 406 final, Methodological considerations, p. 2: "In contrast to surveys, public consultations are not statistically representative. Web-based public consultations also have a self-selection bias of the respondents towards the views of those who choose to respond to the consultation against those who do not. These elements need to be kept in mind when interpreting the results".

⁷⁹ Commission toolbox 2017, p. 436 (2015, pp. 239 and 242).

Commission providing a link to or further information on the results of the study (*Box 7*).

Box 7

Examples of citizens' responses: They have no idea what happens after they have participated

Citizen 44: "I didn't receive any info about the results of the public consultation." (original EN)

Citizen 45: "The EU is influenced by corporate lobbies. Its goal is not ordinary people's wellbeing." (original ES)

Citizen 46: "The way the EU currently operates is not democratic at all and the lobby groups seem to have greater power than the people, which is bad for everyone. The unelected Commission takes all the decisions, and you do wonder what our elected officials do, apart from costing us a fortune. Social policy is the big loser, as the EU is only there to serve the interests of big corporations and banks at the people's expense." (original FR)

Citizen 47: "I don't know what the result is, I don't know anything about it." (original PL)

Citizen 48: "I don't receive a summary of the opinions. The outcome of the consultation is unknown." (original HU)

Citizen 49: "I would have expected to get an update by email, so I could track statuses and results." (original DE)

Citizen 50: "An e-mail indicating that the results have been processed and can be viewed might help to improve responders' feeling that the researchers really appreciated the input received." (original EN)

Citizen 51: "...The lack of information and follow-up after taking part in the survey: there were no public groups to discuss the relevance of our ideas and proposals or to be able to present and explain our ideas and proposals." (original FR)

Citizen 52: "There was no direct follow-up. You need to have a lot of time to search for the news that interests you. It would be good to be kept informed by email after taking part, possibly with an opt-out option." (original IT)

Citizen 53: "I got no feedback about the survey procedure." (original CZ)

Source: ECA survey.



Respondents feel that the Commission lacks accountability and closeness to citizens

110 Respondents think that the Commission should be more accountable, and that this could be achieved with better communication, greater transparency and more publicity about topics affecting EU citizens (*Box 8*).

Box 8

Examples of citizens' responses: They want the Commission to be accountable and closer to citizens

Citizen 54: “Legislative footprints that cross-reference the data of the Transparency Register and the public agendas of the Commission, through visually effective and clear mapping of influences and positions of stakeholders, with accountability reports that explain the rationale behind the final decisions.” (original EN)

Citizen 55: “By increasing the number of public consultations in order to fill the gap between Brussels ‘experts’ and common citizens, as well as by reporting results simply and without distortion. In this regard, allowing scientists and universities to use public consultation datasets would greatly improve the reliability and transparency of such a democratic tool. Otherwise, people will continue to distrust public consultations and the use that the Commission makes of final results.” (original EN)

Citizen 56: “The European Commission needs to be balanced in addressing the issues, trying to obtain from citizens not just a positive, optimistic response to its questions, but also concerns and criticism.” (original RO)

Citizen 57: “I think that the EU should be more visible on the streets in cities and towns to ask citizens about their opinions and give them an opportunity to shape the Union. Without this, there is no real way to get to those who aren't necessarily interested in consultations. The benefit of this would be that we can directly counter Euroscepticism which is now promoted by many national media (i.e. Poland/Hungary) which have better access to citizens than the EU, meaning influence is also much greater.” (original EN)

Citizen 58: “Invitations to take part in the consultations should be e-mailed directly to associations, organisations and individuals, and media campaigns should be launched at the same time. Unfortunately, as the EU is now perceived as being more remote from Italian citizens than ever before, its image and that of its institutions needs to be revitalised. (original IT)

Citizen 59: “Knowing what the Commission does, what agreements it adopts and how they affect citizens etc., is a key issue that is still remote for most people.” (original ES)

Source: ECA survey.

Conclusions and recommendations

111 Overall, we found that the Commission's framework for public consultations is of a high standard, and respondents to our survey were generally satisfied with the consultation process. However, we identified some areas where the Commission's framework could be improved in terms of the monitoring and assessment of public consultations. The Commission's Better Regulation guidelines do not envisage specific indicators and a systematic assessment of whether public consultations achieve all of their objectives (*paragraphs 24-32*).

Recommendation 1 – Commission's framework

For the purpose of monitoring public consultations, the Commission should improve the Better Regulation guidelines by:

- defining specific indicators to be monitored and reported for individual public consultations and at Commission level; and
- Systematically assessing whether public consultations achieve all their objectives.

Timeframe: July 2020.

112 Overall, we found that the preparation and implementation of the Commission's public consultations we reviewed was satisfactory, but we identified some areas for improvement in order to ensure that citizens can participate easily and effectively (*paragraphs 33-34*).

113 For the public consultations we reviewed, the Commission did not always provide advance information to enable citizens to prepare their participation. In some cases, the Commission did not prepare consultation strategies or did not publish them on the public consultation webpages. When they were prepared, the consultation strategies set only general objectives and did not explain how the public consultation would complement other consultation activities. Some consultation strategies did not identify all stakeholders who were relevant or potentially interested in participating, and did not state the language arrangements that were planned (*paragraphs 35-50*).

Recommendation 2 – Consultation strategy

The Commission should achieve the goal of public participation in EU law-making with the best possible level of outreach to EU citizens. To this end, the Commission should prepare and publish consultation strategies explaining:

- which of the consultation activities (e.g. public consultation, consultations with social partners, experts, lobbyists, Eurobarometer surveys, focus groups, randomly selected samples of citizens, public hearings, ‘citizen dialogues’ or others) will be used and how the selected activities will complement each other; and
- the specific purpose of public consultations, their intended use and the official EU languages into which the questionnaires and other consultation documents (e.g. background information, roadmap, reports with the results, etc.) will be translated.

Timeframe: July 2020.

114 Overall, the choice and extent of communication methods and channels used (including social media) differed considerably between DGs and public consultations. The cases with the lowest number of responses did not use a variety of communication channels. The Commission acknowledged that some stakeholders are still unwilling or unable to engage and that the low level of participation is a problem. Commission’s approach to reaching citizens is key to engaging citizens, thereby increasing participation ([paragraphs 51-60](#)).

Recommendation 3 – Outreach activities

To improve the outreach of its public consultations, the Commission should:

- increase its outreach activities and adapt its communication measures to promote greater participation, particularly the range of potential participants; and
- better engage the Commission’s representations in the Member States, with organisations such as the European Economic and Social Committee or the Committee of the Regions and with national authorities with a view to disseminating more information on public consultations.

Timeframe: July 2020.

115 We found no clear criteria for classifying initiatives under categories of ‘broad public interest’ or ‘other’, which should serve as a basis for establishing the languages into which the Commission should translate questionnaires and other key consultation documents. When the questionnaires for the public consultations we reviewed had been translated into all EU languages, the average number of inputs received was higher than in cases where questionnaires had been available only in English. We found that the questionnaires for the public consultations we reviewed were not always targeted at the public but were addressed more to specialists, and that some questionnaires were too long or too complex (*paragraphs 61-72*).

Recommendation 4 – Language arrangements and questionnaires

In order to enable all citizens to participate easily and effectively, the Commission should:

- clarify the criteria for classifying initiatives under the category of ‘broad public interest’ or ‘other’;
- ensure that questionnaires and other key consultation documents (such as roadmaps, consultation strategies, factual summary reports and synopsis reports) are translated into all official languages for all priority initiatives and initiatives of broad public interest; and
- ensure that each public consultation is based on a general questionnaire for the public, in line with the standards set in the Better Regulation guidelines (relevant, short, simple, etc.), with an additional set of questions for specialists where necessary.

Timeframe: July 2020.

116 Overall, we found that the analysis of and information on the Commission’s public consultations we reviewed was satisfactory, but we identified some areas for improvement with a view to ensuring transparency and accountability (*paragraphs 76-77*).

117 The Commission performed limited checks on the validity of replies, and did not always include privacy statements on how data would be collected and processed. We also found that the Commission’s analysis and interpretation of data was not always clear, in particular as regards the non-representative nature of responses,

information on respondents by stakeholder category, and ‘campaign’ responses (*paragraphs 78-95*).

Recommendation 5 – Data processing and security

The Commission should protect the public consultation process against manipulation of results. The Commission should therefore apply high standards of data processing and security. In particular, for all public consultations the Commission should:

- Systematically check whether the contributions submitted are unique and not artificially created and report on such checks (e.g. in the synopsis report); and
- ensure consistent treatment of public consultation responses (e.g. information on categories of participants and descriptions of campaigns).

Timeframe: July 2020.

118 We found that for the public consultations we reviewed, the Commission did not always prepare the requisite reports containing the results of the consultations, or delivered them long after the consultations had ended. On average, it took six months to publish the factual summary report of the public consultations, and nine months for the synopsis report with the results of all consultation activities and the explanation of how respondents’ contributions had been taken into account (*paragraphs 96-110*).

Recommendation 6 – Feedback for respondents

In order to ensure that the public consultation process is as transparent as possible, the Commission should provide participants with timely feedback on the outcome of the consultation.

Timeframe: July 2020.

This Report was adopted by Chamber V, headed by Mr Lazaros S. Lazarou, Member of the Court of Auditors, in Luxembourg at its meeting of 16 July 2019.

For the Court of Auditors

Klaus-Heiner Lehne
President

Annexes

Annex I — The Commission's public consultations we reviewed

No	DG	Title	Year	Type of public consultation	Legislative proposal
PC-1	SG	Proposal for a mandatory Transparency Register	2016	Review/revision of an Interinstitutional Agreement	-
PC-2	SG	European citizens' initiative	2017	Review/revision of an initiative	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
PC-3	AGRI	Modernising and simplifying the common agricultural policy	2017	New initiative	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
PC-4	AGRI	Initiative to improve the food supply chain	2017	New initiative	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
PC-5	EAC	Evaluation of the Youth policy cooperation in the EU	2016	Mid-term evaluation	-
PC-6	EAC	European Solidarity Corps	2017	New initiative	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
PC-7	EAC	Review of the 2006 Recommendation on Key Competences for Lifelong Learning	2017	Review/revision of an initiative	Proposal for a COUNCIL RECOMMENDATION
PC-8	EAC	Mid-term evaluation of the Erasmus+ Programme	2017	Mid-term evaluation	-
PC-9	EAC	Recommendation on promoting social inclusion and shared	2017	New initiative	Proposal for a COUNCIL RECOMMENDATION

		values through formal and non-formal learning			
PC-10	HOME	Tackling migrant smuggling: is the EU legislation fit for purpose?	2016	Refit	-
PC-11	HOME	2016 evaluation of the EU Drugs Strategy and Action Plan on Drugs	2016	Evaluation	-
PC-12	HOME	European Refugee Fund actions for 2011-2013	2016	Evaluation	-
PC-13	HOME	Prevention of and fight against crime (ISEC) 2007-2013	2016	Evaluation	-
PC-14	HOME	Combatting fraud and counterfeiting on non-cash means of payment	2017	New initiative	<u>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</u>
PC-15	HOME	Legal migration of non-EU citizens	2017	Refit	-
PC-16	HOME	Interoperability of EU information systems for borders and security	2017	New initiative	<u>Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</u>
PC-17	MOVE	Review of Directive 1999/62/EC ("Eurovignette") as amended, on the charging of heavy goods vehicles for the use of certain roads	2016	Review/revision of an initiative + Evaluation	<u>Proposal for a COUNCIL DIRECTIVE</u>
PC-18	MOVE	Review of Directive 2004/52/EC and Decision 2009/750/EC on the European Electronic Toll Service	2016	Evaluation	<u>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL and Draft Commission Decision</u>
PC-19	MOVE	Revision of the Port Reception Facilities	2016	Review/revision of an initiative	<u>Proposal for a DIRECTIVE OF THE EUROPEAN</u>

		Directive (2000/59/EC)			<u>PARLIAMENT AND OF THE COUNCIL</u>
PC-20	MOVE	Evaluation of Regulation 392/2009 on the Liability of Carriers of Passengers by Sea in the Event of Accidents	2016	Evaluation	-
PC-21	MOVE	Review of Directive 2006/1/EC on the use of hired vehicles for the carriage of goods by road	2016	Review/revision of an initiative	<u>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</u>
PC-22	MOVE	Enhancement of the social legislation in road transport	2016	Review/revision of an initiative and Evaluation	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
PC-23	MOVE	Mid-term evaluation of the Connecting Europe Facility	2016	Evaluation	-
PC-24	MOVE	Review of the Clean Vehicles Directive	2016	Review/revision of an initiative	<u>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</u>
PC-25	MOVE	EU Air Safety List ('Black List of Airlines') Regulation	2017	Evaluation	-
PC-26	MOVE	Summertime arrangements	2018	Review/revision of an initiative	<u>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</u>

Source: ECA based on Commission data.

Annex II — Panel of experts

Name	Title	Organisation
Christiane Arndt-Bascle	Head of Programme at the Public Governance Directorate	OECD
Galina Biedenbach	Associate Professor in Business Administration	School of Business, Economics and Statistics Umeå University
Luis Bouza	Assistant Professor of Political Science and Visiting Professor College of Europe and Paris 1 Panthéon-Sorbonne	Autonomous University of Madrid
Emanuela Bozzini	Lecturer at the Department of Sociology and Social Research	University of Trento
Yves Dejaeghere	Visiting Professor and Coordinator G1000 Organisation	University of Antwerp
Raphaël Kies	Research Associate in Political Science	University of Luxembourg
Elisa Lironi	Senior Manager European Democracy	European Citizen Action Service (ECAS)
Beatriz Pérez de las Heras	Professor of European Union Law. Jean Monnet Chair on European Integration	School of Law, University of Deusto
Anna Renkamp	Senior Project Manager. Program Future of Democracy	Bertelsmann Stiftung

Source: ECA.

Annex III — Perception survey

Approach

Of the 26 public consultations in our sample, we surveyed 16 007 citizens and stakeholders who participated in 15 of them, and received 2 224 replies. The remaining 11 public consultations in our sample were not included in our survey for operational and/or practical reasons, e.g. privacy statements with a short retention period of only one year for personal data, a lack of valid emails for contacting participants, and time constraints.

For the 15 public consultations included in our survey, we invited only those participants who had agreed to have their names and contributions disclosed on the Commission's webpage. We prepared the survey and its content (including the questionnaire), but technical processing took place at the Commission because it did not transfer any personal data to us citing its interpretation of data protection rules.

Of the 15 public consultations included in the survey, four were carried out in 2017 and 11 in 2016. In cases where respondents declared that they did not remember having participated in any of the listed 15 public consultations, while still making suggestions for improvement, they were not asked to rate their level of satisfaction. Of the 2 224 respondents, 809 (36 %) declared, “No, I do not remember having participated in any of these [listed] public consultations”. The overall level of satisfaction was therefore calculated on the basis of 1 415 contributions.

The audit team analysed the different results, which are not statistically representative, by taking into account the number of respondents to the survey, possible discrepancies between the 2016 and 2017 public consultations, and possible differences in perception between public consultations with many participants and public consultations with only a few. In all cases, the level of satisfaction is similar (from 64.8 % to 69.4 %)

Results of the perception survey of participants in the European Commission's public consultations

Preparation of the public consultation:	Satisfaction
The language used during the consultation process	82 %
The information available about the scope and aim of the public consultation	75 %
The background documents, links and other reference documents that were available	60 %

Taking part in the public consultation:	Satisfaction
The duration of the public consultation (number of weeks the questionnaire was accessible at the European Commission's website for responses)	79 %
The length of the public consultation's questionnaire	80 %
The clarity and simplicity of the public consultation's questions	69 %
The number of open questions with free text boxes to express your views and provide detailed comments	76 %

Information on the results of the public consultation:	Satisfaction
The "factual report" which included a summary of all input received	41 %
The "synopsis report" which included information on how responses received have been taken into account	38 %
The information available about the related legislative proposal	38 %

To what extent do you agree with the following statements?	Agreement
EU policies and laws are designed transparently	37 %
EU policies and laws are prepared based on evidence and backed up by the views of citizens and other stakeholders	33 %
Citizens and other stakeholders can contribute throughout the policy and law-making process	40 %
The European Commission is taking account of the opinion of citizens and other stakeholders	33 %
It is important to have public consultations carried out in all 24 official languages of the EU	92 %

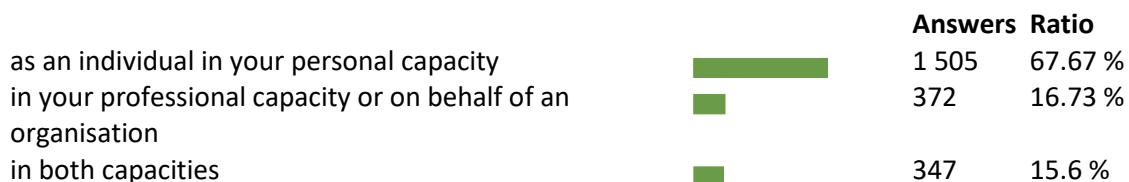
Source: ECA survey.

Detailed statistics

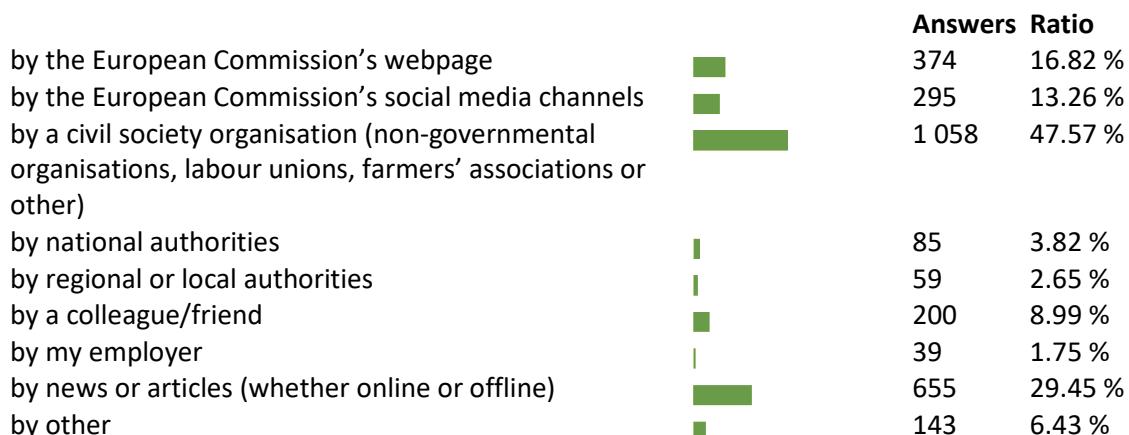
1. How many times have you participated in public consultations organised by the European Commission in the last three years, 2016, 2017 and 2018?



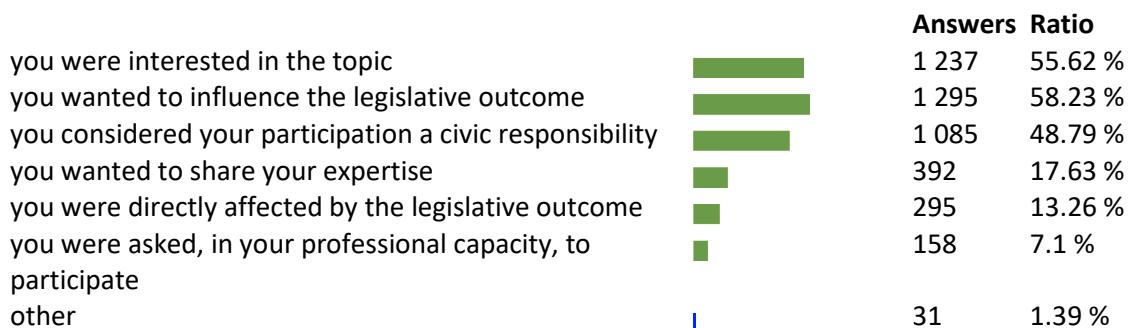
2. Were you replying



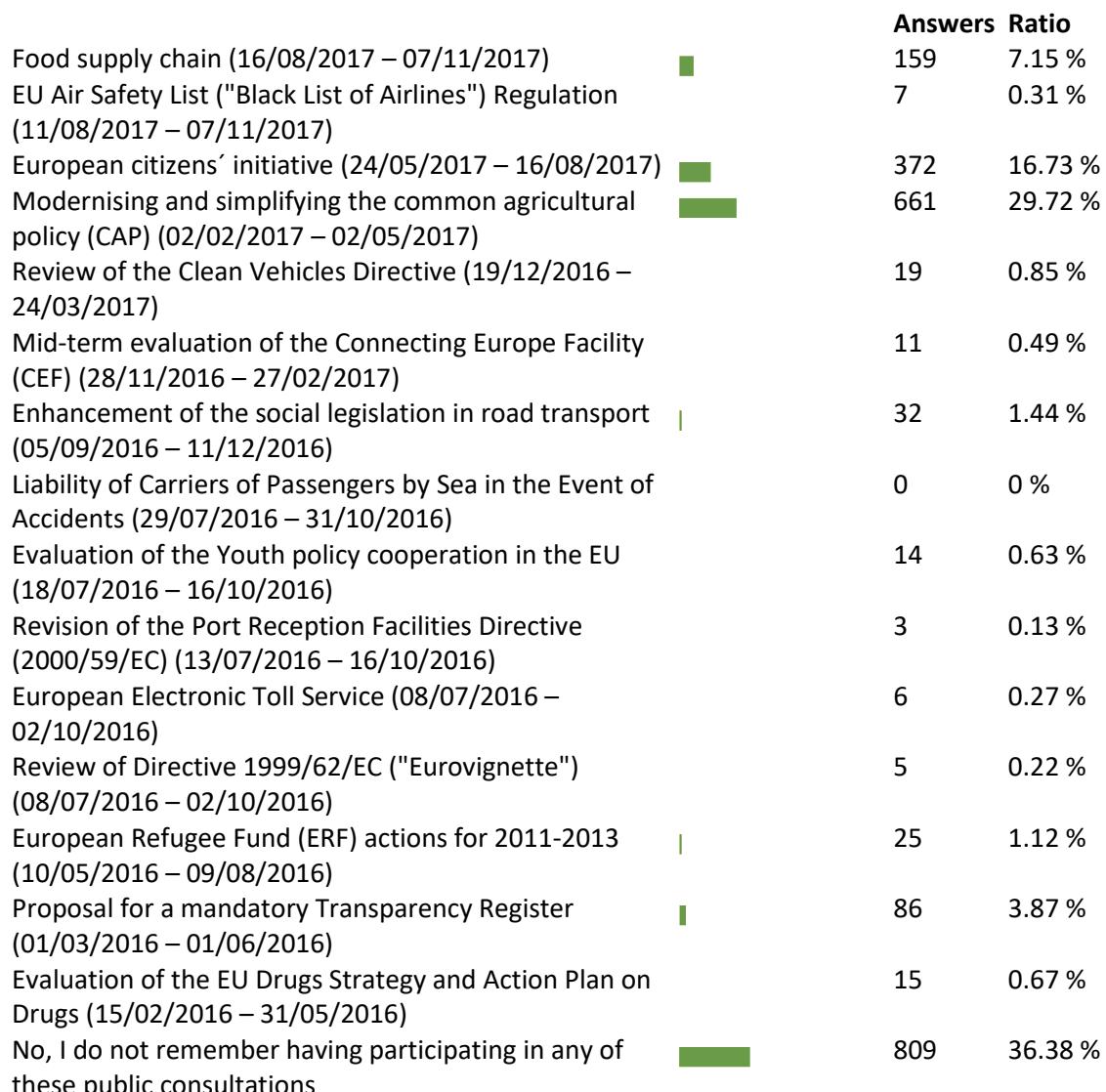
3. How were you informed about the European Commission's public consultations?



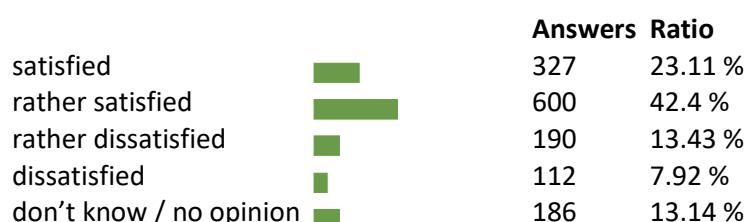
4. Why did you participate?



5. Among these European Commission's public consultations carried out during 2016-2017 and sorted by date, please, select the (last) one in which you participated



6. What was your overall satisfaction with the process of this public consultation?



8.1. Preparation of the public consultation: (1) The language used during the consultation process



Dissatisfied		50	3.53 %
Don't know / No opinion / Not applicable		77	5.44 %

8.1. Preparation of the public consultation: (2) The information available about the scope and aim of the public consultation

		Answers Ratio
Satisfied		456 32.23 %
Rather satisfied		600 42.4 %
Rather dissatisfied		193 13.64 %
Dissatisfied		79 5.58 %
Don't know / No opinion / Not applicable		87 6.15 %

8.1. Preparation of the public consultation: (3) The background documents, links and other reference documents that were available

		Answers Ratio
Satisfied		330 23.32 %
Rather satisfied		520 36.75 %
Rather dissatisfied		252 17.81 %
Dissatisfied		90 6.36 %
Don't know / No opinion / Not applicable		223 15.76 %

8.2. Taking part in the public consultation: (1) The duration of the public consultation (number of weeks the questionnaire was accessible at the European Commission's website for responses)

		Answers Ratio
Satisfied		620 43.82 %
Rather satisfied		495 34.98 %
Rather dissatisfied		85 6.01 %
Dissatisfied		43 3.04 %
Don't know / No opinion / Not applicable		172 12.16 %

8.2. Taking part in the public consultation: (2) The length of the questionnaire

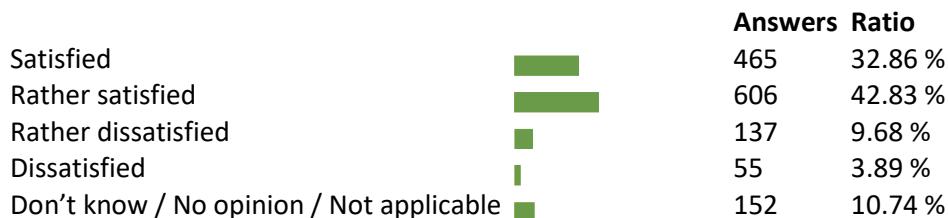
		Answers Ratio
Satisfied		482 34.06 %
Rather satisfied		646 45.65 %
Rather dissatisfied		170 12.01 %
Dissatisfied		42 2.97 %
Don't know / No opinion / Not applicable		75 5.3 %

8.2. Taking part in the public consultation: (3) The clarity and simplicity of the public consultation's questions

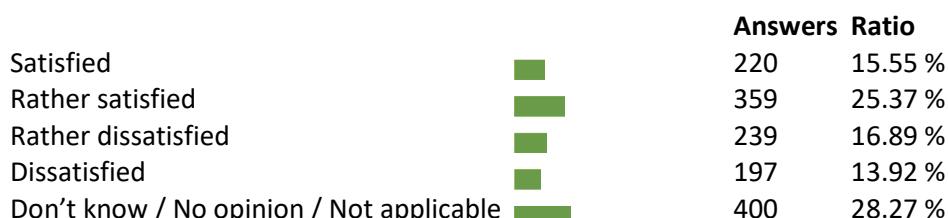
		Answers Ratio
Satisfied		403 28.48 %
Rather satisfied		577 40.78 %
Rather dissatisfied		261 18.45 %
Dissatisfied		118 8.34 %

Don't know / No opinion / Not applicable | 56 3.96 %

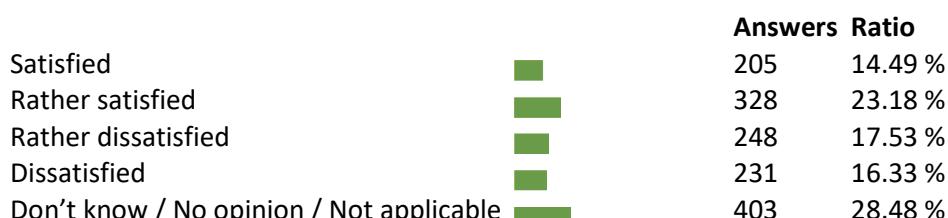
8.2. Taking part in the public consultation: (4) The number of open questions with free text boxes to express your views and provide detailed comments



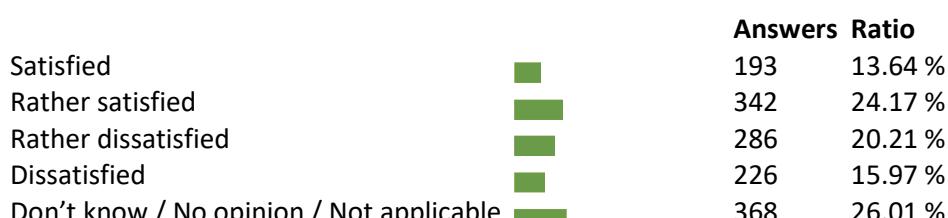
8.3. Information on the results of the public consultation: (1) The “factual report” which included a summary of all input received



8.3. Information on the results of the public consultation: (2) The “synopsis report” which included information on how responses received have been taken into account



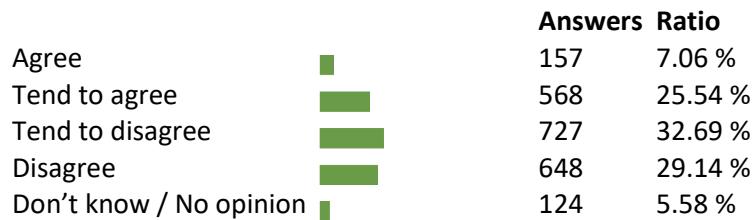
8.3. Information on the results of the public consultation: (3) The information available about the related legislative proposal



9. To what extent do you agree with the following statements?: (1) EU policies and laws are designed transparently



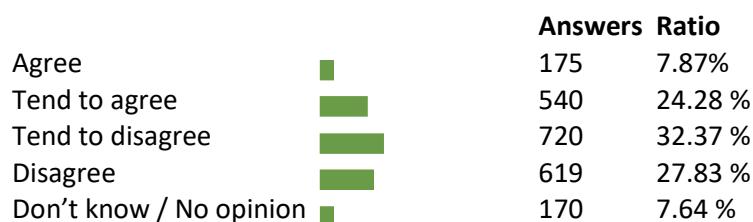
9. To what extent do you agree with the following statements?: (2) EU policies and laws are prepared based on evidence and backed up by the views of citizens and other stakeholders



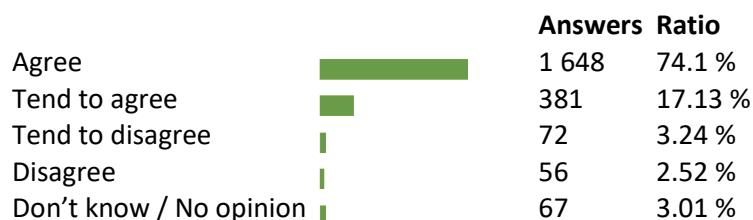
9. To what extent do you agree with the following statements?: (3) Citizens and other stakeholders can contribute throughout the policy and law-making process



9. To what extent do you agree with the following statements?: (4) The European Commission is taking account of the opinion of citizens and other stakeholders



9. To what extent do you agree with the following statements?: (5) It is important to have public consultations carried out in all 24 official languages of the EU



Annex IV — Translation of citizens' responses

Citizen 1: "Die Möglichkeit, außerhalb von Wahlen meine Meinung mitzuteilen und diese in die Gestaltung Europas einzubringen." (DE) / "The opportunity to share my opinion outside elections and so help to shape Europe." (EN)

Citizen 2: "La possibilità di poter esprimere un'opinione direttamente senza intermediari." (IT) / "The opportunity to express an opinion directly without intermediaries." (EN)

Citizen 3: "Iespēja izteikt savas domas un vēlmes kā ražojošam lauksaimniekam." (LV) / "Opportunity to express your thoughts and wishes as a farmer." (EN)

Citizen 5: "... Dass er überhaupt stattfindet. Ein wichtiger Meilenstein auf dem Weg zur Demokratisierung der EU." (DE) / "... That it's even happening. An important milestone on the way to democratizing the EU." (EN)

Citizen 6: "Me parece interesante este tipo de consultas siempre que su resultado se utilice para tomar decisiones. Para que al ciudadano no se le deje solamente para las consultas electorales. Es necesario avanzar hacia formas de democracia directa. La democracia representativa nos está llevando al desinterés, cada vez que se nos convoca aumenta la abstención. Me parece grave." (ES) / "I find this type of consultation interesting, as long as its result are used to make decisions and citizens are not consulted only at elections. We need to move towards forms of direct democracy. Representative democracy is making us lose interest: every time we're asked to vote, abstention increases. I think this is serious." (EN)

Citizen 9: "To da se traži mišljenje i nas 'običnih' građana i malih subjekata." (HR) / "To ask for the views of 'ordinary' citizens and small businesses." (EN)

Citizen 10: "Difficulté à savoir à quoi elle va servir CONCRÈTEMENT." (FR) / "Difficult to know how they will be used IN CONCRETE TERMS." (EN)

Citizen 11: "Es hat den Eindruck einer reinen Alibibefragung hinterlassen." (DE) / "It gives the impression of being a token survey." (EN)

Citizen 12: "... c'est JUSTE une consultation qui semble pro forma et pas encore un réel exercice de démocratie participative, hélas... Pourtant, voilà une occasion de réenchanter le rêve et le projet européen, non? Sinon, le fossé entre citoyen et eurocrate ne cessera de s'agrandir, ce qui sera tout bénéfice pour les eurosceptiques et autres national-populistes." (FR) / "... it is JUST a token consultation that seems pro forma and unfortunately not yet a genuine exercise of participatory democracy... . But this is surely an opportunity to revitalise the dream and the European project, isn't it?

Otherwise, the gap between citizens and Eurocrats will continue to widen, something which can only benefit Eurosceptics and populists.” (EN)

Citizen 13: “... При това положение, какъв е смисълът да си губим времето да участваме с тези консултации?” (BG) / “... In this situation, what is the point of wasting our time taking part in these consultations?” (EN)

Citizen 14: “... não tive percepção da utilidade da participação.” (PT) / “... [I] didn’t see the value in taking part.” (EN)

Citizen 17: “...De EU is er niet voor de gewone Europese burger.” (NL) / “... The EU is not there for ordinary European citizens.” (EN)

Citizen 19: “Misschien is het wenselijk dat de raadplegingen beter bekend zouden zijn bij het grote publiek. Indien men geen lid is van een ngo of andere organisatie heeft men er dikwijls geen weet van.” (NL) / “Perhaps the consultations should be more widely advertised to the general public. If you are not a member of an NGO or other organisation, you are often unaware of them.” (EN)

Citizen 20: “... gdyby nie organizacje i fundacje to nigdy bym sie nie wypowiedziala na zaden temat bo nic do mnie nie dociera, zaadna ankieta.” (PL) / “...if it weren’t for organisations and foundations, I would never comment on any subject because nothing reaches me, e.g. questionnaires.” (EN)

Citizen 21: “Ich würde mir wünschen in meiner Tageszeitung über aktuelle Themen der Europäischen Kommission lesen zu können. Auch Hinweise in Funk, Fernsehen und Presse auf aktuelle Umfragen fände ich gut.” (DE) / “I would like to be able to read in my daily paper about current European Commission topics. I would also like there to be radio, television and press coverage of current surveys.” (EN)

Citizen 22: “J'ai découvert les consultations publiques UE par Facebook alors que j'ai 31 ans. Je trouve ça dommage qu'à l'école ou par un autre moyen on ne nous parle pas de son fonctionnement. Il faudrait plus de communication sur l'UE et ses lois à venir.” (FR) / “I discovered EU public consultations on Facebook even though I'm 31. I think it's a pity we're not told about them at school or elsewhere. More communication about the EU and its future laws is needed.” (EN)

Citizen 23: “Αποστολή newsletter σε emails των πολιτών για τις πολιτικές που οι πολίτες δηλώνουν ότι τους ενδιαφέρουν.” (GR) / “Send people newsletters by email about policies they say they're interested in.” (EN)

Citizen 24: “Určitě, je kromě elektronického oslovení občanů důležitá i veřejná kampaň, aby se zúčastnilo maximum zainteresovaných občanů.” (CZ) / “Certainly, as

well as reaching out to citizens electronically, a public campaign is also important in order to involve those citizens who are most interested.” (EN)

Citizen 25: “Enemmän tietoa näistä kyselyistä eri paikkoihin! Olisi esimerkiksi hyvä, jos nämä kyselyt ja Eu:n laajuiset kansalaisaloitteet olisivat nähtävissä samalla sivustolla, jossa Suomen kansalaisten- ja kuntalaistenaloitteet ovat.” (FI) / “More information about these surveys in different locations! For example, it would be good if these surveys – and EU-wide citizens’ initiatives – were visible on the same website as Finnish civic and municipal initiatives.” (EN)

Citizen 27: “... escaso entusiasmo e implicación de los Gobiernos en estos procesos.” (ES) / “Little enthusiasm and involvement in these processes by governments.” (EN)

Citizen 28: “De betrokkenheid met nationale parlementen is naar mijn idee te gering.” (NL) / “I think there is too little involvement with national parliaments.” (EN)

Citizen 30: “Obige Dokumente lagen meist nur fremdsprachlich vor. Da solch bürokratische Sprache schon auf Deutsch oft sehr kompliziert ist, ist es dann völlig vorbei!” (DE) / “The above documents were mostly available only in foreign languages. Such bureaucratic language is already very complicated in German, so this is a non-starter!” (EN)

Citizen 31: “Limbajul greoi, jargonul administrativ, textele trebuie curățate și traduse în limbajul uzual al unei populații mediului educate.” (RO) / “Dense language and administrative jargon: such documents should be made clearer and translated into a style that people with an ordinary education can understand.” (EN)

Citizen 32: “I en ny undersøgelse som jeg skal besvare bør spørgsmålene stilles på mit modersmål: dansk. Og formuleringen bør være lettere at forstå, da det ikke er alle som er uddannet på universitets niveau.” (DK) / “In a new survey, which I have to answer, the questions should be in my mother tongue: Danish. The wording should also be easier to understand, as not everyone has a university-level education.” (EN)

Citizen 34: “Certaines questions difficiles pour des citoyens qui ne sont pas spécialistes de la politique en question - accessibilité des questions pas toujours bonne.” (FR) / “Some difficult questions for non-specialists in the policy area in question –questions are not always accessible.” (EN)

Citizen 35: “... As medidas necessitam ser ajustadas aos povos a que são dirigidas” (PT) / “... The measures need to be adjusted to the people to which they’re intended for.” (EN)

Citizen 36: “e-Dostopnost za mlade NAJBOLJNAJMANJ - izključenost starejših, ki niso digitalizirani.” (SL) / “Accessible for young people, but not for older people who are less familiar with technology.” (EN)

Citizen 38: “Empfand ich die Zielsetzung der Fragen nicht immer eindeutig, insofern war es extrem wichtig daß es zusätzliche Kommentarfelder gab, bei denen man die eigene Antwort ausführlicher erläutern konnte.” (DE) / “I felt that the purpose of the questions was not always clear, so it was extremely important to have extra space for comments where an answer could be explained in more detail.” (EN)

Citizen 39: “...möjligheten att lämna fria synpunkter och bifoga material” (SE) / “...the opportunity to express free comments and attach material.” (EN)

Citizen 41: “Une consultation particulière avec la forte participation de campagnes de réponses (living land et syndicats agricoles), la Commission européenne a peu communiqué sur les méthodes utilisées pour traiter ces données à part.” (FR) / “For one particular consultation with a high participation rate (living land and agricultural unions), the European Commission gave very little information about the methods used to process these data separately.” (EN)

Citizen 43: “On ne sait pas comment les résultats seront exploités : Comment sont analysées les réponses, quelle pondération leur donne t on? Comment les résultats sont ils ensuite utilisés pour construire des propositions politiques (si ils doivent servir à cela)?” (FR) / “We don't know how the results will be used: how are the replies analysed and weighted? How are the results then used to prepare legislative proposals (if this is actually the purpose they serve)?” (EN)

Citizen 45: “La UE está mediatisada por lobbys empresariales. No busca el bienestar de la población.” (ES) / “The EU is influenced by corporate lobbies. Its goal is not ordinary people's wellbeing.” (EN)

Citizen 46: “Le fonctionnement actuel n'est pas du tout démocratique et les lobbys semblent faire la loi, pas les peuples, ce qui est absolument néfaste. La Commission non élue décide de tout, on peut se demander à quoi servent nos élus à part nous coûter très cher. Le social est le grand oublié, cette Union européenne n'est là que pour servir les intérêts des grands groupes et de la Finance au détriment des peuples.” (FR) / “The way the EU currently operates is not democratic at all and the lobby groups seem to have greater power than the people, which is bad for everyone. The unelected Commission takes all the decisions, and you do wonder what our elected officials do, apart from costing us a fortune. Social policy is the big loser, as the EU is only there to serve the interests of big corporations and banks at the people's expense.” (EN)

Citizen 47: "niewiem jaki wynik bo nic niewiadomo." (PL) / "I don't know what the result is, I don't know anything about it." (EN)

Citizen 48: "Nem tapasztaltam, hogy a véleményeket összegezték volna. A konzultáció eredményéről semmit nem tudni." (HU) / "I don't receive a summary of the opinions. The outcome of the consultation is unknown." (EN)

Citizen 49: "Ich hätte erwartet mal ein Update per email zu bekommen, wo ich Status und Ergebnisse denn verfolgen könnte." (DE) / "I would have expected to get an update by email, so I could track statuses and results." (EN)

Citizen 51: "... l'absence d'infos, accompagnements, suites... données après la participation à l'enquête: pas de panels citoyens pour débattre de la pertinence de nos idées et propositions et surtout de pouvoir exposer et expliciter nos idées et propositions." (FR) / "...The lack of information and follow-up after taking part in the survey: there were no public groups to discuss the relevance of our ideas and proposals or to be able to present and explain our ideas and proposals." (EN)

Citizen 52: "Non vi è stato un seguito comunicato direttamente. Occorre avere molto tempo per cercare sempre le notizie di proprio interesse. Sarebbe bello restare informati via mail dopo la partecipazione, eventualmente con un opzione per non esserlo più (opt-out)." (IT) / "There was no direct follow-up. You need to have a lot of time to search for the news that interest you. It would be good to be kept informed by email after taking part, possibly with an opt-out option." (EN)

Citizen 53: "Nemám zpětnou vazbu k prováděnému šetření." (CZ) / "I got no feedback about the survey procedure." (EN)

Citizen 56: "Comisia Europeană trebuie să fie echilibrată în abordarea problematicilor, încercând să afle de la cetățeni și îngrijorările sau critice, nu numai o perspectivă pozitivă, optimistă, indusă de întrebările provenite de la CE." (RO) / "The European Commission needs to be balanced in addressing the issues, trying to obtain from citizens not just a positive, optimistic response to its questions, but also concerns and criticism." (EN)

Citizen 58: "Bisognerebbe inviare tramite e-mail gli inviti alla partecipazione alle consultazioni direttamente alle associazioni, organizzazioni e ai privati, e contemporaneamente attivare delle campagne sui media. Purtroppo mai come in questo momento la UE è sentita molto lontana dai cittadini italiani, bisogna rilanciare l'immagine della UE e delle sue istituzioni." (IT) / "Invitations to take part in the consultations should be e-mailed directly to associations, organisations and individuals, and media campaigns should be launched at the same time. Unfortunately,

as the EU is now perceived as being more remote from Italian citizens than ever before, its image and that of its institutions needs to be revitalised.” (EN)

Citizen 59: “Saber qué hace la Comisión, qué acuerdos adopta, cómo afectan a sus ciudadanos, etc., etc., es una cuestión esencial y que, actualmente, queda muy alejada de la gente.” (ES) / “Knowing what the Commission does, what agreements it adopts and how they affect citizens etc., is a key issue that is still remote for most people.” (EN)

Annex V — Number of respondents per country of residence⁸⁰

N°	Total	AT	BE	BG	HR	CY	CZ	DK	EE	FI	FR	DE	EL	HU	IE	IT	LV	LT	LU	MT	NL	PL	PT	RO	SK	SI	ES	SE	UK	Other
PC-1	1 385	52	227	10	9	4	10	29	3	9	163	248	23	3	25	107	4	3	9	1	81	29	23	21	4	9	85	23	131	40
PC-2	5 481	97	303	13	20	10	19	24	5	21	1 601	1 286	51	15	91	213	29	4	11	14	117	42	66	73	10	17	354	39	620	158
PC-3	63 295	4 259	1 517	228	116	13	892	306	93	1 026	6 816	34 880	122	1 788	304	2 666	601	100	86	10	728	435	345	294	128	55	3 870	307	1 184	126
PC-4	1 455	198	84	13	1	2	24	3	8	46	103	418	4	17	78	49	8	5	1	4	30	20	71	92	9	5	99	31	25	7
PC-5	266	14	14	2	21	3	12	0	2	7	22	33	8	3	2	33	2	0	1	1	1	3	23	13	2	3	20	3	3	15
PC-6	660	17	68	28	13	7	5	3	5	7	48	43	16	12	6	79	1	5	6	1	15	14	32	28	16	11	92	7	34	41
PC-7	492	4	60	4	5	1	2	5	5	9	25	18	6	2	24	119	1	3	4	6	7	13	22	8	1	2	118	11	7	0
PC-8	1 800	30	92	11	9	4	10	11	14	44	148	245	24	5	17	110	14	62	3	16	48	61	68	156	3	11	189	29	78	288
PC-9	1 124	8	13	10	5	2	1	3	0	3	66	84	40	12	10	141	5	3	1	8	11	16	73	28	10	1	241	1	16	312
PC-12	12	1	0	2	0	4	0	0	0	0	0	0	0	0	1	1	0	0	0	1	0	0	0	0	0	0	0	0	0	
PC-13	3	1	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	
PC-14	53	3	3	0	0	0	1	1	0	1	3	2	1	0	0	1	0	0	0	0	1	0	1	0	0	0	7	1	0	27
PC-15	873	37	85	6	0	3	17	0	1	10	33	131	29	7	7	26	6	10	5	4	191	24	18	2	2	4	40	56	11	108
PC-16	17	1	3	0	0	0	0	1	0	0	0	4	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	7	
PC-17	135	11	24	0	0	0	3	1	1	2	7	21	0	8	0	7	1	2	0	1	2	4	7	0	0	1	19	5	2	6
PC-18	82	6	7	0	0	0	4	1	1	1	6	6	0	1	0	4	0	0	0	0	3	3	3	0	0	1	8	2	1	12
PC-19	74	0	6	5	0	0	0	3	1	10	6	4	11	0	0	2	1	0	0	0	4	2	0	0	0	0	6	2	8	3
PC-21	32	2	4	0	0	0	2	0	1	0	1	2	0	0	0	2	1	0	0	1	1	2	0	0	0	0	1	1	1	5
PC-22	1 232	84	9	1	0	0	163	4	0	6	32	164	2	0	4	9	2	62	3	0	3	64	8	7	7	2	58	517	5	8
PC-23	337	18	44	4	4	3	6	6	6	10	34	23	10	10	3	36	3	2	2	1	10	7	10	13	3	4	30	18	10	7
PC-24	134	3	34	0	1	0	4	8	0	6	19	16	0	1	2	5	1	0	0	0	2	4	1	0	1	1	5	3	5	6
PC-25	24	1	2	0	0	0	1	0	0	0	0	1	0	0	0	1	1	0	0	2	4	0	5	0	1	0	1	2	2	0
PC-26	4.56	0.26	0.06	0.01	0.02	0.01	0.06	0.01	0.01	0.05	0.39	3.14	0.04	0.02	0.01	0.02	0.01	0.01	0.01	0.00	0.03	0.13	0.03	0.01	0.03	0.02	0.09	0.05	0.01	0.00

⁸⁰ For PC-1, the number of respondents relates to the country of citizenship. For PC-10, 11 and 20, the Commission did not ask for this data. All figures in number of persons, except for PC-26 where the figure is in millions.

Acronyms and abbreviations

DG: The Directorate-General of the European Commission

DG AGRI: The European Commission's Directorate-General for Agriculture and Rural Development

CSO: Civil society organisations

DG DIGIT: The European Commission's Directorate-General for Informatics

DG EAC: The European Commission's Directorate-General for Education, Youth, Sport and Culture

DG HOME: The European Commission's Directorate-General for Migration and Home Affairs

IIA: Inception impact assessment

ISG: Inter-service Steering Group

DG MOVE: The European Commission's Directorate-General for Mobility and Transport

OECD: Organisation for Economic Co-operation and Development

PC: Public consultation

SG: The European Commission's Secretariat-General

SWD: Staff Working Document of the European Commission

Glossary

Better regulation: The design of policies and laws so that they achieve their objectives at minimum cost. Better regulation is not about regulating or deregulating. It is a way of working to ensure that political decisions are prepared in an open, transparent manner, informed by the best available evidence and backed by the comprehensive involvement of stakeholders. (Source: Better Regulation toolbox.)

Consultation strategy: One or more approaches to ascertain the views of stakeholders about a given issue. The strategy identifies relevant stakeholders for a new initiative under preparation by the Commission and defines the appropriate methods, tools and timing of consultation activities. (Source: Better Regulation toolbox.)

Roadmap: A tool to substantiate the political validation of an initiative the Commission is preparing and, to inform stakeholders about planned consultation work, impact assessments, evaluations, Fitness Checks. It is published at an early stage by the Secretariat-General on the Commission's web site and helps stakeholders prepare timely and effective inputs to the policymaking process. (Source: Better Regulation toolbox.)

Inception impact assessment: the initial description of the problem, its underlying drivers, the policy objectives, policy options and the economic, social, environmental impacts of those policy options. It provides a comprehensive basis for stakeholders to provide feedback, information and opinions. (Source: Better Regulation toolbox.)

Evaluation: An evidence-based judgement of the extent to which an intervention has been effective and efficient, been relevant given the needs and its objectives, been coherent both internally and with other EU policy interventions and achieved EU added-value. (Source: Better Regulation toolbox.)

Impact assessment: An integrated process to assess and to compare the merits of a range of policy options designed to address a well-defined problem. It supports decision-making inside of the Commission and is transmitted to the Legislator following adoption by the College of the relevant initiative. (Source: Better Regulation toolbox.)

Fitness check: A comprehensive evaluation of a policy area that usually addresses how several related legislative acts have contributed (or otherwise) to the attainment of policy objectives. (Source: Better Regulation toolbox.)

Inter-service Steering Group: An inter-service steering group consists of people from a range of Directorates-General whose area of work is the same as or related to the

subject of the evaluation, plus a representative from the evaluation department of the Directorate General conducting the evaluation. It should be involved in all key aspects of the evaluation, particularly from the set-up (roadmap) through to drafting the Staff Working Document and its launch into inter-service consultation. (Source: Better Regulation toolbox.)

REFIT: The Commission's regulatory fitness and performance programme established in 2012 to ensure that EU law is 'fit for purpose'. It is a process under which existing legislation and measures are analysed to make sure that the benefits of EU law are reached at least cost for stakeholders, citizens and public administrations and that regulatory costs are reduced, whenever possible, without affecting the policy objectives pursued by the initiative in question. (Source: Better Regulation toolbox.)

Regulatory Scrutiny Board: An independent body of the Commission that offers advice to the College. It provides a central quality control and support function for Commission impact assessment and evaluation work. The Board examines and issues opinions and recommendations on all the Commission's draft impact assessments and major evaluations and fitness checks of existing legislation. (Source: Europa website.)

Stakeholder: Stakeholder is any individual citizen or an entity impacted, addressed or otherwise concerned by an EU intervention.

Stakeholder consultation: Stakeholder consultation is a formal process of collecting input and views from citizens and stakeholders on new initiatives or evaluations/fitness checks, based on specific questions and/or consultation background documents or Commission documents launching a consultation process or Green Papers. When consulting, the Commission proactively seeks evidence (facts, views, opinions) on a specific issue.

TOR network: Tor is free and open-source software for enabling anonymous communication. The name is derived from an acronym for the original software project name "The Onion Router".

REPLIES OF THE COMMISSION TO THE SPECIAL REPORT OF THE EUROPEAN COURT OF AUDITORS

“HAVE YOUR SAY!”: COMMISSION’S PUBLIC CONSULTATIONS ENGAGE CITIZENS, BUT FALL SHORT OF OUTREACH ACTIVITIES”

INTRODUCTION

01. Consultation is part of a wider agenda to improve the transparency and accountability of what the Union does.

Not all consultations attract equal interest. The intrinsic interest for wider categories of audiences varies greatly, according to the policy topic. The consultation on the Summertime Directive attracted high number of responses, but it is an outlier and cannot be used to draw conclusions.

Moreover, the result of the public consultation was only one of several elements considered by the Commission when making the decision to put forward its proposal.

02. See Commission’s reply to paragraph 01.

09. There is a fundamental difference between participative decision-making and the use of public consultations within the EU policy-making system. Public consultations are different from referendum, plebiscites and broad communication activities.

AUDIT SCOPE AND APPROACH

23. The Commission is committed to the protection of personal data, which is a fundamental right. In cooperation with the ECA, the Commission implemented an alternative solution, which guaranteed the protection of personal data according to the applicable EU legislation.

The solution found limited the processing of personal data of respondents to public consultations to what was strictly necessary and avoided processing of which respondents had not been informed. Moreover, the Commission devoted significant resources to support this process and guarantee that the perception survey could be run.

A revised privacy statement has been uploaded on 20 June 2019 on the ‘Have your say’ portal. Respondents to public consultations are informed upfront of the possibility of a transfer of their personal data to the ECA in the framework of its audits. This will further facilitate such transfer in the future.

See Commission’s reply to paragraph 84.

OBSERVATIONS

30.

(a) Public consultations are a means to support specific initiatives (be they legislation or evaluations), and not broader objectives of individual Commission services. Public consultations serve transparency and accountability purposes and complement the Commission’s broader interaction with stakeholders.

(b) Public consultations are conducted online, which limits to a minimum the associated costs. Public consultations have become the norm in the process of preparing legislative and other initiatives. This is a policy choice based on transparency and accountability.

(c) The Better Regulation Guidelines provide for an internal quality assessment of the consultation process.

31. See Commission's reply to paragraph 30.

38. The Better Regulation Guidelines should be applied flexibly and in a proportionate manner, reflecting the circumstances of each individual initiative. There are occasions when certain procedural steps or processes need to be shortened and simplified. In general, the large majority of public consultations were published 4 weeks after the Roadmap/Inception Impact assessment.

45. The Commission announced its intention to carry out a public consultation in its official follow-up to the European Parliament's resolution voted on 8 February 2018. The public consultation was only one factor considered in the Commission's assessment and decision to come forward with a legislative proposal. At the launch of the consultation, it was clearly explained on the consultation's webpage¹ that the consultation's objective was to investigate the functioning of the current EU summertime arrangements and to assess whether or not they should be changed.

Appropriate factual information was provided on the public consultation's webpage concerning the existing regime, the Commission's consultation, and the possible policy alternatives. The Commission's webpage also included web links to existing studies.

The communication activities undertaken by the Commission to ensure widespread contributions are also underlined by the ECA in paragraph 56.

A record number of participants replied to the consultation and all appropriate information was available to participants at the time of replying. There is therefore no evidence to suggest that there would have been an impact on the consultation in terms of participation and outcome, if more information had been made available at an earlier stage.

See Commission's reply to paragraph 70.

46. The objectives set by the Commission for its public consultations are in line with the intended purpose of this instrument. The 12-week public consultation is meant to give all stakeholders the possibility to contribute their views to the policy-making process, without limiting their input to a specific aspect.

47. Public consultation is available to the general public. According to the Better Regulation Toolbox, the identification of stakeholders can be done in an unstructured and/or structured way. The methods chosen to identify stakeholders depend on the specific needs for a certain policy sector.

50. See Commission's reply to paragraph 46.

¹ https://ec.europa.eu/info/consultations/2018-summertime-arrangements_en

51. In 2018, the Commission's Representations carried out nearly 9 000 outreach activities and events, targeted directly at citizens. These activities are normally actions of a general nature to communicate Europe to citizens. However, in some cases, they link to a specific public consultation, as it was the case notably for the consultation on Summertime. The Representations work in close partnership with the European Parliament Offices (EPO), national, regional and local governments, and other stakeholders. Among their partners are the Europe Direct Information Centres which play an important role in debating with citizens about the future of the EU enabling them to better understand how their lives are affected by the EU and helping to generate a genuine European public sphere.

54. The average replies to public consultations has been constantly on the rise, from 416 replies in 2015 to 2091 replies in 2018, excluding outliers.

56. Respondents to the public consultations are self-selected. Responses to public consultations depend mainly on the interest for a certain topic. They are not directly linked to financial and human resources deployed by the Commission services.

61. Promotion of online consultations is part of the communication activities of Representations and Europe Direct Information Centres, whenever the consultation is accessible in the country's respective language.

63. Public consultations relating to Commission work programme priority initiatives (Annex I) need to be translated into all EU official languages. All other public consultations need to be available in English, French and German. Additional translations need to be provided for public consultation of broad public interest. The same criteria used to classify initiatives as major under Tool 6 of the Better Regulation Guidelines could be applied to assess whether an initiative has broad public interest. These criteria are: the character of the foreseen act, the policy content, the expected impacts, the political importance of the initiative and its subject matter. However, the Commission believes that a certain flexibility is always necessary in this assessment. The Commission is transparent about the language regime to be used in the public consultations.

65. According to the Better Regulation Guidelines, there are cases where language derogations are possible.

66. There is no proven strict correlation between multiple language availability and number of responses received. A number of consultations on technical legislation or evaluations attracted low replies despite being translated in all languages.

70. As regards the Summertime public consultation, information was provided to the respondents, including on the public consultation's webpage. The Commission had for instance explained that the EU Member States' decision on their standard time is not affected by the EU summertime rules and described the existing different time zones among EU Member States under the current regime.

The result of the public consultation was only one of the several elements considered by the Commission when making the decision to put forward its proposal. The factors underpinning the Commission's proposal are outlined in the explanatory memorandum of the proposal.

See Commission's reply to paragraph 45.

78. Since 2018, the Commission makes use of one single privacy statement applying to all public consultations and feedback mechanisms published to the ‘Have your say’ portal. A general contact e-mail address is provided to respondents in the privacy statement and a specific contact e-mail address is provided on the consultation webpage.

80. The Commission recognises the importance of information and technology-related checks for web-based consultations and is continuously improving the provisions to mitigate technology-related risks. Continuously improved vulnerability management measures and security monitoring of the Commission web presence and the provisions put in place as regards the public consultations via the ‘Have your say’ platform go in this direction.

81. The role of media and organisations in raising the awareness of the civil society on public consultations, combined with a natural tendency by respondents to wait until the end of the consultation period to provide their feedback, usually generates a concentration of responses in the ending period of the consultation.

The Commission again points out that the public consultation process is not a representative statistical survey, but a gathering of opinions that tries to ensure everyone gets heard. The influence that public consultations have on evidence-based policy-making depends more on the quality of the contributions than on the number of contributions.

82. The Commission is constantly monitoring its web presence (including the ‘Have your say’ platform) for cyber-attacks. The work run by CERT-EU (Computer Emergency Response Team for the EU Institutions) and Directorate-General DIGIT (web presence and security) aims at detecting cyber-attacks and suspicious activities targeting the web pages of the European Commission. Particular attention is paid to DOS (Denial of Service) situations as first indicative signal of a potential cyberattack, as well as to means of accessing internet services (TOR network). The mechanism put in place in the process of public consultations via the ‘Have your say’ platform (EULogin authentication by default combined with the use of Captcha) in 24 July 2018 aims at discouraging web robots. Such preventive actions are completed by analytics that allow detecting anomalous situations and behaviours (e.g. campaigns).

83. With the launch of the public consultations via the ‘Have your say’ platform, the Commission put in place a set of services to analyse the contributions provided by the stakeholders in order to detect anomalous or suspicious contributions. Participation by the same respondent with different emails is not easily detectable. Checking IP addresses to confirm if there are duplications might be inconclusive. The same IP address may be assigned to several users at a different time by Internet Service Providers or the IP address may be a company’s IP address of the router, which means that all users from a company/organisation have the same IP address. On the other hand, a person can easily have more than one IP address.

The preliminary data cleaning for the public consultation on Summertime Directive was performed by the Commission through a dedicated tool (DORIS), generally used for the Commission’s public consultations in order to remove duplicate responses by the same respondent(s) relying on the respondent’s email address. The Commission also used the Captcha mechanism to block the automated insertion of artificial data².

² Further checks and data cleaning was performed by the independent contractor as underlined in Appendix A-A.2 of the final report (<https://publications.europa.eu/en/publication-detail/-/publication/64e670c5-fcf9-11e8-a96d-01aa75ed71a1>).

84. The Commission is committed to the protection of personal data, which is a fundamental right. Directorate-General DIGIT conducted a technical assessment of 5 000 IP addresses as requested by the ECA and transmitted the anonymised results of the assessment to the ECA. Potentially, information on the duplication of IP addresses could be aggregated to provide a summary of occurrences of duplications (subject to a data protection assessment); this information could be used in combination with the analytics on the outcome of a consultation to highlight specific behaviours in relation to a consultation.

See Commission's reply to paragraph 23.

85. The access to public consultations via web pages of the Commission is subject to web security measures as put in place by CERT-EU (Computer Emergency Response Team for the EU Institutions) and Directorate-General DIGIT (web presence and security). These measures incorporate, among others, a monitoring of accesses from suspicious networks (e.g. TOR) and the geolocation analysis of IP addresses with suspicious behaviour. The access to this information is subject to security rules and processes.

86. Since 24 July 2018, the public consultations via the 'Have your say' platform Better Regulation Portal rely, by default, on the EULogin authentication, which embeds a Captcha mechanism. The Captcha is a typical anti-bot measure. Captcha mechanisms can discourage the participation to public consultations, therefore a balance between protection against misuse and easiness in the access has to be found.

During the consultation on Summertime Directive, a Google Captcha was initially used but later replaced by the default Captcha for EULogin due to data protection concerns about the use of personal data.

The European Commission is working on a EUcaptcha, to address data protection concerns and ensure, at the same time, the compliance with the accessibility directive (Web Content Accessibility Guidelines – WCAG rules).

Common Commission's reply to paragraphs 88 and 89.

The Commission has been transparent in all its communication and reports that the outcome of the public consultation was one among several factors underpinning its proposal.

Concerning the public consultation on Summertime, the Commission has openly presented the replies and how they were broken down per respondent category and Member State.

See Commission's reply to paragraphs 45 and 70.

92. The Transparency Register reveals what interests are being pursued, by whom and with what level of resources. In this way, the tool allows for public scrutiny, giving citizens the possibility to track the activities and potential influence of interest representatives.

Registered organisations are automatically notified about consultations and roadmaps in the areas they have specified.

98. As regards PC-3 "Modernising and simplifying the common agricultural policy", the factual report was published one day after the closure of the public consultation and, in addition, in July 2017, the Commission published an extensive summary of the replies of the public consultation, accompanied by a large public conference.

102. The Better Regulation Guidelines provide that the adopted report accompanies the initiative through inter-service consultation until adoption and is published together with the initiative.

103. Since 2017, the translation of the synopsis report is not a mandatory requirement. It is only a matter of good practice to publish the synopsis report in all the languages of the consultation if the latter relates to an initiative in the Commission's Work Programme Annex I.

105. Synopsis reports are prepared once all consultation activities have come to a close. Therefore, they can only further clarify that the public consultation is not representative.

109. The Commission is committed to full transparency towards respondents to public consultations and feedback mechanisms. Their contributions are published to the relevant websites. A factual report is recommended. The synopsis report attached to the Impact assessment report or to the evaluation Staff Working Document offers a thorough analysis of all consultation activities conducted in the policy-making process. However, providing individual feedback to respondents to public consultations would put a significant strain on Commission's current human and financial resources.

110. The Commission's contribution to the informal EU27 Leaders' meeting in Sibiu outlines the Commission's 5 recommendations for an EU Communication at the service of citizens and democracy, in particular the 'joint responsibility of EU Member States, governments at all levels and EU Institutions alike' when communicating on Europe, as well as the need to increase engagement with Citizens about EU policies and issues.

Rather than disconnected communication about individual policies and programmes, a unified approach enables people to see the relevance of policies more clearly. This is the aim of the Commission's corporate communication strategy – to inform citizens about EU values and action, challenges and opportunities and how they can be faced together.

CONCLUSIONS AND RECOMMENDATIONS

111. Public consultations are a means to support specific initiatives (be they legislation or evaluations), and not broader objectives of individual Commission services. Public consultations serve transparency and accountability purposes and complement the Commission's broader interaction with stakeholders.

Results of public consultations feed into the decision-making and are fully accounted for in the synopsis report. This document provides an overview of the results of the consultation activities. Moreover, results of the public consultations are used throughout evaluations and Impact assessment reports.

Recommendation 1 – Commission's framework

First bullet: **The Commission accepts this recommendation.**

Public consultations are only one of the means used by the Commission to support the preparation of specific policy initiatives (be they legislation or evaluations), and do not constitute per se a separate activity that should be measured and reported upon. They must always be considered in the context of the specific proposals to which they apply. Public consultations serve transparency and accountability purposes and are an input into policy-

making. Public consultations complement the Commission's broader interaction with stakeholders.

Second bullet: The Commission accepts this recommendation.

The Better Regulation Guidelines provide for an internal quality assessment of the consultation process.

113. The Better Regulation Guidelines should be applied flexibly and in a proportionate manner, reflecting the circumstances of each individual initiative. There are occasions when certain procedural steps or processes need to be shortened and simplified. The objectives set by the Commission for its public consultations are in line with the intended purpose of this instrument. In July 2018, the Commission improved the 'Have Your Say' portal with the provision of a timeline announcing the different opportunities for the stakeholders to participate in the policy and law-making. Information is provided from the start of the preparation of relevant initiatives with the display of short titles and summaries in all EU languages.

Recommendation 2 – Consultation strategy

First bullet: The Commission accepts this recommendation.

The choice of outreach activities, including their implementation, is made according to the principle of proportionality in terms of financial and human resources. The Commission already prepares consultation strategies, which delineate the consultation activities, which will be conducted and is fully committed to step up further the collaboration with local, regional and national authorities. Moreover, the Commission's Recommendation to Heads of State and Government for the informal Summit in Sibiu called for an increased engagement and interaction with citizens on European policies.

Second bullet: The Commission accepts this recommendation.

The Commission does already mention in the Roadmaps and Inception impact assessments the specific purpose of public consultations, their intended use and the official EU languages into which the questionnaires will be translated.

114. The Commission will continue to concentrate available outreach activities on the 'Have your say' portal, which is the best way to raise awareness of opportunities for citizens to make their voice heard in the policy-making process. Outreach activities linked to specific initiatives would nevertheless need to strike the right balance between resources implicated and realistic chances to draw citizens' attention. The Commission has already committed to engage more prominently with stakeholders and increase outreach, notably with national, local and regional authorities (as announced in the Communication on the principles of subsidiarity and proportionality published in October 2018).

There is no proven causal link supporting the ECA's statement that cases with the lowest number of responses did not use a variety of communication channels.

Recommendation 3 – Outreach

First bullet: The Commission accepts this recommendation.

The Commission is committed to step up its outreach activities, in particular, it is ready to engage more prominently with national, local and regional authorities (as announced in the Communication on the principles of subsidiarity and proportionality published in October 2018). However, these efforts entail significant resources and can result in stakeholders' consultation fatigue. It will always be necessary to tailor outreach activities to the importance of the initiative and the resource implication.

Second bullet: The Commission accepts this recommendation.

The Commission's representation offices in the Member States do provide outreach and communication services to citizens and stakeholders, by managing information networks and by explaining EU policies in a local context. However, it will always be necessary to tailor outreach activities to the importance of the initiative and the resource implications.

Moreover, the Commission is already maintaining close relations with the two consultative committees, in the context of the Inter-institutional set-up.

115. Public consultations relating to Commission work programme priority initiatives (Annex I) need to be translated into all EU official languages. All other public consultations need to be available in English, French and German. Additional translations need to be provided for public consultation of broad public interest. The same criteria used to classify initiatives as major under Tool 6 of the Better Regulation Guidelines could be applied to assess whether an initiative has broad public interest. These criteria are: the character of the foreseen act, the policy content, the expected impacts, the political importance of the initiative and its subject matter. However, the Commission believes that a certain flexibility is always necessary in this assessment. The Commission is transparent about the language regime to be used in the public consultations.

The Commission considers that there is no proven strict correlation between multiple language availability and number of responses received.

Recommendation 4 – Language arrangements and questionnaires

First bullet: The Commission accepts this recommendation.

Public consultations relating to Commission work programme priority initiatives (Annex I) need to be translated into all EU official languages. All other public consultations need to be available in English, French and German. Additional translations need to be provided for public consultation of broad public interest. The same criteria used to classify initiatives as major under Tool 6 of the Better Regulation Guidelines could be applied to assess whether an initiative has broad public interest. These criteria are: the character of the foreseen act, the policy content, the expected impacts, the political importance of the initiative and its subject matter. However, the Commission believes that a certain flexibility is always necessary in this assessment. The Commission is transparent about the language regime to be used in the public consultations.

Second bullet: The Commission partially accepts this recommendation.

The Commission already translates questionnaires of public consultations for major initiatives and consultation webpages into all EU languages. However, the translation into all

official languages of key consultation documents for all priority initiatives and initiatives of broad public interest would pose a considerable pressure on Commission's resources, would not meet the principle of economy and would further delay the policy making process. When proportionate or relevant, the Commission could consider translating other accompanying documents.

Third bullet: The Commission accepts this recommendation.

The Commission is already recommending as best practice to include specialised set of questions for targeted stakeholders.

117. The Commission acknowledges the importance of information and technology-related checks for web-based consultations and is continuously improving the provisions to mitigate technology-related risks. Continuously improved vulnerability management measures and security monitoring of the Commission web presence and the provisions put in place as regards the public consultations via the 'Have your say' platform go in this direction.

The Commission is committed to the protection of personal data, which is a fundamental right.

Recommendation 5 – Data processing and security

The Commission is aware of the importance of protecting the public consultation process against manipulation of results and applies high standards of data processing and security in this field.

First bullet: The Commission accepts this recommendation.

The Commission will perform systematically checks on the contributions to public consultations to report on anomalous situations and behaviour (detection of cyber attacks, duplication of IP addresses, campaign detection) by using the web security measures and analytics associated to the consultation. Anomalous situations and behaviour will be signalled in the factual report associated to the consultation. The Commission has put in place a system to support high standards of data processing and security.

Since 24 July 2018, an authentication mechanism (EU login) is required from the respondents to the public consultations published to the 'Have your say' portal.

The Commission authentication mechanism, as well as the Captcha, represent important measures towards protecting the consultations against manipulations. However, the technological progress is creating opportunities to circumvent these measures.

The Commission stresses the importance to maintain a balance between high security standards and easiness of participation to the consultations.

Second bullet: The Commission accepts this recommendation.

The European Commission has introduced analytics associated to the consultations run via the 'Have your say' portal covering, among others, campaigns detection, clustering by nationality, identified categories, items, within the limitations of the technical information available and exploitable for these purposes, in compliance with the personal data protection

and security frameworks. These measures are constantly updated to take benefit from technological advancements and fit-for purpose design of the questionnaires.

118. The Commission stresses that, according to the Better Regulation Guidelines, the factual summary report is not a mandatory requirement.

Recommendation 6 – Feedback for respondents

The Commission accepts this recommendation.

The Commission already recommends to publish factual information (factual summary reports, contributions to consultations) on the input received from stakeholders to ensure transparency. Synopsis reports, which summarise the results of all consultation activities in relation to a particular initiative, are also published.

Moreover, the Commission is examining technical solutions to improve transparency on the outcome of public consultations in the context of the further development of the 'Have your say' portal. This feedback will be made available to participants on the Commission website.

Audit team

The ECA's special reports set out the results of its audits of EU policies and programmes, or of management-related topics from specific budgetary areas. The ECA selects and designs these audit tasks to be of maximum impact by considering the risks to performance or compliance, the level of income or spending involved, forthcoming developments and political and public interest.

This performance audit was carried out by Audit Chamber V Financing and administration of the EU, headed by ECA Member Lazaros S. Lazarou. The audit was led by ECA Member Annemie Turtelboom, supported by Dennis Wernerus, Head of Private Office and Diane Tinnemans and Carmen Schnell, Private Office Assistants; Margit Spindelegger, Principal Manager; Rogelio Abarquero Grossi, Head of Task; Michael Spang, Principal Auditor; Bernadett Soos-Petek, Attia Horvay-Kovacs, Anzela Poliulianaite and Vesna Ogriz, Auditors. Borja Cruselles De Muller, Trainee. Mark Smith provided linguistic support. Emanuele Fossati and Zsolt Varga provided IT support. Paul Haschka and Bogomil Kovachev provided statistical support. Elisa Gómez, Horst Fischer, Jesús Nieto Muñoz and Ivo Koppelman provided quality support. Valérie Tempez-Erasmi and Manuela Magliocca provided secretarial assistance.



From left to right: Jesús Nieto Muñoz, Zsolt Varga, Rogelio Abarquero Grossi, Carmen Schnell, Annemie Turtelboom, Manuela Magliocca, Margit Spindelegger, Dennis Wernerus, Anzela Poliulianaite.

Timeline

Event	Date
Adoption of Audit Planning Memorandum (APM) / Start of audit	10.4.2018
Official sending of draft report to Commission (or other auditee)	6.6.2019
Adoption of the final report after the adversarial procedure	16.7.2019
Commission's (or other auditee's) official replies received in all languages	29.8.2019

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In this special report, we assess whether the Commission's public consultations are effective at reaching out to citizens and making use of their contributions. We examined the design of the Commission's framework; the way that the Commission prepared and conducted a selection of public consultations; and how it informed and made use of the consultation work. We analysed key documents, reviewed a sample of the Commission's public consultations and carried out a perception survey to find out how satisfied participants in public consultations actually were.

We found that both the performance of our sample of the Commission's public consultations and the participants' perception thereof were satisfactory overall. We concluded that the Commission's framework for public consultations is of a high standard, but that outreach activities need improvement.

ECA special report pursuant to Article 287(4), second subparagraph, TFEU.



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