

# Repairing the Link? Civil Society's Role Regarding Accountability Deficits of the German Government in EU Affairs

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## ABSTRACT

National governments acting in the Council of the European Union can rarely be held to account by parliaments and the public. This is because secrecy prevails in Council negotiations, and institutions of democratic scrutiny often lack information and resources to effectively control the executive. This study focuses on the involvement of Civil Society Organisations (CSOs) as a potential remedy to the lack of democratic control over governments' positions in Council negotiations. Examining the German case, a qualitative analysis of 13 interviews with German CSO representatives shows that CSO involvement concentrates on direct dialogue with the German government: Although lacking formal sanctioning powers, CSOs engage in an informal, voluntary consultation with policy-makers, based on co-dependency. Thus, they enact a loose form of social accountability with the German government. In this role, CSOs are however constrained by several factors, such as access to policy-making arenas. The paper further shows that CSOs seldom trigger formal scrutiny mechanisms by alarming the Bundestag or the public on potential governmental wrongdoings. Therefore, they rarely make use of their second potential role as political accountability facilitators. As a result, this raises the question whether CSOs' impact on the accountability deficit can make up for the lack of popular scrutiny in EU policy-making.

## 1. Introduction

The European Union's (EU) complex decision-making structure inhibits citizens' ability to attribute responsibility for decisions made at the EU level (Hobolt et al., 2014). In the Council of the European Union (hereinafter referred to as the Council), the lack of transparency in intergovernmental negotiations allows national representatives to avoid blame or claim credit for policy outcomes (Auel, 2007; Hobolt et al., 2014). Citizens therefore struggle to evaluate their government's performance in Council negotiations and to hold their representatives accountable for what has been decided in the Council (Follesdal & Hix, 2006). The link between national governments in the Council and their citizens is insufficient, which hampers the legitimacy of EU policy. Some scholars regard this lack of accountability as a decisive factor leading to a democratic deficit in EU politics, besides the weakness of the European Parliament (EP), and the absence of a European public sphere (Follesdal & Hix, 2006; Schmidt, 2013).

It has been suggested that the lack of public control over EU policy can be bridged by Civil Society Organisations (CSOs). CSOs are here defined as "organised civil society' representing the interests of a particular constituency or a general cause" (Kohler-Koch, 2010, p. 1120). The term comprises a variety of non-state actors, including private business interest groups, as well as public interest advocates such as NGOs (Kohler-Koch, 2010). CSOs can take two roles in enhancing accountability. In their first potential role, they are referred to as social accountability actors (Kohler-Koch, 2010). This role is characterised by CSOs' ongoing dialogue with decision-makers, thus resulting in direct participation in EU policy-making.

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(Kohler-Koch, 2010). In their second potential role, they can indirectly enhance accountability by passing on relevant information on governmental wrongdoings to national parliaments or the public, which provides these actors with the tools to hold governments to account (McCubbins & Schwartz, 1984; Meijer, 2014). In this role they are referred to as political accountability facilitators (Kohler-Koch, 2010).

Assuming that CSOs' primary goal is to influence policy-making according to their preferences (Klüver, 2013), it seems puzzling that CSOs would follow the indirect route of passing on information to national parliaments or the public, rather than directly participating in the decision-making process. To explore this puzzle, it must be considered that CSOs can only directly participate in EU politics if they have access to policy-making arenas (Bouwen, 2002). This leads to the deduction that CSOs' roles in enhancing accountability are linked with the constraints they face when aiming to influence policy. The different factors that constrain CSO involvement are referred to as political opportunity structure (Princen & Kerremans, 2008).

This paper assesses the different roles that CSOs play in enhancing accountability of national governments in Council decisions, with a focus on the case of the German federal government. This paper's research question is therefore: How do CSOs affect the accountability of the German government acting in EU affairs? Exploring this question addresses a gap in the academic literature since previous studies have mostly focussed on one of the roles through which CSOs can affect accountability, without comparing and weighing other accountability roles (Kohler-Koch, 2010). They have furthermore not yet examined how CSOs' political opportunity structure influences these roles. Answering this paper's research question may point towards institutional remedies that ensure more accountability of EU policy-making to the citizenry. An assessment of the roles CSOs play for accountability may further inform policy-makers concerned with the EU's democratic deficit on how to address the constraints the former face when aiming to participate in policy-making. This could ensure social accountability in a way that is representative for the entirety of society.

Informed by the analysis of 13 semi-structured interviews with German CSO representatives, this paper shows that CSOs mainly opt for direct participation in the formulation of the German government's position instead of aiming to influence policy indirectly by passing on information to the German parliament, the Bundestag, or the public. Their impact on accountability is thus mostly limited to social accountability. Only in few cases, CSOs act as political accountability facilitators and then generally provide information to the public over the Bundestag.

To reach this conclusion, the paper unfolds in the following manner: The literature review addresses how the role of CSOs in EU accountability has been conceptualised and assessed by previous studies, and points at the academic gap that this thesis aims to fill. It further demonstrates the gap in the literature that this paper aims to fill. Thereafter, the theoretical framework explains how the principal-agent theory is combined with the resource exchange theory of lobbying to explain different CSOs' accountability roles. Following that, the methodology outlines how the relevant data is selected, gathered, and analysed. The subsequent analysis is divided into three subsections. They observe and compare CSOs' relationships with the German government, the Bundestag, and the public, and the implications that these relationships have for accountability of the German government in EU affairs.

## 2. Literature Review

### 2.1 Why there is an Accountability Deficit in EU Politics

Scholars generally agree that national executives in the Council are rarely held to account by national parliaments or publics (e.g. Auel, 2007; Follesdal & Hix, 2006). A main reason for this is the secrecy in intergovernmental bargaining (Curtin, 2014), which is believed to lead to more efficient policy outcomes (Leino, 2017). However, this allows Member States' governments to claim credit and diffuse blame for policy outcomes, which renders it difficult to assign responsibility and, even more so, ensure accountability (Hobolt et al., 2014). Schmidt and Wood (2019) further link the accountability deficit of national governments in the Council to the weakness of national parliaments in the scrutiny of national executives on EU policy, except for some Northern European parliaments. Several scholars confirm that increased scrutiny by national parliaments leads to more accountability of national governments in the Council, but object that this is insufficiently in place, despite measures such as the creation of European Affairs Committees or the implementation of the Early Warning Mechanism (Auel, 2007; Crum, 2017; Groen & Christiansen, 2015; Kreilinger, 2019).

When assessing the powers of national parliaments, previous researchers have mainly examined formal rights of national parliaments as an indicator for scrutiny. Only few studies have focussed on the practice and effectiveness of national parliaments' scrutiny activities (Heffler & Rozenberg, 2015; Raunio, 2009). Although this paper's main focus lays on CSOs' accountability roles, it adds to this debate, since CSO involvement with national parliaments may indicate the effectiveness of parliamentary scrutiny of national governments in EU affairs. This is due to the assumption that CSOs only engage with those actors where they expect political leverage (Princen & Kerremans, 2008). Because national parliaments are a crucial actor in ensuring functioning accountability relationships in EU politics, ineffective scrutiny activities exacerbate the EU's democratic deficit and hamper the Union's legitimacy.

## 2.2 CSO Involvement and its Effects for EU Legitimacy and Accountability

Increased concern over the EU's legitimacy has drawn scholarly attention to CSO involvement and its relevance for EU democracy (Kohler-Koch & Quittkat, 2013). Kohler-Koch (2010) suggests an analytical framework to examine CSO involvement in EU policy-making from an accountability perspective, by conceptualising CSOs as accountability actors and facilitators. They, however, argue that their typology has not yet been applied systematically to an empirical case, and that a comparative perspective of different accountability roles is missing (Kohler-Koch, 2010). This study aims to fill this research gap by applying Kohler-Koch's (2010) typology to the Council to explore and compare the different roles of CSOs in providing accountability. Steffek and Ferretti (2009) add that CSOs face a trade-off between their roles as watchdogs and active policy deliberators. The authors claim that both roles positively impact EU accountability, but that they are at times difficult to reconcile. The literature on different accountability roles of CSOs can be grouped along the lines that Kohler-Koch (2010) explicitly and Steffek and Ferretti (2009) implicitly propose. A first group of studies look at CSOs as accountability actors. These works are closely related to the literature on accountability in participatory and network governance, and, more broadly, deliberative democracy. Others instead examine CSOs' functions as accountability facilitators. The following paragraphs examine both bodies of literature to show the differing conceptualisations of CSOs and their relevance for accountability. It emerges that there has not been any study yet that assesses how CSOs play out the two roles in relation to each other, i.e. whether one accountability role is taken up more frequently than the other.

The first body of literature looks at the participation of CSOs in European and global governance and examines the effects on legitimacy; fewer consider accountability specifically. Greenwood (2007) reviews the scholarly literature on CSO participation and legitimacy. He points out that scholarly opinion can be categorised into negative, neutral, and positive assessments of the impact of CSO participation in EU governance. Most authors working in this field distinguish between different effects on input and output legitimacy, and come to differing conclusions (Finke, 2007). Some argue that CSOs' direct participation in EU governance obstructs input legitimacy, due to its implied elitism (Christiansen & Piattoni, 2003; Eriksen, 2000). Input legitimacy stems from policy-makers' responsiveness to citizen demands. Others claim the opposite, arguing that the involvement of CSOs in policy-making can be considered a complement to democratic representation, thus improving input legitimacy (Beetham & Lord, 2001; Héritier, 1999; Schmitter, 2000; Smismans, 2002; Wessels, 1999).

In contrast to input legitimacy, output legitimacy builds on more efficient policy outcomes (Schmidt, 2013). Some scholars argue that civil society participation increases output legitimacy because it facilitates the assessment of policy impacts (Christiansen & Piattoni, 2003; Eriksen, 2000). Introducing a third type of legitimacy, Schmidt (2013) argues that direct participation of CSOs in policy formulation leads to increased throughput legitimacy, which refers to the quality of governance processes characterised by, for example, interest intermediation. However, they argue that this cannot make up for lacking input legitimacy, which builds on participation by EU citizens through direct vote (Schmidt, 2013). As a result, the scholarly discussion on the effect of CSOs participation on EU legitimacy is characterised by differing conclusions, which is partly due to different conceptualisations of legitimacy.

Fewer scholars focus specifically on the impact of CSO participation on accountability. Papadopoulos (2007) examines accountability in EU multi-level and network governance, which implies the participation of civil society. They conclude that the weak visibility and selective composition of governance networks, as well as its implied peer accountability mechanisms instead of public accountability do not contribute to democratic quality of governance (Papadopoulos, 2007). The same author later confirms this negative assessment by arguing that network and multilevel governance may lead to more social accountability to stakeholders, but this does not necessarily enhance democracy (Papadopoulos, 2010; Strøm, 2000). This is because stakeholders first need to be capable of entering an accountability relationship with policy-makers, and this depends on the strength of their claims, the resources at their disposal, and the willingness of policy-makers to enter in contact with them (Papadopoulos, 2010). Kohler-Koch and Quittkat (2013) agree with this sobering assessment based on a study of the Commission's consultation procedures. They argue that CSO participation is imbalanced, i.e. that inequality of resources between public interest organisations and business interest organisations leads to asymmetries in participation (Kohler-Koch & Quittkat, 2013).

The second body of literature examines CSOs' role as EU accountability facilitators. Regarding CSOs' potential to facilitate parliamentary scrutiny, Sprungk (2013) suggests that with increasing integration, national parliaments rely more on information by external sources such as CSOs. This could point towards larger involvement of CSOs with national parliaments, which could enable political scrutiny mechanisms. Therefore, this relationship between CSOs and national parliaments has the largest potential to positively impact overall EU legitimacy (Kohler-Koch, 2010). However, it is also argued that national parliaments have specialised and developed sufficient expertise to scrutinise governments on EU affairs (Gattermann et al., 2013; Heffler & Rozenberg, 2015). With regards to their watchdog functions, CSOs can enable accountability to a limited extent, according to Parks (2009). Persson (2009) objects that CSOs

do not contribute to accountability by alarming traditional representative channels such as the European Parliament (EP) or national parliaments, but their involvement in the policy process can increase its transparency, inclusiveness, and responsiveness. A rather negative assessment has been made of CSOs' relevance in channelling information on EU policy to national media (Altides & Kohler-Koch, 2009). This questions CSOs' potential to contribute to a European political sphere, which could mitigate the EU's democratic deficit (Follesdal & Hix, 2006).

In line with Kohler-Koch's (2010) suggestion, the literature review leads to the conclusion that an encompassing picture of CSOs' accountability roles is needed. Since the EU's accountability deficit is especially present in the Council (Schmidt & Wood, 2019), it is ever more relevant to look at this institution. Additionally, only a limited number of studies have taken into account the impact of CSOs' political opportunity structure on their potential accountability role (see Kohler-Koch & Quittkat, 2013; Papadopoulos, 2010). This study aims at addressing these considerations by developing an encompassing picture of CSOs' roles in the accountability of the German government in the Council.

### 3. Theoretical Framework

#### 3.1 The Chains of Delegation and Accountability

Accountability relationships are commonly studied through the lens of the rational principal-agent theory (Bovens et al., 2014). In modern representative democracies, power is delegated from the citizens, who are the primary principals, to popular representatives, who in turn delegate power to the government by appointment or election (Bovens et al., 2014). Governments are thus considered the ultimate agents, entrusted with the drafting and enforcement of laws and decisions (Bovens et al., 2014). In this way, representative democracies can be described as a chain of delegation, consisting of several principal-agent relationships (Strøm, 2000). The delegation of power to an agent, however, creates the risks of divergence of interests and information asymmetries (Auel, 2007). An agent might act against the best interest of the principal, but might also possess more skills and information than the principal (Auel, 2007).

These agency problems can be minimised through accountability mechanisms, as "each principal in the chain of delegation seeks to monitor the execution of the delegated public tasks by calling the agent to account" (Bovens et al., 2014, p. 14). Building on principal-agent theory, accountability can thus be conceptualised as a dialogue between an agent and a principal that obliges the agent to explain and justify their decisions, and allows the principal to interrogate, pass judgement, and impose consequences on the agent (Bovens, 2007). The chain of delegation in a democratic political system thus implies a chain of accountability from each involved agent to the principal. This traditional conception of accountability, based on principal-agent theory, is also referred to as political accountability.

#### 3.2 The Potential Roles of CSOs in EU Accountability

In EU accountability, CSOs can be actors or facilitators of accountability (Kohler-Koch, 2010). In their role as accountability actors, CSOs are the forum to which decision-makers render account. Bovens (2007) refers to this dynamic as social accountability. It departs from principal-agent theory, since decision-makers are not legally bound to give account to CSOs, nor do CSOs formally delegate power to decision-makers (Bovens et al., 2014). Instead, social accountability takes place on an informal, voluntary basis (Bovens et al., 2014). It furthermore does not imply account-giving after decisions have already been

made but is rather “embedded in a process of ongoing consultation and dialogue” with CSOs (Kohler-Koch, 2010, p. 1124). This type of accountability thus implies participation by CSOs in governance processes.

When acting as facilitators of accountability, CSOs activate political representatives or the public (Kohler-Koch, 2010). The difference to their role as accountability actors is that they do not constitute the forum of accountability themselves, but rather enable a forum, i.e. a principal in the chain of delegation, to hold an actor to account (Kohler-Koch, 2010). This is done by providing a principal with information on potential wrongdoings of an agent. With this information at hand, the principal can decide to scrutinise the agent and enable policy change (Kohler-Koch, 2010, p. 1130). According to this reasoning, CSOs’ enable political accountability because the agent’s wrongdoings negatively impact their interests, pushing them to activate chains of accountability (McCubbins & Schwartz, 1984). Strøm (2000) explains that, in modern representative democracies national governments are held to account by parliaments, who are, in turn, accountable to the public. As a result, CSOs can facilitate accountability through the venues of the national parliament and/or the public.

The facilitation mechanism through which CSOs activate parliaments on wrongdoings of the government has been conceptualised as the fire alarm model by McCubbins and Schwartz (1984). Based on the US Congress, the authors argue that parliamentarians establish a decentralised system of CSO consultation that provide them with information on potential wrongdoing of the government (McCubbins & Schwartz, 1984). In this way, parliamentarians save valuable time and resources otherwise spent on active oversight activities, and CSOs can push for their demands by activating parliamentary scrutiny (McCubbins & Schwartz, 1984). According to the same logic, CSOs facilitate accountability by passing on information to the general public that enables the electorate, as the principal, to hold its agents, i.e. the parliament and, one step further, the government, to account (Kohler-Koch, 2010; Meijer, 2014). Thus, accountability facilitation is beneficial for both the CSO and the principal, as it allows citizens, or their representatives in the national parliament, to enact their democratic right to scrutinise government, and CSOs can steer policy towards their preferred outcome by pre-selecting the information that they want to pass on.

Whether individual CSOs can be conceptualised as actors or facilitators of accountability is thus indicated by their preferred venue to influence policy, and the purpose in contacting this venue. If a CSO prefers to directly contact the government to influence policy and deems this as most effective to enable policy change, it can be considered a social accountability actor. If, however, the national parliament or the public are the preferred venues and if CSOs expect to influence policy by providing crucial information to these accountability fora, they can be considered facilitators of political accountability. This operationalisation is illustrated below (Table 1).

**Table 1**  
*Operationalisation of CSOs’ accountability roles*

| Preferred venue     | Purpose of contact  | Accountability role                  |
|---------------------|---|--------------------------------------|
| Government          | Influence policy through direct lobbying exchange with the government                 | Social accountability actor          |
| National parliament | Influence policy by enabling political accountability through the national parliament | Political accountability actor       |
| Public              | Influence policy by enabling political  | Political accountability facilitator |

### 3.3 The Impact of Political Opportunity Structure on CSOs' Roles in Accountability

The ability of CSOs to become involved with policy-making venues is impacted by the opportunities and constraints that they face. These factors are also referred to as political opportunity structure (Princen & Kerremans, 2008). CSOs are assumed to "focus their activities on the level that, relatively speaking, offers the best opportunity for success or, put differently, the level where they can have the greatest leverage" (Princen & Kerremans, 2008, p. 1131). This is in line with what Baumgartner and Jones (1993) have described as venue shopping. CSOs shift between access points in the political system, and choose an appropriate venue based on the expected leverage offered by a venue (Baumgartner & Jones, 1993; Princen & Kerremans, 2008). In the chain of delegation for EU Council negotiations, national governments are the agents that are entrusted decision-making power. Assuming that CSOs have limited resources and must carefully calculate which venue yields most leverage, this contradicts the argument that CSOs act as accountability facilitators by reaching out to national parliaments or the public. In accordance with the chain of delegation (Strøm, 2000), it could be argued that direct participation in governmental decision-making makes successful lobbying more likely than indirect influence through facilitating parliamentary or public scrutiny. In contrast with parliamentary and public scrutiny, direct participation implies less uncertainty for CSOs since there is no power delegation to an agent involved.

To understand which venues CSOs are in contact with, one must consider the factors that determine the nature of the relationship between CSOs and decision-makers. Therefore, accountability theory is combined with the resource exchange model of lobbying as conceptualised by Bouwen (2002). Bouwen argues that CSOs are able to access EU institutions if they can provide decision-makers with relevant information for policy-making. This crucial resource is also referred to as access good (Bouwen, 2002). What type of information constitutes an access good depends on the demands of the targeted institution (Bouwen, 2002). Taking into account this logic, one must assume that only those with sufficient access goods can directly participate in executive decision-making and play the role of social accountability actors. This reasoning implies that the CSOs who do have access goods will be more incentivised to engage in social accountability, than those who do not possess a sufficient amount of access goods. Furthermore, this accentuates the question whether those, who do not have sufficient access, are more incentivised to act as accountability facilitators.

## 4. Methodology

CSOs and their interactions with decision-makers have been approached through diverse quantitative and qualitative methods (Eising, 2017). Since this study aims to explore and capture the broad range of strategies that CSOs use to influence national government's positions in the Council, and to examine which role this plays in Council accountability, a qualitative approach is appropriate. To be precise, the analysis rests on 13 semi-structured interviews with representatives from German CSOs, conducted in German. The sample is confined to national CSOs because Bouwen (2002) argues that, unlike European umbrella CSOs or individual companies, they are able to provide information that is most relevant to Council negotiations. This is because CSOs operating on the national level can provide the highest level of

representativeness for a certain sector or cause in one country (Bouwen, 2002). Klüver (2013) confirms this, stating that “particularly domestic CSOs lobby their national governments in an effort to influence European policy-making through the Council” (p. 38).

The case of Germany has been chosen due to its diverse and vibrant CSO population (Schreurs, 2012) and because the Bundestag has, compared with other EU Member States, relatively strong powers in EU affairs scrutiny (Winzen, 2012; Wonka & Haunss, 2020). Germany is therefore a likely case for accountability facilitation by CSOs. This is because CSOs can expect a comparatively larger willingness in the parliament to scrutinise the German government on EU Council decisions.

The main criterium for the selection of the sample of CSOs is diversity and representativeness of the German CSO population. A spread-out sample of 13 CSOs ensures that generalisable conclusions could, to a limited extent, be made, but still allows for sufficient differentiation between types of CSOs. The selection is based on the listed CSOs in the INTEREURO dataset (Berkhout & Hanegraaf, 2014), that maps CSOs in the EU and allows for filtering according to country as well as actor type. After contacting potential interviewees via email, the final sample includes five business associations, four public interest NGOs, three labour unions, and one church organisation (see Appendix A for a more detailed list). In this way, diverse responses could be guaranteed. The sampling method thus follows the guidelines set up by Beyers et al. (2014). Within the sample, ten interviewees are specifically entrusted with European affairs and three interviewees do not specialise in EU affairs but work with both national and EU policy. All interviewees could therefore elaborate on insights from EU as well as national policy processes. This ensures the internal validity of the study and the representativeness of the responses.

The method of semi-structured interviewing is specifically appropriate for this study because it allows to test assumptions based on the theoretical framework, while giving sufficient space for interviewees to elaborate on aspects that have not been foreseen (Berry, 2002). Semi-structured interviews are also particularly suited to address the challenges that arise from elite interviewing, where there is a discrepancy in information between the interviewee and the researcher (Dexter, 2006). This method implies formulating a questionnaire before the interview, in this case consisting of six open-ended questions (see appendix B for the questionnaire). The questions are mostly aimed at enabling a qualitative assessment of different venues’ political leverage in influencing the German government’s position in the Council. Semi-structured interviewing also allows the researcher to diverge from the questionnaire and enables further probing, depending on the responses (Berry, 2002). This has been done to explore the reasons for preferring a certain venue. To ensure additional comparability of CSOs’ venue preferences, interviewees were also asked to indicate their level of preference for each venue on a Likert scale from 1 to 10 (see appendix B).

To analyse the data, the recorded interviews were transcribed, and subsequently coded. Coding can be applied deductively, by preparing a list of codes based on existing theory, or inductively, by developing codes directly from the data, which may lead to building new theory based on the emerged patterns (Linneberg & Korsgaard, 2019). This paper employed abductive coding, which combines deductive with inductive elements. In this way, theoretical considerations were tested deductively, while alternative explanations that were not included in the prepared coding list could be found inductively (Linneberg & Korsgaard, 2019). A disadvantage of coding is that the subjectivity and resulting biases might influence the reliability of the method. This subjectivity is however offset by the richness of the findings, and this study aimed to exclude bias through dis- and reassembling the data in several coding rounds (Boeije, 2009).

## 5. Analysis: CSO Involvement and its Effect on the Accountability of the German Government

Most interviewees preferred the federal government as a venue because it grants most political leverage to influence the German position in the Council. In contrast, the German parliament and the public were only preferred by a minority of the respondents. This hints towards a larger importance of CSOs' role as social accountability actors, as compared to their role as political accountability facilitators. The following subsections elaborate and qualify this argument.

### 5.1 CSOs and the German Government: Social Accountability through Participation?

The majority of respondents argued that the federal government is the main decision-maker in Council deliberations, which is why this venue is considered best-suited and most frequently contacted for influencing purposes. Eight CSO representatives claimed that direct contact with the German government is the most effective way to shape its position in the Council (#1; #2; #5; #7; #8; #9; #10; #12)<sup>2</sup>. In contrast, the national parliament was preferred by only one CSO as a suitable venue to influence the German position (#4). The same applies to the public, as only one CSO mainly bases its strategy to influence government's position on public outreach (#6). The remaining three interviewees did not indicate a clear preference for one venue (#3; #11; #13).

In terms of accountability, most of the interviewed CSOs thus favour approaching the government to actively influence its position, which points at a social accountability relationship. CSOs that favour approaching the German government argue that they do so because the executive is the main actor in Council decision-making, unlike the national parliament or the public. Interviewee #8 states: "A large part of the German government's position development happens within the government. Therefore, we can best influence its position if we approach them directly. What happens in the German parliament (...) is, in most cases, a secondary question"<sup>3</sup>. Another interviewee weighs the effectivity of outreach to the government against outreach to the public: "Public outreach is important, but direct talks with ministries are definitely more effective" (#1). This reasoning can be explained by principal-agent theory. Since the government is ultimately entrusted with taking decisions on Council level, this venue also yields the most direct political leverage.

Concretely, CSOs seek to influence the German government's position through informal talks with government officials (#1; #2; #5; #8; #9; #11; #13), consultations by ministries (#4; #8; #9; #10), de-briefings organised by ministries or the permanent representation of Germany in Brussels (#8; #10; #11; #12), and letters to government officials (#7; #9; #10; #11; #12). Through these channels, the German government gives account to CSOs, who, in turn, can respond to this. However, as Bovens (2007) denotes, the aspects of judgement and sanctioning are often lacking in social accountability relationships, since they are not formalised by institutional arrangements. This is the case here, too, since CSOs do not have any privileged position in governmental judgement and sanctioning.

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<sup>2</sup> To ensure anonymity of interviewees, the interviews have been randomly numbered.

<sup>3</sup> All citations are the author's own translations from German to English.

CSOs' ability to participate in governmental decision-making is limited by the opportunity structure of the German government (Princen & Kerremans, 2008). The analysis of the interview data shows that four, partly related, factors influence the opportunity for CSOs to act in a social accountability relationship with the German government: Access to the government, level of information from the government, ministerial affiliation of CSOs, and the issue of timing. The former two have been determined through deductive coding by drawing on Bouwen's (2002) resource exchange theory, the latter two have emerged inductively from the data. For the remainder of this subsection, each of the four factors is examined in more depth.

CSOs can only contribute to the position-finding process if they are able to supply the critical access good that policy-makers demand in return for access. Eight respondents have explicitly confirmed the exchange-like logic described by Bouwen (2002) (#3; #4; #5; #6; #7; #8; #9; #12). Access goods that play a role in the exchange relationship with the government are expertise (#3; #4; #6; #9; #12; Bouwen, 2002), but also representativeness (#3), financial and personal resources of CSOs (#8), and social capital in the form of elaborate networks in Brussels' and Berlin's political spheres (#1; #8). In this sense, the interviews show that Bouwen's (2002) general logic of access can be confirmed, since lobbying can be understood as a resource exchange in which certain goods are the preconditions for access. However, more factors than expertise play a role in access. This finding is in line with previous studies that confirm that access does not merely result from provision of expertise (Albareda & Braun, 2019; Arras & Beyers, 2020; Klüver, 2013). Although additional explanatory factors were found, the conceptualisation of lobbying as a resource exchange (Bouwen, 2002) can be confirmed.

In order to be involved in an exchange relationship with the government, CSOs are furthermore dependent on information from the federal government. Seven interviewees deplored that they face a lack of information on the development of positions by the government (#1; #3; #4; #6; #9; #11; #12). This lack of information obstructs their abilities to act in a social accountability relationship with the government. The level of information supplied by the government is, however, closely linked to the first factor of access, as it also functions according to an exchange of resources. Interviewee #6 states: "The ministry obviously has an interest in providing us with information, to cultivate exchange. This is a matter of mutual interest.". Access and level of information therefore both, to some extent, depend on the closeness of CSOs' relationship with the government, which, in turn, depends on the provision of access goods, according to Bouwen (2002). The relevance of access goods however leads to a threshold in participating in the government's position development. Only those actors who have access can enhance social accountability of the government. This is in line with previous scholars' findings, and it is arguable whether the aggregated claims of those who have access are representative for the entirety of society (Grande, 2000; Papadopoulos, 2007, 2010; Schattschneider, 1960; Schmidt, 2013).

A third factor that impacts CSOs' ability to hold the federal government to account is their affiliation with specific ministries. Ten interviewees stated that they stand in particularly close contact with one or two ministries, whereas other ministries are often less responsive to their demands (#1; #2; #5; #6; #7; #8; #9; #10; #11; #12). Six of them, in turn, deplored that this dynamic limits CSOs' abilities to shift venues and engage with other ministries (#1; #2; #5; #6; #7; #12). These affiliations have different reasons. To some extent, they can be explained by the resource exchange logic (#5; #6; #7; #9; #12). For example, environmental and climate NGOs are regarded as the natural stakeholders for the Federal Ministry of the Environment because they can offer expertise on the environmental impact of certain policies (#6; #7; #12), whereas industry associations are rather affiliated with the Ministry of

Economic Affairs, since they can deliver a representative position of industrial companies (#5; #9). The type of provided access good thus, to some extent, determines the ministry that will find most use in this information and engage in an exchange relationship. Another reason mentioned by two interviewees (#1; #2) is the political party in charge of a certain ministry. They elaborate that SPD-led ministries are more easily accessible by labour unions whereas business, industry, and employee associations have a closer connection with CDU/CSU-led ministries. Since however only two respondents touched upon party affiliation as reason for ministerial affiliation, its relative importance is yet to be verified. In terms of social accountability, CSOs' affiliations to certain ministries restrict them in their possibilities to engage in social accountability with other ministries, that are not considered their 'natural' partners.

A fourth factor that impacts CSOs' opportunities to engage with the government is the issue of timing. Five interviewees argue that for many policy issues on the Council agenda, Germany sets its position later in comparison to other Member States (#5; #8; #9; #10; #13). According to these interviewees, this is because the federal government struggles with finding a consensus, and much time is spent on negotiating the German position. One interviewee further elaborates that this indecisiveness mainly stems from the partisan division of the CDU/CSU-led ministries and the SPD-led ministries (#9). Due to this dynamic, the German government can only contribute to Council negotiations quite late, and the range of possible outcomes has been predetermined by other Member States, that have been confident in their position from the very beginning.

The issue of timing has two effects on accountability. On the one hand, it obstructs dialogue with CSOs, since they need to know the positioning of the government to respond to it. This limits the German government's social accountability to CSOs. On the other hand, it also inhibits the opportunity of German citizens to judge and sanction Council decisions, which limits the political accountability of the Council as a whole. If the range of possible negotiation outcomes has already shifted to the extent that some positions are excluded, the German government is not able to contribute to Council negotiations in time. This means that the German government cannot fulfil its task of representing the position of its principal to the same degree as other Member States' governments. Since this factor is likely to be confined to the German political system, the representativeness of this finding for other Member States' governments is however limited.

## 5.2 CSOs as Political Accountability Facilitators: Enhancing Parliamentary Oversight?

CSOs rarely enable the German parliament to politically hold the government to account. In accordance with the chain of delegation, the national parliament is regarded as a less promising venue because ultimately, the executive takes decisions in the Council. This argument, based on principal-agent theory, is explicitly confirmed by six interviewees (#1; #7; #8; #9; #10; #12). Due to this, the majority of the sampled CSOs does not approach the Bundestag to enable formal scrutiny mechanisms on EU affairs. This shows that, contrary to McCubbins and Schwartz' (1984) assumption, CSOs do not supply information to parliamentarians to the expected extent.

Furthermore, three respondents do not believe that the Bundestag effectively scrutinises the federal government in EU affairs (#1; #10; #13). Interviewee #1 states: "I do not have the feeling that the Bundestag really wants to control what the federal government is doing in Europe". This is confirmed by interviewee #10, who elaborates that "the probability that members of the governing majority in the parliament scrutinise the government is extremely low because in the end, that would be self-destructive".

According to this argument, a lack of scrutiny limits the incentive for CSOs to approach parliamentarians on European issues. This is in line with previous studies on the lack of scrutiny of national parliaments in EU affairs (e.g. Auel, 2007; Crum, 2017; Groen & Christiansen, 2015; Kreiling, 2019; Schmidt & Wood, 2019). A third explanatory factor is that the Bundestag does not rely on external sources for its oversight activities due to its comparatively large administrative capacities. Previous works suggest that the Bundestag has built up considerable administration in response to European integration (Heffler & Rozenberg, 2015; Höing, 2015). This might further refute McCubbins and Schwartz' (1984) claim that parliamentarians rely on CSO information.

There is however a minority group within the sample that frequently approaches the national parliament. One CSO considers it as its preferred venue to influence policy (#4), and three CSOs have attributed equal importance to the government and the national parliament (#3; #11; #13). Three of these four CSOs however state that they do not reach out to the national parliament for the purpose of providing crucial information to them, which would enable formal political scrutiny of the government by the parliament, as McCubbins and Schwartz' (1984) fire alarm model predicts. Instead, they point out that they contact the parliament to activate influential parliamentarians from the governing parties who then pass on their demands into the executive level via informal channels (#3; #11; #13). Three other respondents, who prefer the government over the parliament venue, confirm this logic, but do not regard it as their organisations' primary tactic (#2; #7; #10). Interviewee #10 states: "The Bundestag does not really play a role in EU decisions (...). Nonetheless, we could approach certain parliamentarians and ask them to carry on a topic to the federal government. This is certainly a way to go.". Since this strategy is not aimed at triggering formal scrutiny measures but is rather based on informal networks between parliamentarians and government officials, one cannot count this dynamic as facilitating political accountability.

Both the relationship between CSOs and national parliamentarians, and between parliamentarians and government officials, in this case, function according to the logic of social accountability. Overall, CSOs make use of this relationship considerably less than of their relationship to the federal government. Within this dynamic, it is worth noting that a close relationship with parliamentarians in addition to maintaining contact with the government, may only be possible if human and financial resources allow for it, since it requires parallel efforts (#12). The contact with this venue in addition to the contact with the government might therefore create a threshold that only few CSOs can reach, which in turn puts limits to social accountability.

Interestingly, the picture is different for the European Parliament (EP), where CSOs, to some extent, act as fire alarms as conceptualised by McCubbins and Schwartz (1984). Six interviewees state that they prefer to approach Members of the EP (MEPs) over the members of the Bundestag (#5; #6; #8; #10; #9; #12). Two of them (#5; #10) explicitly refer to a dynamic that comes close to the fire alarm model. To illustrate this, interviewee #5 states: "MEPs jump from one topic to another and have little opportunity to generate expertise. Therefore the demand for external information is quite high. And the large number of lobbyists in Brussels or Berlin can provide them with that information.". Since the EP is however co-legislator in the ordinary legislative procedure, and cannot hold the German government to account, the fire alarm mechanisms in this case does not contribute to political accountability of the German government.

### 5.3 CSOs as Political Accountability Facilitators: Enabling Public Scrutiny?

CSOs can facilitate political accountability by providing the public with information on policies, which the public can use to hold the Bundestag to account. The Bundestag, in turn, may hold the government accountable. Framed in terms of the lobbying literature, the process of providing information to the public, with the ultimate goal to influence policy, is referred to as outside lobbying. Outside lobbying thus involves “press releases and conferences, contacts with journalists, public campaigning, social media advertising, or protest events” (De Bruycker & Beyers, 2019, p. 59) whereas inside lobbying refers to direct contact with policy-makers, invisible for the public. However, in practice, the majority of interviewees do not consider public outreach the most significant part of their lobbying strategy and prefer the government (#1; #2; #5; #7; #8; #9; #12), the Bundestag (#4), or the government and the Bundestag equally (#3; #11; #13) as venues to influence policy. Capacities of the sampled CSOs are thus rarely concentrated on enabling the ultimate principal to politically hold its agent accountable. Instead, public outreach takes a supporting, but secondary role for the majority of the sampled CSOs.

Some of the CSO representatives within this majority group elaborate further on the limited contexts in which public outreach is used. Firstly, two interviewees point out that they use public outreach for agenda-setting purposes (#5; #10). Agenda-setting describes the process of determining the issues that are to be decided on by policy-makers, and the terms in which these issues are framed (Princen, 2011). Since the public, media, and political agendas are interlinked, public outreach can contribute to setting the political agenda to some extent (Norris, 2014; Princen, 2011), which confirms this finding. Secondly, two CSO representatives state that outreach to the public depends on the salience of the issue in the public debate (#2; #5). This point is confirmed by Kollman (1998) and Smith (2000) who argue that larger salience of issues in the public debate makes outside lobbying more successful. Thirdly, two interviewees argue that public outreach depends on the severity of the disagreement with the federal government’s position (#1; #12). Since each of these three findings was only touched upon by a small number of respondents, they are not generalisable. They however qualify the argument and show that CSOs can enable political accountability, albeit under specific circumstances. Generally, since most sampled CSOs consider direct contact with the government more effective, it can be argued that political accountability facilitation via the public is a less likely accountability role than directly enacting social accountability via the federal government.

Within the sample there are, however, two CSOs that prefer the public over the government as venue (#4; #6). Strikingly, both CSOs belong to the group of NGOs. The term NGO here refers to a CSO that identifies as the defender of a public interest such as environmental or human rights protection, independent from governmental and market forces (Schoenefeld, 2021). Other respondents confirm that public interest NGOs are more inclined to engage with the public than CSOs that do not belong to this group (#1; #9; #12). Public interest NGOs are more likely to act as political accountability facilitators than other types of CSOs because they attribute comparatively more importance to public outreach. Following Bouwen’s (2002) resource exchange theory of lobbying, one might assume that this is because certain CSOs resort to influencing policy via public outreach when they are unable to provide certain access goods to policy-makers and cannot engage in a direct relationship with executive decision-makers. This is also in line with scholars who argue that outside lobbying is rather used by those who have little or no access to the government (Della Porta & Diani, 1999; Gais & Walker, 1991; Kollman, 1998).

The findings however do not indicate such a clear tendency, as CSOs that prefer the public as a venue, also stand, to a lesser extent, in contact with the government (#4; #6). A second reason that

explains how inside and outside lobbying are reconciled is that CSOs often operate together in networks that allow them to make use of a number of lobbying strategies simultaneously (De Bruycker & Beyers, 2019; Klüver, 2013). The findings indicate that this might especially apply to public interest NGOs since all four interviewees from this group within the sample mention this dynamic (#4; #6; #7; #11), whereas only two non-NGO respondents refer to it as an important strategy (#5; #13). Interview partner #6 elaborates on this: "Both the constructive dialogue with the government and confrontative action are very important branches of our work, and we play them together with others as an orchestra".

This confirms De Bruycker and Beyers' (2019) conclusion that public outreach is not a weapon of the weak but can lead to success depending on CSOs' coalitions and the political context. In terms of accountability, the argument that political accountability facilitation by a CSO via the public is linked with a low amount of access goods at the CSOs' disposal therefore does not hold. The question remains why public interest NGOs are more likely to reach out to the public than other types of CSOs. An alternative explanation is put forward by interviewee #12, who argues that this is rooted in organisational culture and reflects a dynamic that has historically grown.

## 6. Conclusion

This paper has examined and weighed the different roles that CSOs can take in affecting the accountability of the German government acting in EU affairs. It was found that CSOs mainly act in a social accountability relationship with the German government. This relationship is affected by CSOs' level of access and information, their ministerial affiliations, and timing. The Bundestag is, generally, not considered as suitable to influence policy. Therefore, CSOs rarely take the role of facilitating political accountability by providing information to the German parliament. A fire alarm mechanism, as predicted by McCubbins and Schwartz (1984), could therefore not be confirmed. With regards to the Bundestag, a small group of CSOs however play the role of social accountability actors, with the goal to influence government policy through the contact with individual parliamentarians. Public outreach is also considered as less effective than direct contact with the government. Here, however, a minority of CSOs facilitates political accountability, by passing on policy-relevant information to the public. The expectation that those CSOs with less access to government are more inclined to take up this role, could however not be confirmed. To conclude, CSOs' primary role of participating in governmental decision-making enhances social accountability of the German government but does not enhance political accountability of the German government.

Whether this sufficiently remedies the legitimacy deficits of the EU remains contested. As Schmidt (2013) puts it, CSO participation might have a positive effect on throughput and output legitimacy, which however cannot outweigh input deficits. CSOs acting as political accountability facilitators would increase input legitimacy, but the findings show CSOs rarely make use of this. The analysis suggests that more effective parliamentary scrutiny of the German government in EU affairs would incentivise CSOs to act more frequently as accountability facilitators via the Bundestag. This could, in turn, provide the Bundestag with more information to engage in yet more effective scrutiny activities and contribute to bridging the missing link between citizens and national governments in the Council.

It must however be stated that the findings of this paper are based on a rather small-n sample, which limits their generalisability. For this study, this is appropriate since it allows for an in-depth exploration of diverse perspectives on influencing EU policy, within a limited time-frame. Larger sample sizes would however allow for the inclusion of additional perspectives, while also leading to more

generalisable results. Another aspect that limits the findings is the potential subjectivity of the interviewees in responding to questions and of the interviewer in probing and interpreting their answers. Interviewees might be inclined to understate their lobbying activities, due to a social desirability bias (Berry, 2002). The interviewer aimed to eliminate this bias by formulating questions in a neutral tone that does not negatively connotate lobbying activities. To further avoid these constraints, follow-up research could focus on a larger-n sampling method, and potentially involve a second researcher to eliminate potential subjectivity while coding. Additionally, larger sample sizes would, to a larger extent, allow for differentiation between types of CSOs, to take into account the differing properties of CSOs.

Beyond its methodological constraints, this thesis is limited as it solely focuses on national fora of accountability, i.e. the German parliament and public. As the analysis shows, the picture might be different for the EP, where CSOs are more inclined to take up the role of political accountability facilitators. Whether this is the case, and what this means for EU legitimacy should be assessed by further studies. Furthermore, a comparative study between different EU Member States could deliver additional insights on the potential roles of CSOs in national governments' accountability. For example, it could be investigated how parliamentary strength influences CSOs' role as political accountability facilitator in different Member States. In this way, the potential of CSOs in enhancing accountability and legitimacy in the EU could be further defined. Despite its limitations, this paper could make a relevant contribution to the academic and societal debate surrounding the accountability deficit in the EU. Showing the ways through which CSOs can impact accountability represents a starting point for various reflections on the interplay between the private and the public sector, and its consequences for democracy.

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## Appendix A: Interview Partners

**Table 2**

| Type of Organisation              | Number of Interviewees |
|-----------------------------------|------------------------|
| Labour Union                      | 3                      |
| Climate and Environmental NGO     | 3                      |
| Employers' Association            | 1                      |
| General Industry Association      | 1                      |
| Automotive Industry Association   | 1                      |
| Chemical Industry Association     | 1                      |
| Human Rights NGO                  | 1                      |
| Agricultural Industry Association | 1                      |
| Church Association                | 1                      |

## Appendix B: Interview Questionnaire

1. How do you, as a politically active organisation, organise to monitor and shape both domestic and European initiatives?
2. How well do you feel informed on what the German government is doing in the Council?
  - 2.1. Why is this the case?
3. How, if at all, is your organisation able to contribute to the German government's position in the Council?
  - 3.1. Why is this the case?
  - 3.2. Who do you contact to put forward the interests of your organisation?
4. Does it commonly happen that the German government takes a position that counter your organisation's interests?

- 4.1. When you do not agree with German government's position in EU affairs: Who do you usually contact?
- 4.2. How satisfied are you with this strategy?
- 4.3. Can you indicate how often you approach the following actors on a 1-10 scale? (1 = never, 10 = very often)
  - The German government
  - The Bundestag
  - The national governments of other countries
  - The Commission
  - The European Parliament
  - The public
  
5. If you could change one thing in your relationship with the German government or the German parliament, what would it be?