

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT
BUDGETARY AFFAIRS **D**

Budgets

Budgetary Control

**Composition of the
Commission's expert
groups and the status of
the register of expert
groups**

STUDY





DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT D: BUDGETARY AFFAIRS

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Abstract

This study aims to provide insights into the development, since 2012, of the European Commission's system of Expert Groups, including the Register of Expert Groups. The specific focus of this study is an assessment of the European Commission's compliance with a set of European Parliament conditions attached to repeated European Parliament budget reserves for the Expert Group budget. The European Parliament conditions aim to strengthen the balanced representation of interests in the Expert Groups, address conflicts of interest, and ensure transparency, in terms of open access to the working and outputs of the Expert Groups. The study finds that the European Commission, despite some progress, continues to fall short of full compliance with the European Parliament conditions on balance and transparency. Based on this study's findings, it is considered that a more systematic approach to balance would help overcoming information asymmetries and contribute to throughput legitimacy. Enhanced transparency also has potential to enhance Expert Group outputs. This study therefore recommends a systematic approach to balance, the promotion of full transparency, more resources for Secretariat General oversight and enforcement, and the systematic evaluation of Expert Group performance at the level of the system of Expert Groups and for all individual Expert Groups.

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LIST OF ABBREVIATIONS

- DG** European Commission Directorate General
- EC** European Commission
- EC SG** European Commission Secretariat General
- EG** European Commission Expert Group
- EP** European Parliament
- EU** European Union
- EUR** Euro
- OECD** Organisation for Economic Co-operation and Development
- REG** European Commission Expert Group Register

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EXECUTIVE SUMMARY

Introduction

This study aims to provide insights into the development, since 2012, of the European Commission's system of Expert Groups, including the Register of Expert Groups. The European Parliament's Directorate for Budgetary Affairs requested Blomeyer & Sanz to conduct this research assignment between 13 March and 30 June 2015.

The EC defines an Expert Group as a '*consultative entity set up by the Commission or its services for the purpose of providing them with advice and expertise as set out in Rule 3, which comprises at least six members and is foreseen to meet more than once*'¹. In April 2015, 830 Expert Groups were registered on the Register of Expert Groups, counting nearly 25,000 members.

The specific focus of this study is an assessment of the European Commission's compliance with a set of European Parliament conditions attached to repeated European Parliament budget reserves for the Expert Group budget. The European Parliament conditions aim to strengthen the balanced representation of interests in the Expert Groups, address conflicts of interest, and ensure transparency, in terms of open access to the working and outputs of the Expert Groups.

By answering the question as to whether the European Commission has complied with the European Parliament conditions, this study will prepare the European Parliament for a substantive dialogue with the European Commission on Expert Groups by updating the European Parliament Committees on Budgets and on Budgetary Control on the main challenges.

The study was prepared on the basis of desk research, interviews, and case study work.

Findings

The normative framework on Expert Groups is set out in the Horizontal Rules for Commission Expert Groups, adopting a rather discretionary approach, and leaving it to the European Commission to decide on the extent of balance and transparency.

There is still relatively little academic research on Expert Groups. Existing research confirms, however, issues over balance and bias, and underlines the heterogeneity of the Expert Groups in terms of function, organisation, composition and impact.

The analysis of data provided in the Register of Expert Groups suggests limited progress towards compliance with the European Parliament conditions on the Expert Groups.

The number of Expert Group members appointed in their personal capacity has decreased (from 1,719 in 2013 to 1,521 in 2015), and so has the number of members appointed in their personal capacity dedicated to public affairs (from 34 in 2013 to 16 in 2015) and members appointed in their personal capacity with no professional profile (from 218 in 2013 to 123 in 2015). On the other hand, there has been an overall decrease in the number of non-economic members (e.g., NGOs experienced a 10% decrease since 2013), paralleled by an increase in the number of corporate members (by 5% since 2013), and association members (by 23% since 2013), the latter category not allowing for a distinction between economic and non-economic interests.

Overall the use of the Register of Expert Groups is constrained by important data inconsistencies.

¹ EC (2010) Communication from the President to the Commission, Framework for Commission Expert Groups: Horizontal Rules and Public Register, SEC (2010) 7649 final, Rule 2(1), 10 November 2010

There has been some progress with regard to balance since 2013 with the EC modifying the composition of some Expert Groups and clarifying the composition of others. The European Commission maintains its position, however, that balance is optional. In line with this, the imbalance in favour of economic interests has not decreased since 2013. Instead, the total number of Expert Groups presenting an imbalance has increased from 69 in 2013 (8% of all Expert Groups) to 72 in 2015 (9% of all Expert Groups). Finally 61 Expert Groups experienced an increasing imbalance between 2013 and 2015 whilst 15 groups experienced a development towards more balance.

Concerning transparency, there has been progress since 2013 with an increasing use of public calls, and the Register of Expert Groups allowing for better access to information on Expert Group activity. However, the European Commission maintains its position on optional public calls.

Overall, the findings confirm that compliance with the European Parliament conditions on balance and transparency was not achieved; neither will the European Commission's proposed reforms (in June 2015, in response to the European Ombudsman inquiry on Expert Groups during 2014-2015) achieve full compliance with the European Parliament conditions. The European Commission's proposed linkage between the Register of Expert Groups and the Transparency Register exempts individual members appointed in their personal capacity from registration.

The Horizontal Rules provide only limited detail on the role of the European Commission's Secretariat General and coordination between Directorates General; most notably, it is not clear to what extent the Secretariat General can enforce the Horizontal Rules vis-à-vis individual Directorates General.

The analysis of the Register of Expert Groups suggests that the Secretariat General lacks the mandate and resources to enforce a consistent handling of data inputs to the Register. Despite the Secretariat General's efforts, even new Expert Groups (established since November 2014) continue to be affected by data entry inconsistencies.

There are examples of Directorates General coordinating on Expert Groups, and the analysis of the Register shows an increased use of the function of 'Associated Directorate General', i.e., participating in an existing group led by a different Directorate instead of establishing a new separate group.

Concluding considerations and recommendations

Based on this study's findings, it is considered that a more systematic approach to balance would help overcoming information asymmetries and contribute to throughput legitimacy. Stronger transparency also has potential to enhance Expert Group outputs.

This study recommends a systematic approach to balance, the promotion of full transparency, more resources for Secretariat General oversight and enforcement, and the systematic evaluation of Expert Group performance at the level of the system of Expert Groups and for all individual Expert Groups.

The study identifies a need for follow-up research on three issues: the European Commission's use of the member category 'Association'; the use of external expertise by the European Union Agencies; and the European Commission's use of alternative sources of expertise, considering that this might be characterised by lower levels of balance and transparency than the use of Expert Groups.

ZUSAMMENFASSUNG

Einleitung

Diese Studie soll Einblick gewähren in die Entwicklung des Systems der Expertengruppen der Kommission, einschließlich des Registers der Expertengruppen, seit 2012. Die Direktion Haushaltsangelegenheiten des Europäischen Parlaments beauftragte Blomeyer & Sanz, diese Untersuchung im Zeitraum vom 13. März bis zum 30. Juni 2015 durchzuführen.

Laut Definition der Europäischen Kommission handelt es sich bei einer Expertengruppe um „ein Beratungsgremium, das von der Kommission oder ihren Dienststellen zum Zwecke der Beratung und Bereitstellung von Sachverstand, eingesetzt wird, wie in Bestimmung 3 festgelegt, eingesetzt wird, das mindestens sechs Mitglieder umfasst und das voraussichtlich mehr als einmal zusammenkommt“². Im April 2015 waren 830 Expertengruppen mit insgesamt knapp 25 000 Mitgliedern registriert.

Mit dieser Studie soll geprüft werden, ob die Europäische Kommission die Bedingungen einhält, die das Europäische Parlament im Rahmen seiner wiederholten Vorbehalten gegen die Bereitstellung von Haushaltsmitteln für die Expertengruppen gestellt hat. Mithilfe der Auflagen des Europäischen Parlaments sollte eine ausgewogene Interessenvertretung innerhalb der Expertengruppen erreicht, Interessenkonflikte vermieden sowie Transparenz beim Zugang zur Arbeit und den Ergebnissen der Expertengruppe sichergestellt werden.

Die Studie liefert eine Antwort auf die Frage, ob die Europäische Kommission die Auflagen des Europäischen Parlaments erfüllt hat. Indem die Studie den Haushaltsausschuss und den Haushaltskontrollausschuss des Parlaments über den neuesten Stand bei den größten Herausforderungen unterrichtet, bereitet diese das Parlament auf einen fundierten Dialog mit der Kommission über die Expertengruppen vor.

Die Studie wurde unter Heranziehung von Sekundärquellen sowie durch Befragungen und Fallstudien erstellt.

Feststellungen

Der Rechtsrahmen für Expertengruppen ist in den Allgemeinen Bestimmungen der Kommission für Expertengruppen festgelegt, in denen ein recht großer Ermessensspielraum gewährt wird. Es steht der Kommission frei zu entscheiden, in welchem Umfang sie Ausgewogenheit und Transparenz gewährleisten will.

Bislang gibt es nur sehr wenige akademische Forschungsarbeiten zu Expertengruppen. Existierende Forschungsergebnisse bestätigen allerdings, dass mangelnde Ausgewogenheit und einseitige Ausrichtung ein Problem darstellen, und unterstreichen die Heterogenität der Expertengruppen in Bezug auf Funktion, Organisation, Zusammensetzung und Wirkung.

Die Auswertung der im Register der Expertengruppen verfügbaren Daten ergibt, dass nur wenig Fortschritt bei der Erfüllung der Auflagen des Europäischen Parlaments für Expertengruppen zu verzeichnen sind.

² K (2010) 7649 vom 10. November 2010. Mitteilung des Präsidenten an die Kommission. Rahmenregelung für Expertengruppen der Kommission: Horizontale Bestimmungen und öffentliches Register. SEC (2010) 1360 final, Bestimmung 2, Absatz 1.

Die Zahl der Expertengruppenmitglieder, die ad personam ernannt wurden, ist zurückgegangen (von 1 719 im Jahr 2013 auf 1 521 im Jahr 2015), ebenso wie die Zahl der ad personam ernannten Mitglieder, die sich mit öffentlichen Angelegenheiten befassen (von 34 im Jahr 2013 auf 16 im Jahr 2015), und die Zahl der ad personam ernannten Mitglieder, die kein bestimmtes berufliches Profil haben (von 218 im Jahr 2013 auf 123 im Jahr 2015). Zudem ging die Zahl der Mitglieder, die nicht aus der Wirtschaft stammen, insgesamt zurück (so z. B. die Zahl der Mitglieder mit NRO-Erfahrung um 10 % seit 2013). Gleichzeitig stieg die Zahl der Mitglieder, die Unternehmen bzw. Verbände vertreten, (um 5 % bzw. 23 % seit 2013) an, wobei bei den Verbandsvertretern eine Unterscheidung zwischen Vertretern wirtschaftlicher und nichtwirtschaftlicher Interessen nicht möglich ist.

Insgesamt wird der Nutzen des Registers der Expertengruppen durch erhebliche Uneinheitlichkeiten bei den Datensätzen eingeschränkt.

Seit 2013 wurden einige Fortschritte bei der Ausgewogenheit erzielt, indem die Kommission die Zusammensetzung einiger Expertengruppen geändert und die Zusammensetzung anderer Gruppen klargestellt hat. Die Kommission vertritt jedoch unverändert die Auffassung, dass eine ausgewogene Zusammensetzung der Gruppen unverbindlich geregelt ist. Entsprechend hat sich das Ungleichgewicht zugunsten wirtschaftlicher Interessen seit 2013 nicht verringert. Vielmehr hat sich die Gesamtzahl der Expertengruppen, deren Zusammensetzung nicht ausgewogen ist, von 69 im Jahr 2013 (8 % aller Expertengruppen) auf 72 im Jahr 2015 erhöht (9 % aller Gruppen). Zudem war in 61 Expertengruppen zwischen 2013 und 2015 ein Anstieg bei der Unausgewogenheit der Zusammensetzung zu verzeichnen und nur in 15 Gruppen eine Entwicklung hin zu einer ausgewogeneren Zusammensetzung festzustellen.

Jedoch wurden seit 2013 Fortschritte bei der Transparenz erzielt: Es wurde vermehrt auf öffentliche Ausschreibungen zurückgegriffen, und das Register der Expertengruppen erlaubt einen besseren Zugang zu Informationen über die Tätigkeiten der Expertengruppen. Die Kommission vertritt jedoch weiterhin die Auffassung, dass öffentliche Ausschreibungen nur eine Möglichkeit darstellen.

Insgesamt bestätigen die Ergebnisse der Studie, dass die Bedingungen des Europäischen Parlaments in Bezug auf Ausgewogenheit und Transparenz nicht erfüllt wurden. Auch durch die von der Kommission formulierten Reformvorschläge, die im Juni 2015 als Antwort auf die Untersuchung der Expertengruppen durch die Europäische Bürgerbeauftragte im Zeitraum 2014–2015 vorgelegt wurden, wird eine vollständige Erfüllung der Bedingungen des Europäischen Parlaments nicht zu erreichen sein. Die von der Kommission vorgeschlagene Verknüpfung zwischen dem Register der Expertengruppen und dem Transparenzregister nimmt Mitglieder, die ad personam benannt wurden, von der Registrierung aus.

In den horizontalen Bestimmungen sind nur wenige Einzelheiten zur Rolle des Generalsekretariats und zur Rolle der Generaldirektionen festgehalten. Insbesondere wird nicht klar, in welchem Maß das Generalsekretariat die horizontalen Bestimmungen gegenüber den Generaldirektionen durchsetzen kann.

Aus der Analyse des Registers der Expertengruppen geht hervor, dass das Generalsekretariat weder befugt ist noch über die notwendigen Mittel verfügt, um eine einheitliche Handhabung von Einträgen in das Register durchzusetzen. Trotz der Anstrengungen des Generalsekretariats sind auch bei neuen Expertengruppen, die seit November 2014 eingerichtet wurden, die Dateneinträge uneinheitlich.

Es gibt Beispiele dafür, dass Generaldirektionen bei Expertengruppen koordinierend zusammenarbeiten, und die Prüfung des Registers ergab, dass die Funktion „assoziierte Generaldirektion“, d. h. die Teilnahme an einer bestehenden Gruppe, die von einer anderen Direktion geleitet wird, stärker genutzt wurde, statt eine neue eigenständige Gruppe einzurichten.

Abschließende Erwägungen und Empfehlungen

Auf der Grundlage der Ergebnisse dieser Studie vertreten die Autoren der Studie die Auffassung, dass ein systematischerer Ansatz in Bezug auf die Ausgewogenheit der Gruppenzusammensetzung dazu beitragen würde, Informationsasymmetrien zu überwinden und mehr Legitimität zu erzielen. Mehr Transparenz kann potenziell auch die Ergebnisse der Expertengruppe verbessern.

In der Studie wird ein systematischer Ansatz für die Ausgewogenheit bei der Zusammensetzung der Gruppen, die Förderung umfassender Transparenz, mehr Mittel für Überwachung und Durchsetzung durch das Generalsekretariat sowie die systematische Bewertung der Leistung auf Ebene des Expertengruppensystems sowie aller einzelnen Expertengruppen empfohlen.

Die Studie empfiehlt weiterführende Recherchen in drei Bereichen: die Nutzung der Mitgliederkategorie „Verbände“ durch die Kommission; die Nutzung externen Sachverständs durch die Agenturen der Europäischen Union und die Nutzung alternativer Quellen für Sachverstand durch die Kommission, wobei dies mit einer geringeren Ausgewogenheit und weniger Transparenz im Vergleich zur Nutzung von Expertengruppen einhergehen könnte.

RÉSUMÉ

Introduction

La présente étude vise à fournir des informations sur le développement, depuis 2012, du système de groupes d'experts de la Commission européenne, y compris le registre des groupes d'experts. La direction des affaires budgétaires du Parlement européen a demandé à Blomeyer & Sanz d'effectuer cette mission de recherche entre le 13 mars et le 30 juin 2015.

La Commission européenne définit un groupe d'expert comme étant *"une entité consultative instituée par la Commission ou ses services afin de lui fournir des conseils et apporter son savoir-faire conformément à la règle n° 3, comptant au moins six membres et devant se réunir à plus d'une fois"*³. En avril 2015, 830 groupes d'experts figuraient dans le registre des groupes d'experts, pour un total de près de 25 000 membres.

Cette étude vise de manière spécifique à évaluer le respect par la Commission européenne d'un ensemble de conditions fixées par le Parlement européen suite à des réserves budgétaires répétées du Parlement européen pour le budget des groupes d'experts. Les conditions du Parlement européen visent à renforcer la représentation équilibrée des intérêts au sein des groupes d'experts, à prévenir les conflits d'intérêts, et à garantir la transparence en ce qui concerne l'accès aux travaux et aux contributions des groupes d'experts.

En répondant à la question de savoir si la Commission européenne respecte les conditions fixées par le Parlement européen, cette étude préparera le Parlement européen à un dialogue important avec la Commission européenne sur les groupes d'experts en informant les commissions des budgets et du contrôle budgétaire du Parlement européen sur les principaux défis.

Cette étude a été préparée sur la base de recherches documentaires, d'interviews et d'études de cas.

Résultats

Le cadre normatif relatif aux groupes d'experts est établi dans les règles horizontales concernant les groupes d'experts de la Commission. Il adopte une approche plutôt discrétionnaire et laisse à la Commission européenne le soin de décider de l'ampleur de l'équilibre et de la transparence.

Il existe toujours relativement peu de recherches universitaires sur les groupes d'experts. La recherche existante confirme cependant les questions relatives à l'équilibre et aux biais des groupes d'experts, et souligne l'hétérogénéité de ces groupes d'experts en ce qui concerne leurs fonction, organisation, composition et incidences.

L'analyse des données fournies dans le registre des groupes d'experts laisse entendre que des progrès limités ont été accomplis en ce qui concerne le respect des conditions fixées par le Parlement européen sur les groupes d'experts.

Le nombre de membres des groupes d'experts nommés à titre personnel a diminué (passant de 1 719 en 2013 à 1 521 en 2015), de même que le nombre de membres nommés à titre personnel dans le domaine des affaires publiques (de 34 en 2013 à 16 en 2015), ainsi que les membres nommés à titre personnel sans profil professionnel (de 218 en 2013 à 123 en 2015). D'autre part, une diminution générale a été enregistrée en ce qui concerne le nombre de membres non économiques (par

³ CE (2010) Communication du Président à la Commission, Encadrement des groupes d'experts de la Commission: Règles horizontales et registre public, SEC (2010) 7649 final, règle n° 2, paragraphe 1, 10 novembre 2010.

exemple, les ONG ont subies une diminution de 10 % depuis 2013), à laquelle a répondu une augmentation du nombre d'entreprises (plus 5 % depuis 2013) et d'associations (plus 23 % depuis 2013); cette dernière catégorie ne permettant pas de faire la distinction entre les intérêts économiques et non économiques.

De façon générale, l'utilisation du registre des groupes d'experts est limitée en raison d'importantes contradictions entre les données.

Des progrès ont été enregistrés en ce qui concerne l'équilibre depuis 2013; la Commission européenne ayant modifié la composition de certains groupes d'experts et ayant clarifié la composition d'autres. La Commission européenne maintient cependant sa position selon laquelle l'équilibre est facultatif. Dans cette optique, le déséquilibre en faveur des intérêts économiques n'a pas diminué depuis 2013. En revanche, le nombre total de groupes d'experts présentant un déséquilibre a augmenté et est passé de 69 en 2013 (8 % de l'ensemble des groupes d'experts) à 72 en 2015 (9 % de l'ensemble des groupes d'experts). Enfin, 61 groupes d'experts ont été confrontés à un déséquilibre croissant entre 2013 et 2015 tandis que 15 groupes ont évolué vers plus d'équilibre.

En ce qui concerne la transparence, des progrès ont été réalisés depuis 2013, notamment en raison d'un recours accru aux appels à candidature publics, et du fait que le registre des groupes d'experts permet un meilleur accès aux informations sur l'activité des groupes d'experts. Cependant, la Commission européenne maintient sa position en ce qui concerne le recours facultatif à des appels à candidature publics.

Dans l'ensemble, les résultats confirment que les conditions fixées par le Parlement européen en matière d'équilibre et de transparence n'ont pas été respectées, et que les réformes proposées par la Commission européenne (en juin 2015, en réponse à l'enquête menée par le Médiateur européen sur les groupes de travail en 2014-2015) ne parviendront pas au plein respect des conditions fixées par le Parlement européen. La proposition de la Commission européenne de mettre en relation le registre des groupes d'experts et le registre de transparence dispense les membres nommés à titre personnel de s'enregistrer.

Les règles horizontales ne fournissent que des informations limitées sur le rôle du Secrétariat général de la Commission européenne et sur la coordination entre les directions générales. L'ampleur avec laquelle le Secrétariat général peut imposer les règles horizontales aux directions générales n'est pas claire.

L'analyse du registre des groupes d'experts laisse penser que le Secrétariat général ne dispose pas du mandat ni des ressources nécessaires pour imposer un traitement cohérent des apports de données au registre. Malgré les efforts du Secrétariat général, même les nouveaux groupes d'experts (créés depuis novembre 2014) sont toujours concernés par l'enregistrement de données incohérentes.

Il existe des exemples de directions générales qui coordonnent des groupes d'experts, et l'analyse du registre indique une utilisation accrue de la fonction de "direction générale associée", à savoir une direction qui participe à un groupe existant dirigé par une autre direction plutôt que de créer un nouveau groupe distinct.

Considérations et recommandations finales

Sur la base des résultats de cette étude, il est considéré qu'une approche plus systématique envers l'équilibre contribuerait à surmonter les asymétries en matière d'information et à accroître la légitimité de ces groupes. Une transparence accrue permettrait aussi de mettre potentiellement plus en valeur les contributions des groupes d'experts.

Cette étude recommande une approche systématique de l'équilibre, la promotion d'une transparence totale, davantage de ressources pour le contrôle par le Secrétariat général, et l'évaluation systématique des performances des groupes d'experts tant au niveau du système des groupes d'experts dans son ensemble que pour chaque groupe individuellement.

L'étude a décelé la nécessité de réaliser un suivi de la recherche sur trois points: l'utilisation par la Commission européenne de la catégorie de membre "Association"; l'utilisation de l'expertise externe par les Agences de l'Union européenne; et l'utilisation par la Commission européenne de sources alternatives d'expertise, prenant en considération le fait que cette pratique pourrait être caractérisée par des niveaux inférieurs d'équilibre et de transparence que le recours aux groupes d'experts.

1. INTRODUCTION

The European Parliament's (EP) Directorate for Budgetary Affairs requested Blomeyer & Sanz to conduct this research assignment between 13 March and 30 June 2015⁴.

This report addresses the contractual requirement of submitting a final report by end June 2015; an interim report was submitted end May 2015. European Parliament feedback on both reports was integrated in this document.

The introduction briefly presents the study objectives and context (Section 1.1), the methodology (Section 1.2), and this report's structure (Section 1.3).

1.1. OBJECTIVES AND CONTEXT

1.1.1. Objectives

In line with the specific terms of reference, this study aims to provide insights into the development, since 2012, of the European Commission's (EC) system of Expert Groups (EG), including the Register of Expert Groups (REG).

The EC defines an EG as a *'consultative entity set up by the Commission or its services for the purpose of providing them with advice and expertise (...), which comprises at least six members and is foreseen to meet more than once'*⁵. In April 2015, 830 EGs were registered on the REG, counting nearly 25,000 members.

The specific focus of this study is an assessment of the EC's compliance with a set of conditions set out by repeated EP budget reserves for the EG budget. The EP conditions aim to strengthen the balanced representation of interests in the EGs, address conflicts of interest, and ensure transparency, in terms of open access to the working and outputs of the EGs.

By answering the question as to whether the EC has complied with the conditions, this study will prepare the EP for a substantive dialogue with the EC on EGs by updating the EP Committees on Budgets and on Budgetary Control on the main challenges.

The study is set in the wider framework of EP efforts that aim to support stronger integrity in the EU institutions.

For the purpose of this report, integrity is defined as *'accordance with relevant moral values and norms'*⁶:

- Values *'refer both to qualities that contribute to what is conceived as the organizational good and to general standards of conduct, which, although broader and less direct than norms, act as guides in choices that must be made (...)* A *'value'*, then, is a belief or quality that contributes to judgements about what is good, right, beautiful, or admirable'⁷.

⁴ Services Order Form IP/D/ALL/FWC/2009/-056/LOT6/C2/SC6, signed on 13 March 2015

⁵ EC (2010) Communication from the President to the Commission, Framework for Commission Expert Groups: Horizontal Rules and Public Register, SEC (2010) 7649 final, Rule 2(1), 10 November 2010

⁶ Huberts, L. (2014) The Integrity of Governance, What it is, What we know, What is done, and Where to go, page 39

⁷ Huberts, L. (2014) The Integrity of Governance, What it is, What we know, What is done, and Where to go, page 81, referring to Van der Wal, Z. (2008), Value Solidity. Differences, Similarities and Conflicts between the organizational Values of Government and Business, page 10

- Norms *'tell us whether something is good or bad, right or wrong, or beautiful or ugly in a given situation. Norms answer the question 'What is the proper thing to do?' in a certain situation'*⁸.

In the context of the policy process, integrity is expected at all stages of agenda setting, policy preparation, decision, implementation and evaluation⁹, with the first two stages considered of particular relevance to the operation of the EGs.

Recent research on *'throughput legitimacy'* helps clarifying the relation between the review of EGs and integrity¹⁰. Applying a system model of governance, where inputs via throughput lead to outputs and outcomes, Huberts (2014) explains the importance of integrity of the throughput phase. The throughput phase *'translates interests and demands into policy decisions and into activities and instruments that implement those decisions'*. Integrity of the throughput phase contributes to two objectives. First, *'the quality of governance in the throughput phase is crucial for the problem-solving quality of the output'*, and second *'Individuals and communities are willing to accept the results of an 'integrity' process, even when they disagree with the content of the resulting policies'*¹¹.

Applying this concept to the EGs, the throughput phase relates to the work of the EGs in the way in which they consider policy and legal options. The argument is then that an *'integrity'* use of EGs (e.g. balanced representation, transparency) would contribute to an enhanced quality and broader acceptance of EG outputs¹².

Feedback from a recent EP exchange of views on the EP's report on *Transparency, Accountability and Integrity in the EU Institutions* on 5 May 2015¹³, further illustrates the need for efforts on integrity. Indeed, the rapporteur justified the report, inter alia, by referring to the limited public trust in the EU institutions: the latest Eurobarometer shows that 42% of European citizens still rather don't place trust in the EC (38% trust the EC; 20% have no view)¹⁴.

1.1.2. Context

To set the overall context for this study, this section provides a chronological overview of the EG reform process over the past four years, and provides further detail on the EP's conditions on the reform of the EGs.

Chronological overview

- November 2011: EP reserve on the EG budget with four conditions for lifting the reserve¹⁵; Note in this context that the EC's draft budget for 2016 foresees some EUR 26 million for budget line *'Conferences, meetings and expert groups' expenses'*¹⁶

⁸ Huberts, L. (2014) *The Integrity of Governance, What it is, What we know, What is done, and Where to go*, page 81

⁹ Huberts, L. (2014) *The Integrity of Governance, What it is, What we know, What is done, and Where to go*, page 73.

¹⁰ The throughput phase *'translates interests and demands into policy decisions and into activities and instruments that implement those decisions'*. Huberts, L. (2014) *The Integrity of Governance, What it is, What we know, What is done, and Where to go*, page 203

¹¹ Huberts, L. (2014) *The Integrity of Governance, What it is, What we know, What is done, and Where to go*, page 202

¹² On the concept of *'throughput legitimacy'*, see Schmidt, V. A. (2013), *Democracy and Legitimacy in the European Union Revisited: Input, Output and 'Throughput'*. *Political Studies*, 61: 2–22.

¹³ See recorded meeting of 5 May 2015, <http://www.europarl.europa.eu/ep-live/en/committees/search?committee=AFCO>

¹⁴ EC (2014) Standard Eurobarometer 82, page 105, http://ec.europa.eu/public_opinion/archives/eb/eb82/eb82_publ_fr.pdf

¹⁵ EP (2011) Annex to texts adopted at the sitting of Wednesday, 26 October 2011, Amendments to the draft general budget of the European Union for the financial year 2012, PE 473.473

¹⁶ EC (2015), Statement of estimates of the Commission for 2016 (Preparation of the 2016 Draft Budget), Document III.1, Figures by MFF heading, section and budget line, Budget line XX0102 11 02, SEC(2015) 240 final, 27 May 2015 http://ec.europa.eu/budget/library/biblio/documents/2016/DB/DB2016_III.1_en.pdf

- March 2012: the EC commits to transparency on documentation (publication on REG or other relevant website);
- 5 September 2012: the EP meets with the EC to discuss EG reform;
- 6 September 2012: the EC issues its first 'State of Play' report on EGs;
- 19 September 2012: the EP lifts the reserve on the EG budget, considering progress with regard to the four conditions;
- 21 November 2012: Launch of the EP-EC informal dialogue on EGs;
- 28 February 2013: the EC issues its second 'State of Play' report on EGs;
- 12 July 2013: the EC issues its third 'State of Play' report on EGs;
- 6 November 2013: the EP writes to the EC to communicate concern over a report by the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU);¹⁷
- September 2013 to January 2014: individual EC Directorates General (DG) provide 'updates' on their EGs: ENV, RTD (September 2013); CONNECT, EAC, ECFIN, ENTR, ENV, MOVE, TAXUD, Scientific Adviser, SG (December 2013); AGRI, HOME, JUST, MARKT, SANCO, TAXUD, SG (January 2014);
- 12 May 2014: the Ombudsman launches an own-initiative inquiry on EGs;
- October 2014: the EP votes a EUR 3.9 million budget reserve for 2015;
- 27 January 2015: the European Ombudsman writes to the EC with findings from the inquiry and requests the EC to respond with an opinion by 30 April 2015;¹⁸
- 9 February 2015: an EC Secretariat General (SG) letter to Members of the European Parliament (MEP) (group of like-minded MEPs) refers to the 2012/2013 State of Play Reports and individual DG 'updates' from 2013/2014. There is no information on developments since the January 2014 updates.
- 4 May 2015: EC SG interview feedback confirms that a response to the Ombudsman is being prepared, aiming to address all Ombudsman recommendations. The response is expected for end May / early June 2015.¹⁹
- 3 June 2015: The EC issues its opinion on the Ombudsman inquiry, announcing reform in some areas, i.e., 'in principle' use of public calls for applications for EG membership, requiring specific types of EG members (i.e., organisations, individuals appointed as representatives of an interest) to be registered in the Transparency Register, and strengthened conflict of interest provisions for experts appointed in their personal capacity.²⁰

¹⁷ ALTER-EU (2013), A year of broken promises, November 2013, http://www.alter-eu.org/sites/default/files/documents/Broken_Promises_web.pdf

¹⁸ European Ombudsman (2015) Letter to the European Commission requesting an opinion in the European Ombudsman's own-initiative inquiry OI/6/2014/NF concerning the composition of Commission expert groups, 27 January 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/58861/html.bookmark>

¹⁹ Interview with the EC SG, Directorate B Institutional and Administrative Policies, Unit B2 Institutional Affairs, 4 May 2015

²⁰ EC (2015) Commission's opinion on the European Ombudsman's analysis and suggestions, 3 June 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/60019/html.bookmark> (last accessed on 8 June 2015)

The EP conditions

Considering that the EP-EC dialogue on EGs is largely structured in line with the EP conditions (2011) for lifting the budget reserve, it is worth providing more detail on the EP's conditions.

The EP's November 2011 budget reserve specified the following four conditions for lifting the reserve:²¹

- *'Scrap exceptions in the obligation to have a balanced composition of expert groups (technical nature + experts in "personal capacity"). Prohibit a single interest category (business, union or other) from having the majority of the non-government and non-EU seats in any expert group. Provide safeguards against capture from special interests and corporate interests.*
- *Ban lobbyists and corporate executives sitting in expert groups in a 'personal capacity'. The Commission should clarify whether members of an expert group are there as stakeholders or as experts committed to acting in the public interest. The second should be thoroughly checked for conflicts of interest and their "declaration of professional activities" should be in the public domain.*
- *Common selection criteria throughout all DGs, that guarantee balance among different categories of stakeholders and absence of Conflict of Interests for experts and establish an obligatory open selection process with a public call and a published mandate of each expert group which goes beyond a simple representation of Member states authorities.*
- *All membership information (incl. affiliations), agendas, minutes and participants' submissions should be available on-line unless if there is a clear and published reason for not providing this info. Reports of groups should be published before getting adopted by the Commission.'*

Despite the EP-EC exchanges during 2012-2014 on the EC's efforts to comply with the conditions, in October 2014, the EP considered that further efforts were required. Indeed, the October 2014 budget reserve noted four conditions for the budget release:²²

- *'Ban lobbyists and corporate executives sitting in expert groups in a 'personal capacity'. The Commission should clarify whether members of an expert group are there as stakeholders or as experts committed to acting in the public interest. The latter should be thoroughly checked for conflicts of interest and their "declaration of professional activities" should be in the public domain.*
- *Common selection criteria throughout all DGs, that guarantee balance among different categories of stakeholders and absence of Conflict of Interests for experts and establish an obligatory open selection process with a public call and a published mandate of each expert group which goes beyond a simple representation of Member states authorities.*
- *All membership information (incl. affiliations), agendas, minutes and participants' submissions should be available on-line unless if there is a clear and published reason for not providing this information. Reports of groups should be published before getting adopted by the Commission.*
- *A review of the existing rules shall be conducted after the close of the European Ombudsman's Own Inquiry with the aim to transpose its findings into the Commission's rules on expert groups.'*

²¹ EP (2011) Annex to texts adopted at the sitting of Wednesday, 26 October 2011, Amendments to the draft general budget of the European Union for the financial year 2012, PE 473.473

²² EP (2014) Draft Amendment, Heading 5.2 Administrative expenditure of the institutions, Line XX 01 02 11 02

The following table presents an overview of the EP conditions noted in 2011 and 2014 (see Table 1).

Table 1 EP conditions

Criterion	Condition	2011	2014
Balance	No exception to EG balanced composition / no single interest category to have majority of non-government / non-EU seats in any EG	✓	
	Lobbyists / corporate executives ineligible for membership as ' <i>individual expert appointed in his/her personal capacity</i> '	✓	✓
	Conflict of interest check for ' <i>individual expert appointed in his/her personal capacity</i> '	✓	✓
	Public declarations of interest for ' <i>individual expert appointed in his/her personal capacity</i> '	✓	✓
	Common selection criteria that guarantee balance and absence of conflict of interest (for EGs that are not limited to Member States)	✓	✓
Transparency	Mandatory open selection process with a public call and a published mandate (for EGs that are not limited to Member States)	✓	✓
	All EG outputs published online; EG reports published prior to adoption	✓	✓
	Existing rules to be reviewed to address Ombudsman findings		✓

Source: Blomeyer & Sanz on basis of EP conditions

Concluding this section, we note three initial reflections on the EP conditions (with further discussion in Section 2):

- The 2011 condition on balanced composition was not reiterated in 2014; all other conditions are noted in both 2011 and 2014, with the exception of the reference to the Ombudsman inquiry (first noted in 2014 since the Ombudsman inquiry was only launched in 2014); Notwithstanding, this study examines the sum of the 2011 and 2014 conditions, i.e., including the condition of balanced composition;
- Some conditions are drafted in a way that allow for easy verification of compliance, e.g., the '*obligatory open selection process with a public call*' or '*Public declarations of interest for 'individual expert appointed in his/her personal capacity'*'; other conditions require more in-depth review, e.g., have all '*lobbyists and corporate executives sitting in expert groups in a 'personal capacity'*' been banned?
- The EP 2011 conditions were not accompanied by clear targets, i.e., what was the level of compliance to be achieved by the EC to allow for the lifting of the reserve in September 2012? A review of EP-EC correspondence on the EGs suggests that the EP lifted the 2011 reserve in light of EC commitments to reform, rather than actual compliance with the conditions. In more general terms, it is noteworthy that the EP-EC dialogue applied a mostly qualitative approach to the review of the EGs; discussions were only supported with limited quantitative analysis of EG deficiencies, e.g., number of EGs presenting an imbalance, number of EGs characterised by limited transparency etc.

1.2. METHODOLOGY

The study was prepared on the basis of desk research (Section 1.2.1); interviews (Section 1.2.2); and case study work (Section 1.2.3).

1.2.1. Desk research

Desk research focused on the review of documentation prepared by the EC in the context of the EP-EC informal dialogue on EGs ('State of Play' reports for 2012 and 2013, and individual DG 'updates' in 2013 and 2014)²³. The review of the EP-EC informal dialogue aimed to facilitate insights into the focus of reform efforts during 2012-2014.

Moreover, desk research comprised an exhaustive analysis of the data from the REG. This aimed to understand the 'magnitude' of possible deficiencies with regard to balance and transparency²⁴. In this context it is important to note that the REG was found to suffer from a series of substantial data inconsistencies, and this has constrained the data analysis (see Section 2.1.3 for further detail). It is also important to note that the name of the 'Lead DGs' changed between the 2013/2014 and 2015 datasets. For the purpose of data comparison, the analysis used the new names.²⁵

Finally, with a view to illustrating areas of possible further reform, desk research also covered a comparative review of EGs in a selection of EU Member States and third countries, selected on the basis of available data/literature. The focus is on the US federal system, considering the US' longstanding experience with EGs²⁶. Findings from the comparative review are shown throughout Section 2 'Findings' and Section 3 'Recommendations' to illustrate/support recommendations for the reform of the EGs.

1.2.2. Interviews

Interviews were conducted with the EP (15 April 2015), EC SG (4 May 2015), European Ombudsman (15 April 2015), and civil society representatives (16 April 2015 and 12 June 2015)²⁷. A further five EC DGs were interviewed in the context of case study work²⁸. Interviews aimed to validate findings from the desk research and case study work.

1.2.3. Case study work

Case study work focused on selected EGs, aiming to ascertain whether any imbalance in EG composition in favour of 'economic' interests is reflected in EG outputs. The study differentiates between 'economic' and 'non-economic' interests in reference to the distinction used by the

²³ The EP facilitated this documentation on 15 and 16 April 2015.

²⁴ The EC facilitated the Register data in the form of two Extensible Markup Language (XML) files, representing Register entries by the end of 2013 and by the end of 2014, on 17 April 2015. Data for 9 April 2015, the 'cut-off' date for this study, was directly downloaded from the Register website.

²⁵ <http://publications.europa.eu/code/en/en-390600.htm#fn4>.

²⁶ The Federal Advisory Committee Act dates back to 1972, however, attempts to regulate expert groups in order to address, inter alia, the issue of imbalance, date back to the 1960s, e.g. President Kennedy issued first guidelines on the use of expert groups in 1962 (Executive Order 1107). The US counts some 1,000 expert groups with about 40,000 members. See Pilniok, A. (2015) Securing the independence of advice? A comparison of the legal regulation of expert committees in the EU and the United States, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2618068 (last accessed on 16 June 2015)

²⁷ Civil Society Representatives included Corporate Europe Observatory, BirdLife International, Transparency International

²⁸ Interviews with individual EC DGs comprised DG ENV (16, 17 and 26 June) DG GROW (18, 19 and 25 June), DG FISMA (11 June), DG SANCO (12 June), DG AGRI (18 June).

Ombudsman in its recommendations to the EC²⁹. In this context it is important to note that the study does not differentiate any further between different types of economic interests, e.g., small- and medium sized versus large enterprises, and this is explained with the REG failing to differentiate by enterprise size.

Case study work comprised:

- Desk research on the EGs (e.g., critical review of existing assessments of balance and transparency by ALTER-EU, EC assessments in the framework of the EP-EC dialogue on EGs);
- Interviews with relevant DGs (e.g., feedback on the extent of balanced output from EGs);
- Survey of EG members representing non-economic interests (perceptions of balance and transparency; a survey was addressed to 57 EG members, 20 members responded (35%).
- Case studies were selected from the EGs that experienced a change in membership composition between 2012 and 2015 in terms of 'rebalancing' towards non-economic interests, and comparing for each of these EGs in how far a change in their composition has led to change in their outputs. The following table shows the selected EGs.

Table 2 Case study expert groups

DG	EG
ENV	<ul style="list-style-type: none"> • Competent authorities for Registration, Evaluation, Authorisation and restriction of Chemicals (REACH) and Classification, Labelling and Packaging (CLP) (E02385, active) • Expert group on the exchange of information on best available techniques related to industrial emissions (E02611, active)
GROW	<ul style="list-style-type: none"> • EG on the Annual European Tourism Forum, EG on the revision of Leader SHIP strategy (E02774, on hold) • Working Group on Motor Vehicles (E01295, active) • Working Group on Motorcycles (E01296, active) • Mission Evolution Advisory Group (E02661, closed) • European Multi-Stakeholders Platform on ICT Standardisation (E02758, active) • Raw Materials Supply Group (X01353, active)
FISMA	<ul style="list-style-type: none"> • EG Payment Market System Expert Group (E02287, active)
SANCO	<ul style="list-style-type: none"> • Advisory group on the food chain and animal and plant health (AGFC) (E00860, active)
AGRI	<ul style="list-style-type: none"> • The Expert group on agricultural commodity derivatives and spot markets (E02834, active)

1.3. REPORT STRUCTURE

Further to this introduction, the report is organised in two main sections:

- Section 2 'Findings' discusses progress with the reform of the EGs since 2012. Starting with an introduction to the EG system (Section 2.1), the section focuses on assessing the system's balance and transparency (Section 2.2), and efficiency in terms of EC SG oversight and coordination between DGs (Section 2.3);
- Section 3 'Recommendations' reflects on possible avenues for further reform, considering the existing reform proposals made by the Ombudsman, and drawing on comparative research on EGs in a selection of EU Member States and Third Countries.

²⁹ European Ombudsman (2015) Letter to the European Commission requesting an opinion in the European Ombudsman's own-initiative inquiry OI/6/2014/NF concerning the composition of Commission expert groups, 27 January 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/58861/html.bookmark>

2. FINDINGS

This section presents the findings from the assessment of EG developments since 2012. The first sub-section introduces the EGs (Section 2.1); Section 2.2 reviews the system's balance and transparency; finally, Section 2.3 comprises an assessment of the system's efficiency (role of the EC SG, coordination between different EC DGs).

Findings from the comparative review of the EG system are presented throughout the text to illustrate the different systems' strengths and weaknesses, and to provide inspiration for the ongoing reform process.

2.1. INTRODUCTION TO THE EXPERT GROUPS

KEY FINDINGS

- The normative framework on Expert Groups is set out in the Horizontal Rules for Commission Expert Groups, adopting a rather discretionary approach, and leaving it to the European Commission to decide on the extent of balance and transparency.
- There is still relatively little academic research on Expert Groups. Existing research confirms, however, issues over balance and bias, and underlines the heterogeneity of the Expert Groups in terms of function, organisation, composition and impact.
- The analysis of data provided in the Register of Expert Groups suggests limited development towards compliance with the European Parliament conditions on the Expert Group budget. The number of Expert Group members appointed in their personal capacity has decreased (from 1,719 in 2013 to 1,521 in 2015), and so has the number of members appointed in their personal capacity dedicated to public affairs (from 34 in 2013 to 16 in 2015) and members appointed in their personal capacity with no professional profile noted in the REG (from 218 in 2013 to 123 in 2015); on the other hand, there has been an overall decrease in the number of non-economic members (e.g., NGOs experienced a 10% decrease since 2013), paralleled by an increase in the number of corporate members (by 5% since 2013), and association members (by 23% since 2013), the latter category not allowing for a distinction between economic and non-economic interests.
- Overall the use of the Register of Expert Groups is constrained by important data inconsistencies.

This section introduces the EG system, comprising a presentation of the normative framework (section 2.1.1), a brief literature review on the EG system (section 2.1.2), and key data on the number and composition of the EGs (section 2.1.3).

2.1.1. Normative framework

This section briefly presents the normative framework governing the EGs since the last comprehensive revision of the framework in 2010.

The current normative framework on EGs is set out in an EC Communication, comprising an annex with '*Horizontal Rules for Commission Expert Groups*'³⁰.

An EC Staff Working Document provides additional guidance in the form of:³¹

- Further detail on the EG system;
- Model format for EC Decisions setting up an EG;
- Model format for calls for applications for the selection of experts appointed in a personal capacity;
- And a model for EG rules of procedure.

The following bullet points take note of a series of key issues:

- An EG is defined as a '*consultative entity set up by the Commission or its services for the purpose of providing them with advice and expertise as set out in Rule 3, which comprises at least six members and is foreseen to meet more than once.*' (Rule 2(1))
- Balanced representation is optional: '*Where individual experts are appointed to represent an interest or where organisations are appointed as members of expert groups, Commission services shall, as far as possible, ensure a balanced representation of relevant stakeholders, taking into account the specific tasks of the expert group and the type of expertise required.*' (Rule 9(2))
- Conflicts of interest: Rule 9(1) (Selection process and appointment of members) specifies that the selection of individual experts appointed in their personal capacity '*shall be carried out in such a way as to avoid any conflicts of interest*'. Moreover, '*The Commission services concerned shall inform experts who are appointed in their personal capacity that, by accepting to be members of the group, they commit themselves to act independently and in the public interest. Commission services shall also inform those experts that they may be excluded from the group or a specific meeting thereof, should a conflict of interest arise.*'
- Public calls are optional: Rule 9(1) notes that '*public calls for applications shall be used as far as reasonably practicable*'.
- Transparency: The Rules' Chapter IV is dedicated to transparency; all EGs are to be published in the REG, including names of individual experts appointed in their personal capacity, and of organisations; information on the EG activities is to be made public on the REG or on dedicated EG websites linked to the REG; information on the selection process is to be included in the REG.

Further detail on the Horizontal Rules is provided in Section 2.3 on efficiency (provisions on the functions of the EC SG).

Finally, at this stage it is worth noting that existing comparative research on EGs situates the EC's normative framework half-way between, on the one hand, an approach giving the executive full discretion on the establishment and use of EGs, and on the other, comprehensive legislative

³⁰EC (2010) Communication from the President to the Commission, Framework for Commission Expert Groups: Horizontal Rules and Public Register, SEC (2010) 7649 final, 10 November 2010

³¹ EC (2010) Commission Staff Working Document, Accompanying document to the Communication from the President to the Commission, Framework for Commission Expert Groups: Horizontal Rules and Public Register, SEC (2010) 1360 final, 10 November 2010

formalisation. Referring to the EC system, it is considered: *'The (...) model regulates the use of advisory committees for the executive, but does so only by creating self-binding soft law. (...) Since a single institution is regulated in this model, a comprehensive, justiciable approach is beyond its scope. There are rules for the use of expert groups by the Commission, but they are non-binding, internal rules'*³². For comparison, German expert groups are considered an illustration of the 'discretionary approach', whilst the US adopted the formal legislative approach³³.

2.1.2. Literature review

There is relatively little academic research specifically on the EC's EGs³⁴. Academic research on EGs tends to draw its inspiration from research on a range of overlapping research interests. It draws on the theme of the role of expertise in policy making generally (Haas 1992; Weiss 1979); the broad literature on interest groups and lobbying; and, more specifically on the comparative study of EU advisory committees (Christiansen and Kirchner 2000, amongst others), including the EU comitology system (Joerges and Neyer 1997; Robert 2010; Joerges and Vos 1999; Brandsma 2013); the role of expertise in the EU institutions (Radaelli 1999; Boswell 2009; Dreger 2014; Moodie and Holst 2014); and the European administrative system (Bauer and Trondal 2015). In the case of the latter, a number of studies focus on the democratic quality of EU committees (Rhinard 2002; Heard-Lauréote 2010) or on their internal practices (Gehring 1999; Egeberg et al, 2003; Blom-Hansen and Brandsma 2009; Trondal 2010).

A number of authors touch directly on EC EGs. Very few have finalised research projects (see below). Research on EGs has been both quantitative (Gornitzka and Sverdrup, 2008, 2011, 2015) and qualitative, with the latter often taking the form of single case studies of individual EGs (Vos 2000; Willis 2009), but as Metz (2015) says, these studies tend to use different theoretical frameworks which make lesson-learning and generalisation across projects impossible.

The most recent publication including a focus on EGs is a special issue of the online journal *Politics and Governance*³⁵. This presents findings from a project coordinated by ARENA at the University of Oslo, Norway, with the special issue edited by Åse Gornitzka and Cathrine Holst, both of that institution. The project was more generally on the use of expertise in the EU institutions, though the primary focus is on the EC (though not necessarily on EGs):

- Van Ballaert's research focuses explicitly on EGs however. He questions whether the uncertainty and salience of issues determine whether the EC will use an EG to assist with policy formulation. Using rationalist theory, three hypotheses test whether transversality, the importance of standard-setting and the salience of a policy proposal determine whether an EC DG will ask an EG to assist in preparing that same proposal. Data was retrieved from official documents via EUR-Lex.

³² Pilniok, A. (2015) Securing the independence of advice? A comparison of the legal regulation of expert committees in the EU and the United States, page 4, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2618068 (last accessed on 16 June 2015)

³³ Pilniok, A. (2015) Securing the independence of advice? A comparison of the legal regulation of expert committees in the EU and the United States, page 4, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2618068 (last accessed on 16 June 2015)

³⁴ Pilniok, A. (2015) Securing the independence of advice? A comparison of the legal regulation of expert committees in the EU and the United States, page 4, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2618068 (last accessed on 16 June 2015)

³⁵ Volume 3 (1), published at the start of 2015, <http://www.cogitatiopress.com/ojs/index.php/politicsandgovernance/issue/view/22>

A regression analysis was conducted on a sample of 260 proposals that were drafted by DG CLIMA, DG CONNECT, DG ENV and DG MARKT. All proposals were adopted between 2010 and 2013. The empirical analysis shows that EG involvement in policy formulation is neither negligible nor ubiquitous in terms of frequency, as EGs assisted in preparing 33.5% of the proposals³⁶. DGs were significantly more likely to consult an EG when the proposal under preparation was more transversal in nature and/or when that proposal treated standard-setting more pronouncedly. In contrast, the salience of a proposal was shown to be insignificantly related to the presence of an EG during policy formulation.

- Gornitzka and Sverdrup's work also focuses specifically on EGs. It examines the patterns of participation in the EG system of a broad set of societal actors—NGOs, social partners/unions, consumer organisations, and business/enterprise. Taking on an “executive politics” perspective, the authors identify the main patterns of participation and analyse organisational factors that affect the inclusion of societal actors in the EG system. The authors find that such actors are strongly involved in this system. Yet, there is a striking heterogeneity in the extent to which the EC's administrative units include societal groups as experts in the policy process. The logics that underpin the inclusion of business organisations are not identical to the logics of inclusion applied to social partners and NGOs. The conditions under which industry and corporate actors are included/excluded from EGs differ from what applies to the inclusion of NGOs and social partners, for instance. The EC as the core supranational executive is thus selectively open for societal involvement in its EG system, and this bureaucratic openness is patterned, clustered, and conditioned by structural factors that affect how the EC as a multi-organisation operates.
- Holst and Tornblad's work is premised on the view that expert advice in political processes is supposed to improve decisions; and that if expertise fails in this function, a legitimacy problem occurs. Their research provides a theoretical exploration of four variables that are key when assessing the epistemic quality of expert deliberations: the degree to which these deliberations are 1) informed by technical expertise, 2) regulated by epistemically optimal respect and inclusion norms, 3) focused on politically relevant and applicable knowledge, and 4) approaching questions involving moral judgment and standard setting competently. Previous research on the EC's use of expert advice has more or less over-looked the question of experts' epistemic performance, and this paper discusses the possible reasons for this in light of well-known methodological challenges in studies of elite behaviour, access and bias problems. A discussion of the merits and limitations of different available data on the EC experts shows that the biggest obstacle in the study of experts' epistemic performance is rather the problem of epistemic asymmetry, that is, of how researchers as non-experts can assess the epistemic quality of experts' contributions and behaviour. The paper offers, finally, a set of strategies to get research going despite this problem.
- Johan Christensen's study in the same special issue is perhaps less directly relevant to the study of EGs, though it may have some implications for their use. His interest is in examining the kind of

³⁶ This is a quantitative assessment based on document analysis (all cases were coded when the EC reported that it consulted an EG in preparation of a legal act). Julia Metz found in her qualitative analysis that EGs are involved far more often (35 of 48 legislative proposals = 73%), however, the EC does not always report this in its proposals or impact assessments.

expertise found within the EC, amongst its own officials. He identifies a drop in the number of economic specialists recruited, and also finds evidence that economic expertise is not encouraged within the department hierarchy of the EC. In sum, he finds that expert knowledge is not tied to a particular profession, nor rooted in the EC's departmental structure. These findings might be relevant to the study of EGs, as it identifies gaps in EC expertise. The EC demand for experts may not simply be a function of the size of the EC, therefore, but also of its recruitment and organisational practices.

- Finally Cathrine Holst and John Moodie are interested in the way in which the EC communicates its use of expertise. They weigh up the merits of producing documents which discuss expert policies and practices on the one hand, and a more deliberative approach which might see the EC engaging in open, reflective and reason-based interchange. The findings suggest that the EC is silent on 'unpleasant' topics, such as the undemocratic nature of existing expertise arrangements and the strategic uses of knowledge in EU policy-making. The authors suggest that if the EC wants to adhere to regulation, whilst responding to its critics, and engaging critically with demands for democratisation, it would do well to adopt a more deliberative approach.

The most comprehensive and recent study of EGs was conducted by Julia Metz, whose book was published in August 2015. The aim of her research was to address the questions: how does the EC use its EGs in the policy process? And which factors explain variation in the EC's usage of EGs? Metz's research aims to fill a gap in the literature by focusing on the EC's use of EGs. She argues that most research to date has examined the issue from the perspective of the members of the EGs, rather than from the perspective of the EC; most research fails to combine qualitative and quantitative research; and a further weakness is that the relationship between the study of the EGs and the legislative process tends to be unclear.

This research is theory-driven, drawing on resource dependency theory. This judges the relationship between the EC and its EGs to be driven by resource exchanges. This approach assumes the actors involved behave rationally. The theoretical framework also draws on a more normative approach, which focuses attention on the relevance of administrative culture. In seeking to explain the use of EGs, two explanatory variables are identified. The first is the type of EGs (size, legal basis, mandate and so on); the second is issue context (in the sense of the salience and complexity of the issue). Administrative culture (the culture of individual DGs) forms an intervening variable which explains why the two explanatory variables do not produce consistent outcomes. To answer the research questions, the project combines qualitative and quantitative methods, at three levels of analysis: the systemic level, which provides updated information at the individual level on EG members; the individual case-study level, which focuses on four EGs in the area of research and innovation policy; and the policy-sector level, which involves an analysis of 48 legislative proposals.

'The notion of a 'Commission expert group' conceals a broad variety of different bodies, and ... they are used by the Commission in different ways.' This is the general conclusion of this study. EGs are used not only to provide expert knowledge (technocratic problem-solving), but for political ends, allowing actors in the EC to gain influence and power. Here, the uses of expert committees are to substantiate politically a particular position, gaining expert support against other actors; and to build political consensus in advance of formal decision-making. How the EC uses its EGs depends on the resources required (issue context) and the ability of an EG to provide those resources (group characteristics).

The extent to which the EC uses EGs is influenced by the administrative culture. Thus while '*...the Commission is formally entitled to convene and to involve expert groups in the policy process and to use them according to its needs, in practice it is hampered by this constraint*'. The project nevertheless supports the view that the EC is not just a technocratic body, but also a political executive. Politics and administration are intertwined in the process that leads to EU legislation.

2.1.3. Key data on EG number and composition

Drawing on the REG, this section presents key data on the EGs, showing where possible, developments between the end of 2013 and April 2015 (The EC provided REG datasets for end 2013 and end 2014; the dataset for April 2015 was downloaded directly from the REG).

Information is presented in the following order:

- Number of EGs: total numbers and number of EGs per DG (Section 2.1.3.1);
- EG members: total numbers and per member type (national administration, individual expert, organisation) (Section 2.1.3.2);
- Organisations: per organisation type (e.g. association, academia, corporate etc.) (Section 2.1.3.3);
- Individual experts appointed in their personal capacity: per DG and per professional profile (Section 2.1.3.4);
- Individual experts appointed as representatives of an interest: per DG, per professional profile, and per interest represented (Section 2.1.3.5).

Findings of relevance for the subsequent discussion of balance and transparency are shown as underlined text.

2.1.3.1. Number of EGs

Total number of EGs

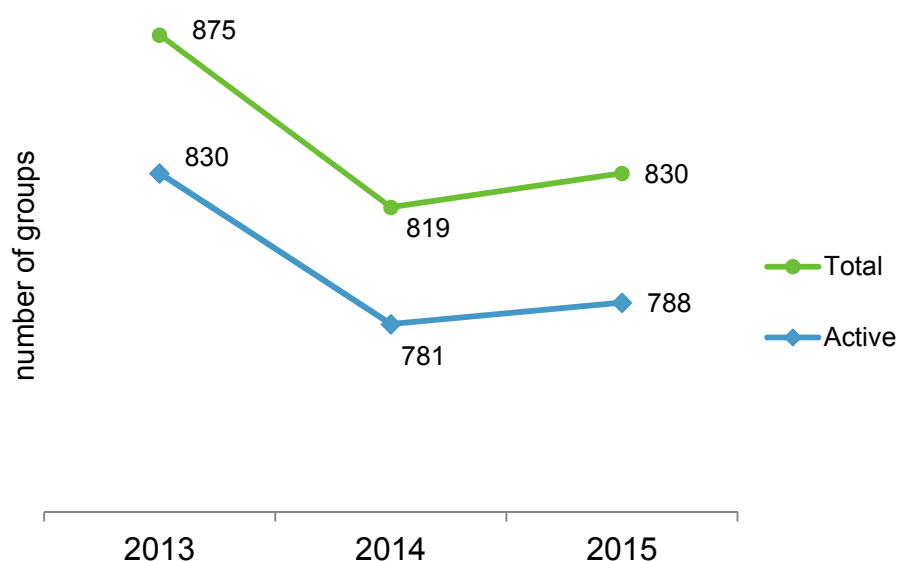
In April 2015 the REG counted a total of 830 EGs, out of which 788 were registered as 'active' and 42 as 'on hold', i.e., EGs undergoing revision (Figure 1). Figure 1 also shows an overall decrease of about 5% between 2013 and 2015 for both the total number of EGs and active EGs. Whilst there has been a small increase between 2014 and 2015, it is worth comparing the figures for these years with earlier figures. Indeed, the number of EGs peaked in 2006 with over 1,300 EGs, and decreased since then³⁷. Finally, the constant difference between active and on-hold EGs is explained with ongoing EG reform. This indicates that despite the significant drop in the number of expert groups this is still an important aspect of how the EC policy process works and how it connects to different types of actors in the policy process.

EGs per DG

As demonstrated by previous overviews, there are huge variations in the extent to which DGs use expert groups as part of the policy process. Looking at developments per lead DG (i.e., the DG responsible for the EG),

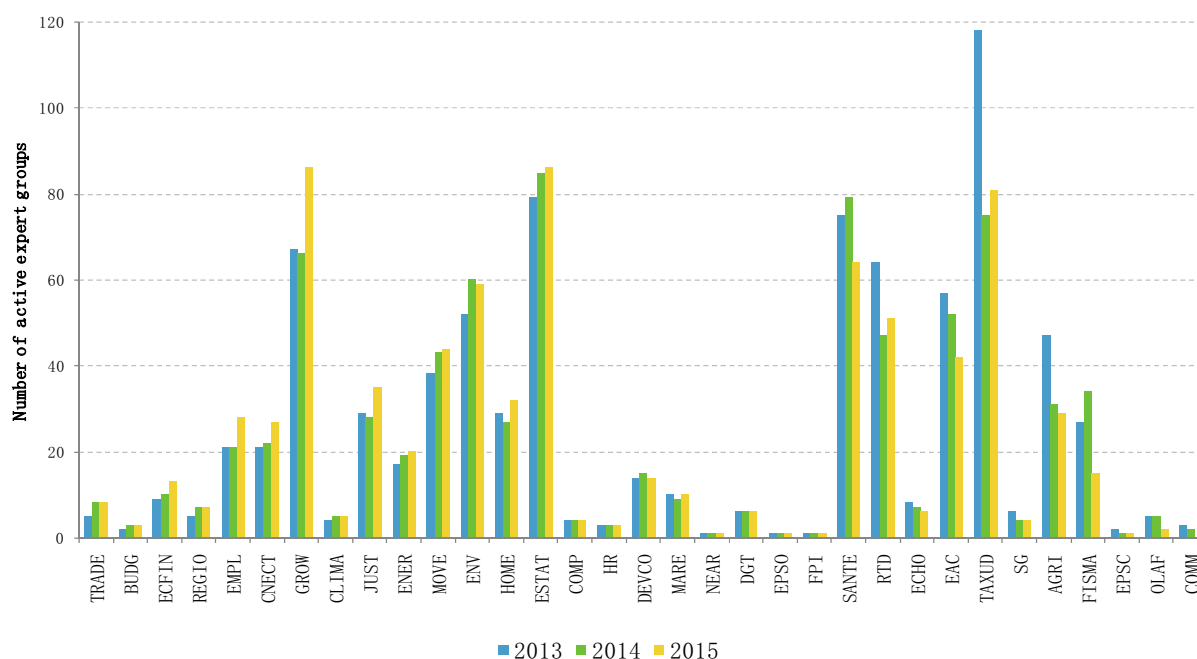
Figure 2 shows that some EC Services have experienced an important decrease in the number of active EGs, e.g., DG TAXUD; other DGs have experienced an increase, e.g., DG GROW.

³⁷ Hartlapp, M., Metz, J., Rauh, C. (2014) Which Policy for Europe, Power and Conflict inside the European Commission, page 212.

Figure 1 Number of expert groups

Source: Blomeyer & Sanz based on XML data (EC 2013, 2014, 2015).

Note: The above figure shows 'total' expert groups ('active' + 'on-hold') and the 'active'. The 'on-hold' may be calculated as the difference between 'total' and 'active'.

Figure 2 Number of active expert groups per lead DG and year

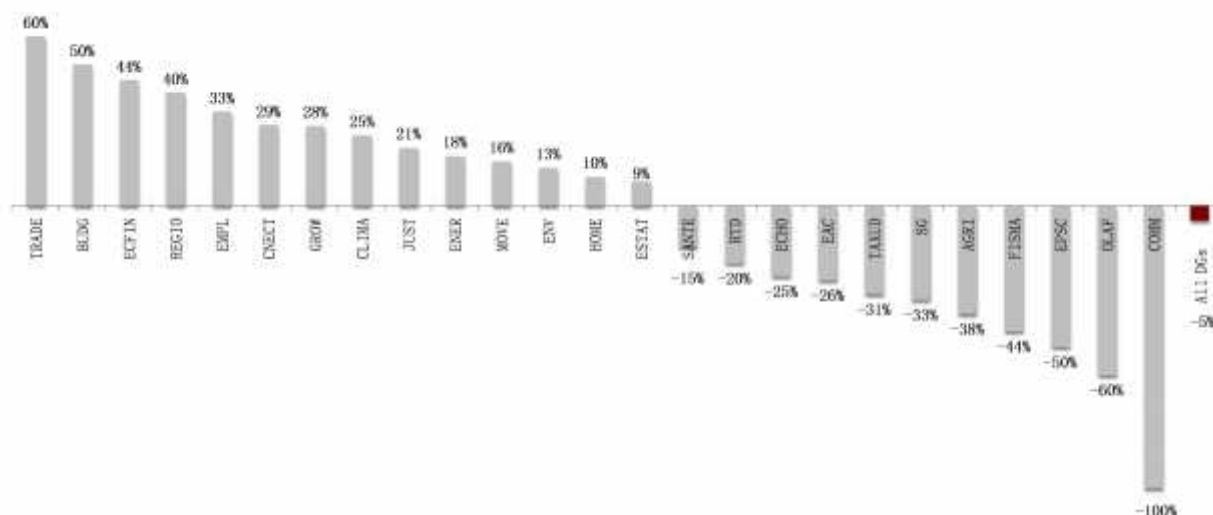
Source: Blomeyer & Sanz based on XML data (EC2013, 2014, 2015).

Note: DGs are shown in the order of highest to lowest change (%) of EGs between 2013 and 2015. For example, DG TRADE's active EGs increased by 60% (from 5 in 2013 to 8 in 2015); whilst OLAF experienced a decrease by 60% (from 5 in 2013 to 2 in 2015).

In terms of percentage, DG Communication (COMM), the European Anti-Fraud Office (OLAF), the European Political Strategy Centre (EPSC) have experienced a decrease; other DGs have experienced an increase, e.g., DG Trade (TRADE), DG Budget (BUDG), DG Economic and Financial Affairs (ECFIN),

etc. Looking at the absolute numbers, the decrease is led by TAXUD (-37), AGRI (-18), EAC (-15), RTD (-13), FISMA (-12), and SANTE (-11), and the DGs that have experienced increases include GROW (+19) followed by ESTAT, ENV, MOVE, JUST, CNECT and EMPL with increases of 6-7 EGs.

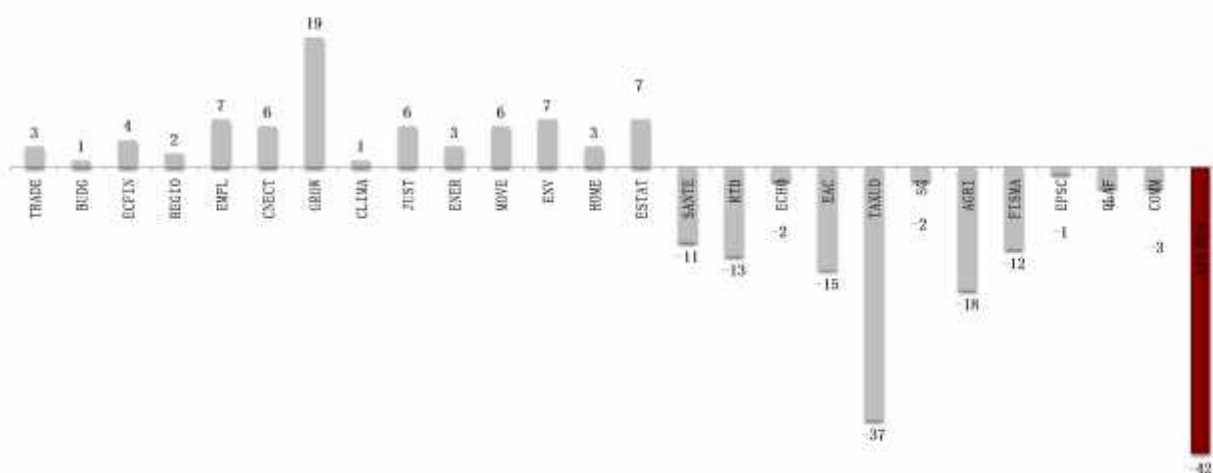
Figure 3 Changes (%) in number of EGs per lead DG



Source: Blomeyer & Sanz based on XML data (EC 2013, 2015).

Note: The percentage change is calculated as: $(2015 \text{ value} - 2013 \text{ value}) / (2013 \text{ value})$. DGs COMP, HR, DEVCO, MARE, NEAR, DGT, EPSO and FPI present no change between 2013 and 2015 and are not included in the figure.

Figure 3b. Changes (absolute) in number of EGs per lead DG



Source: Blomeyer & Sanz based on XML data (EC 2013, 2015).

Legend: The last bar, in red colour, represents 'All DGs'

Note: DGs COMP, HR, DEVCO, MARE, NEAR, DGT, EPSO and FPI present no change between 2013 and 2015 and are not included in the figure.

2.1.3.2. EG members

This sub-section shows the total number of EG members and members per type. There are three different types of membership status, namely, 'member', 'alternate member', and 'observer'. The data analysis is limited to the status of 'member'. Unless stated otherwise, EGs include both 'active' and 'on-hold'.

At this stage an important caveat needs to be noted. The real figures regarding the number of individual members may differ from the figures presented in this analysis. This is explained by inconsistencies in the naming of some organisations. For example, the REG data refers with different names to the European Consumer Organisation (BEUC), depending on the DG to which the EG comprising BEUC is associated. DGs AGRI, FISMA, GROW and JUST refer to '*BEUC*', DG ENV to '*BEUC (Bureau Européen des Unions de Consommateurs)*', DG SANTE to '*BEUC - European Consumers Organisation*'. DG GROW refers to BEUC in at least eight different ways depending on the EG concerned³⁸. The 2015 data set refers to BEUC in 25 different ways³⁹. However, since the EC facilitated the dataset in the form of one single XML file per year it was not possible to 'clean' the data inconsistencies. Therefore, the quantitative analysis counts some members as more than one unique-member⁴⁰.

Before presenting the data on EG members it is worth noting:

- There are four types of EG members: i) National administration; ii) Organisation; iii) Individual expert appointed as representative of an interest; and iv) Individual expert appointed in his/her personal capacity.
- The analysis differentiates between 'unique-members' and 'non-unique-members' (or just, 'members'). A unique-member is a legal or physical person of any of the four types that belongs to at least one EG. Note that a unique-member will count as just one unique-member regardless of how many EGs the unique-member belongs to. On the other hand, non-unique-members refer to the aggregate of all unique-members, counting as many times as EGs associated with. This can be illustrated with the following example: Supposing the data set only included organisation X belonging to EGs EG1, EG3, and EG5; and organisation Y belonging to EGs EG1 and EG9; in this case, the number of unique-members is two (organisations X and Y), and the number on non-unique-members is five (X in EG1, X in EG3, X in EG5, Y in EG1, and Y in EG9).

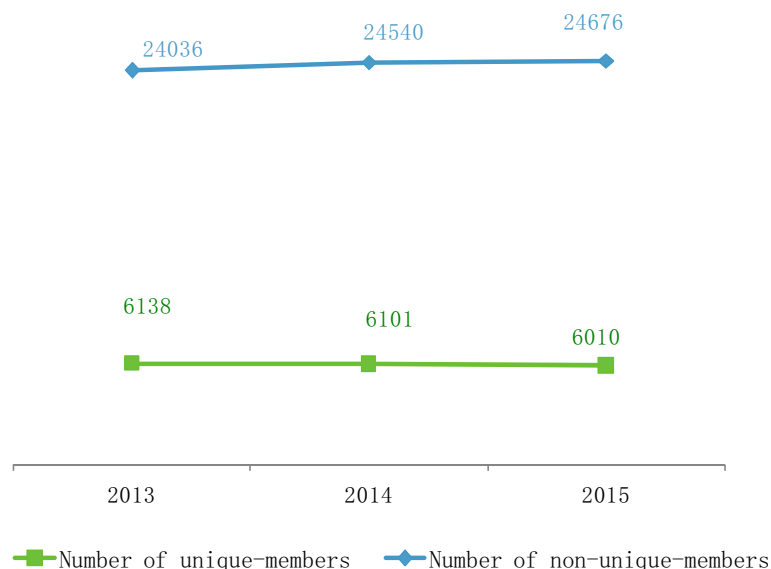
³⁸ 'The European Consumer Organisation (BEUC)' (EG E02650); 'European Consumer Organisation (BEUC)' (EG E02890); 'Bureau Européen des Unions de Consommateurs – BEUC' (EG E02558); 'BEUC - European Consumers Organisation' (EG E01295); 'BEUC - European consumer Association' (EG E01576); 'BEUC (European Consumer Association)' (EG E02896); 'BEUC (Bureau Européen des Consommateurs)' (EG E02510); 'BEUC' (EG E01798), etc.

³⁹ BEUC; BEUC (EU consumers); BEUC (Bureau Européen des Consommateurs); BEUC (Bureau Européen des Unions de Consommateurs); BEUC (European Consumer Association); BEUC (European Consumer Organisation); BEUC - Bureau Européen des Unions de Consommateurs; BEUC - Bureau Européen union des consommateurs; BEUC - data protection; BEUC - European consumer Association; BEUC - European Consumers Organisation; BEUC - European consumers organisations; BEUC - European Consumers' Organisation; BEUC - The European Consumer's Organisation; BEUC - The European Consumers' Organisation; BEUC, Bureau européen des unions de consommateurs; BEUC, the European consumer Organisation; BEUC-Bureau Européen des Unions de Consommateurs; Bureau Européen des Unions de Consommateurs (BEUC); Bureau Européen des Unions de Consommateurs - BEUC; European Consumer Organisation (BEUC); European Consumer Organisation / WHICH? (BEUC); European Consumers' Organisation (BEUC); The European Consumer Organisation (BEUC); The European Consumers' Organisation (BEUC)

⁴⁰ The EC was asked (email 17 April 2015) to facilitate the REG data in the form of the original database to allow the set up and running of SQL queries, and to produce 'clean' data (e.g., avoid multiple naming), however, the EC indicated that data could only be facilitated in annual XML files (email, 21 April 2015).

Number of EG members

Figure 4 Number of members



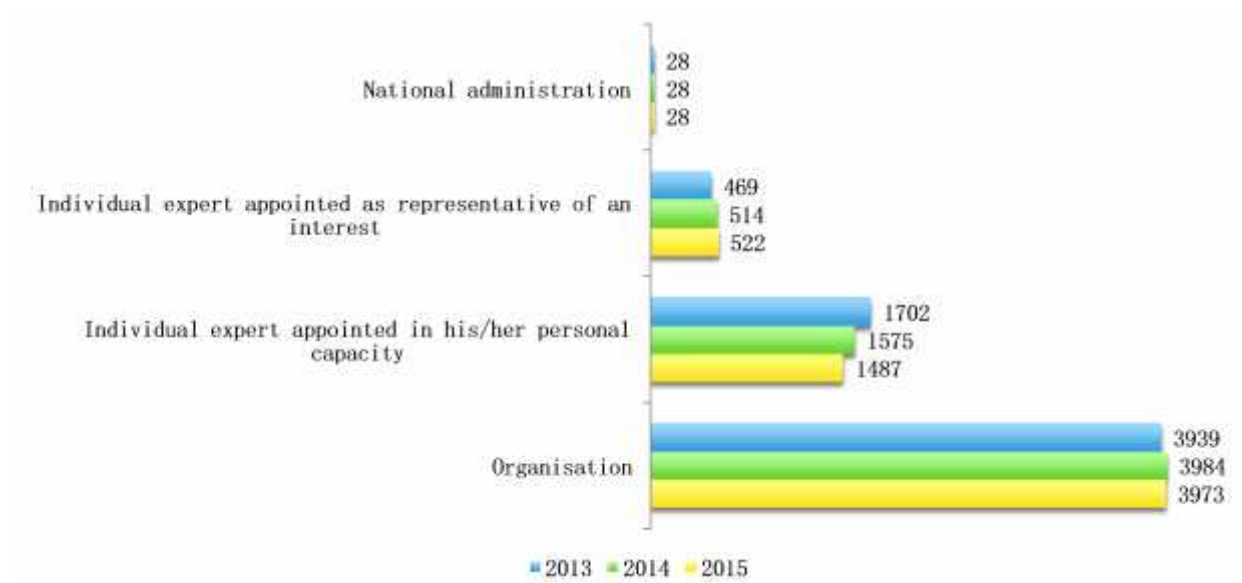
Source: Blomeyer & Sanz based on XML data (EC2013, 2014, 2015).

Note: The figures relate to all EGs, 'active' and 'on-hold'.

In April 2015, the REG counted a total of 6,010 unique-members, comprising organisations (66%), individual experts appointed in their personal capacity (25%), individual experts appointed as representative of an interest (9%), and national administrations (0.5%, the low percentage being explained by the fact that this relates to a total of 28 Member States)⁴¹. The figures for 2013-2015 show a slight increase of non-unique members of 3%, and a slight decrease of unique-members of 2%. In other words, there are fewer actors (legal or physical persons) involved in 2015 compared to 2013, but, overall, these are present in a larger number of EGs.

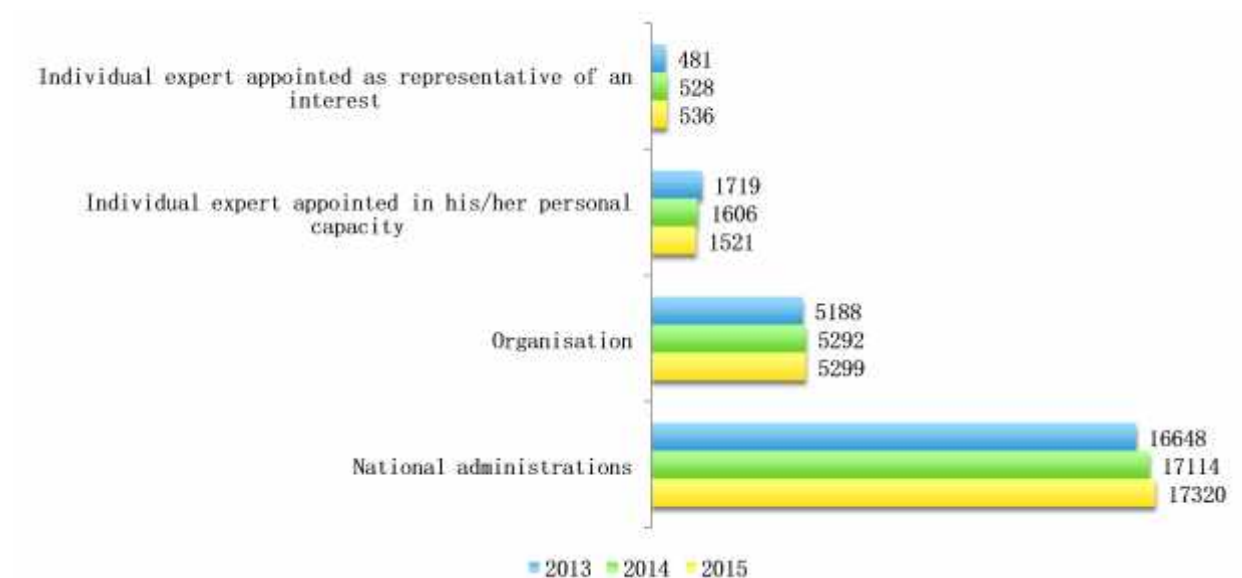
Over the years (2013-2015) the overall number of unique-members has decreased by 2%. In this respect, it is worth noting that whilst the number of individual experts appointed in their personal capacity has decreased by 13%, the number of individual experts appointed as representative of an interest has increased by 11%. This development indicates EC efforts to address the EP condition of making restrictive use of individual experts appointed in their personal capacity ('Lobbyists / corporate executives ineligible for membership as 'individual expert appointed in his/her personal capacity').

⁴¹ Values until April 2015. The percentages for end 2013 and end 2014 are very similar.

Figure 5 Number of unique-members per category

Source: Blomeyer & Sanz based on XML data (EC2013, 2014, 2015).

Turning to non-unique-members, the period 2013-2015 has witnessed a 3% increase in the total number of non-unique members. Non-unique members comprise national administrations (70%), organisations (22%), individual experts appointed in his/her personal capacity and as representative of an interest (6% and 2% respectively). (See Figure 6).

Figure 6 Number of non-unique-members per category

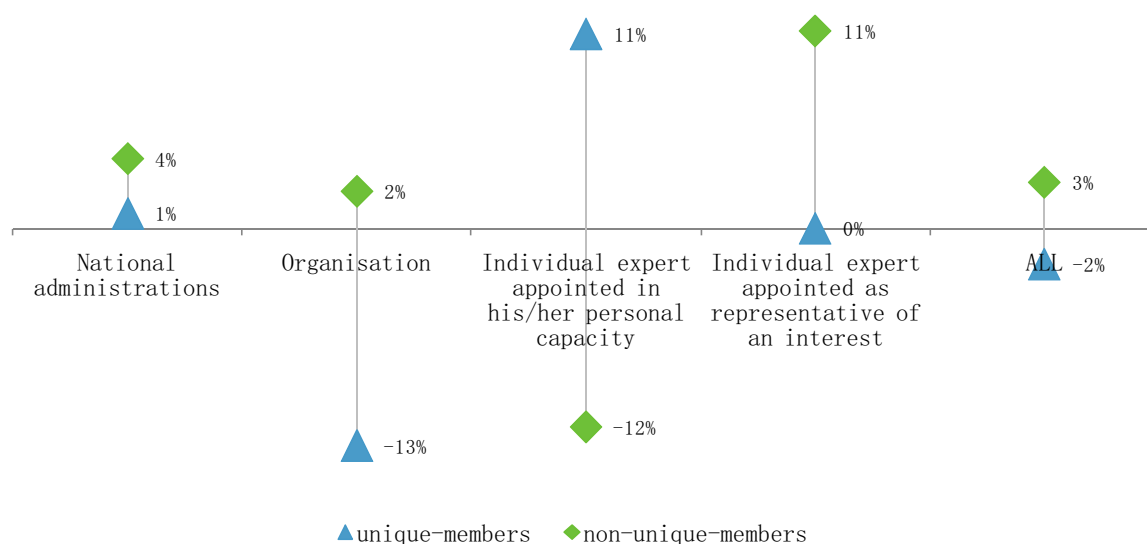
Source: Blomeyer & Sanz based on XML data (EC 2013, 2014, 2015).

Comparing the data for unique versus non-unique members, it is worth noting:⁴²

- There are only 28 national administration unique-members (28 Member States) versus 17,320 national administration non-unique-members. This indicates that national administrations are members of most EGs thus contributing to the multiplier effect⁴³.

Whilst the number of unique-members has slightly decreased by 2% between 2013 and 2015, the number of non-unique-members has slightly increased by 3% (See Figure 7)⁴⁴. The aforementioned multiplier effect explains this, holding true for national administrations, and to a much lesser extent for organisations (3,973 unique-members versus 5,299 non-unique-members). On average, an organisation sits on about 1.3 EGs. The ratio for individuals –in their personal capacity or representing an interest- is about one individual for one EG.

Figure 7 Change (%) on the number of members by category (2013-2015)



Source: Blomeyer & Sanz based on XML data (EC 2013, 2014, 2015).

2.1.3.3. Organisations

This sub-section shows organisation members per type (e.g., association, academia, corporate etc.). Unless stated otherwise, the analysis refers to non-unique-members.

There are 12 different types of organisation. 'Association' is the most common type of organisation, whilst 'financial institution' is the least common. Looking at developments between 2013 and 2015, the organisation type 'association' has experienced an important increase between 2013 and 2015 (23%). Similarly, the organisation type 'corporate' has experienced an increase of 5%, and this despite the EC's restrictive use of this category, i.e., the use is limited to individual companies, with associations of companies registered as 'association'. It is also worth noting that the types 'NGO',

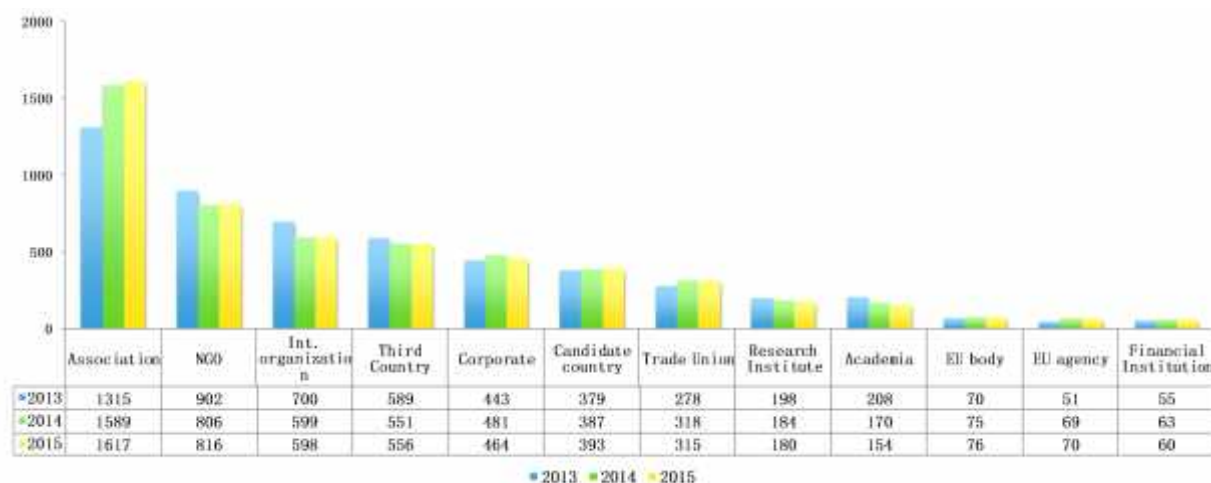
⁴² The analysis is based on 2015 data, however, the results are very similar for 2013 and 2014.

⁴³ The number of EGs formed exclusively by national administrations has decreased from 374 EGs in 2013 to 371 EGs in 2015.

⁴⁴ However, given the data inconsistencies in the REG's data entries mentioned before, these marginal changes should not be exaggerated, as a certain error rate is assumed for the total number of participants anyway (e.g. BEUC counted as 25 different organisations).

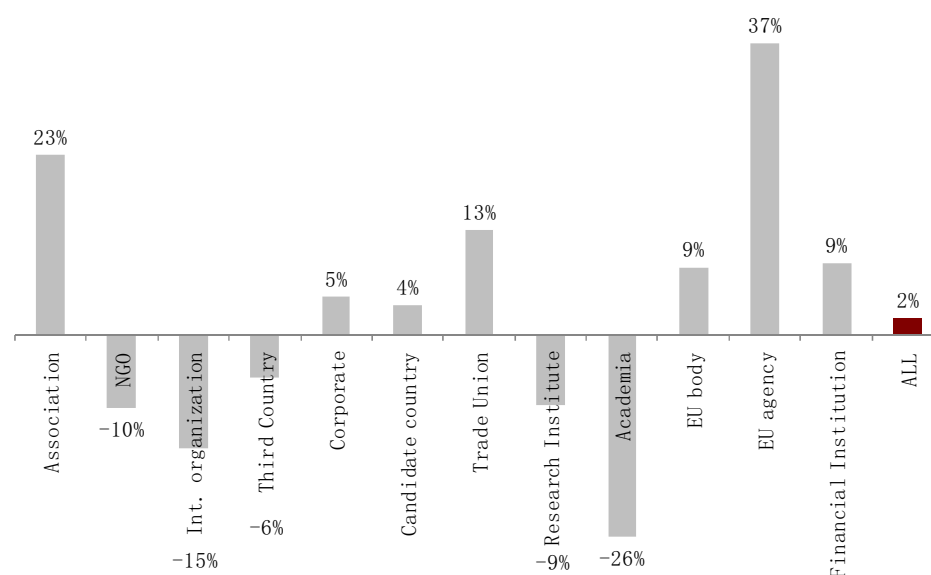
'International organisation', and 'Academia' have decreased by 10%, 15% and 26% respectively (see Figure 9). This development gives rise to concern, considering the lack of further detail in the REG on an association's interests (e.g., economic versus non-economic). Similarly, the decrease in the number of the types 'NGO' and 'Academia' suggests a decreasing weight of voices representing 'non-economic' interests.

Figure 8 Number of members per type of organisation, and year



Source: Blomeyer & Sanz based on XML data (EC 2013, 2014, 2015).

Figure 9 Number of members change (%) per type of organisation



Source: Blomeyer & Sanz based on XML data (EC, 2013, 2015).

2.1.3.4. Individual experts appointed in their personal capacity

This sub-section shows individual experts appointed in their personal capacity per DG, and per professional profile.

Individual experts appointed in their personal capacity per DG

Figure 10 shows that a few DGs concentrate most of the individual experts appointed in their personal capacity, namely, DGs RTD (600 experts), JUST (154), EAC (107) and CNECT (107). Many DGs have EGs that include many Member State representatives. DG Research, in turn, has very few EGs with representatives from national administrations and, instead has many EGs that include academics, researchers, and scientists, who are registered as participating in personal capacity. This clearly has to do with DG RTD's policy portfolio, and academia, research, and science belonging to the DG's main affected parties (see also Table 3, where these three categories are among the professions most often declared for individuals participating in personal capacity)⁴⁵.

Figure 10 Number of individuals in personal capacity by DG



Source: Author's own elaboration based on XML data (EC, 2013, 2014, 2015).

Professional profiles of individual experts appointed in their personal capacity

The datasets for the years 2013 to 2015 associate individuals appointed in their personal capacity with a set of 45 professional profiles. For an important number of individuals, the REG fails to indicate a professional profile (13% of all individuals appointed in their personal capacity in 2013, 9% in 2014 and 8% in 2015).

Table 3 shows two professional profiles clearly standing out, namely 'Academia' (23% of all individuals in 2015) and 'Research' (16%).

A series of professional profiles experienced a substantial increase between 2013 and 2015, namely 'Agriculture' (2,000%), 'Environment' (87%), 'Civil protection' (67%) and 'Engineering (chemical)' (38%). Significant decreases were experienced with regard to profiles such as 'Food and safety' (-88%), 'Engineering (civil)' (-73%), 'Public health' (-63%), 'Public affairs (independent)' (-60%), 'Engineering (IT)' (-55%), 'Consumer' (-50%), 'Public affairs' (-50%).

The decrease in the number of experts without a professional profile (44% decrease since 2013) constitutes a positive development in terms of enhanced transparency. Moreover, the decreases for 'Public Affairs' (-50%) and 'Public affairs (independent)' (-60%) suggests a conscious effort to avoid appointing individuals that would typically be associated with interest representation. Notwithstanding, it is noteworthy that there are still 16 public affairs experts appointed as individuals in their personal capacity, i.e. not representing an interest.

⁴⁵ Gornitzka, Å. and Sverdrup, U. (2011) Access of Experts: Information and EU Decision Making. West European Politics 34(1)

Table 3 Number of individuals in personal capacity per professional profile ⁴⁶

Professional profile	Number of 'in personal capacity' individuals				
	2013	2014	2015	Change (%) 2013-2015	Change (absolute) 2013-2015
* [no profile]	218	140	123	-44%	-95
Academia	336	388	348	4%	12
Agriculture	1	18	21	2000%	20
Architecture	0	7	7	n.a.+	7
Audit	0	1	1	n.a.+	1
Banking	1	1	1	0%	0
Biodiversity	3	4	4	33%	1
Civil protection	3	5	5	67%	2
Civil service	54	52	46	-15%	-8
Climate	11	8	8	-27%	-3
Communication	6	5	5	-17%	-1
Consumer	52	45	26	-50%	-26
Development	13	7	7	-46%	-6
Disaster Risk Reduction	1	1	1	0%	0
Economy	48	28	33	-31%	-15
Engineering (chemical)	16	22	22	38%	6
Engineering (civil)	15	4	4	-73%	-11
Engineering (infrastructure)	4	2	2	-50%	-2
Engineering (IT)	20	8	9	-55%	-11
Engineering (maritime)	0	1	1	n.a.+	1
Environment	23	39	43	87%	20
Finance	30	29	33	10%	3
Fisheries and aquaculture	62	62	62	0%	0
Food safety	32	1	4	-88%	-28
Forestry	0	0	0	0%	0
Humanitarian aid	7	5	5	-29%	-2
Industry	54	57	60	11%	6
Insurance	3	3	3	0%	0
Land management	0	1	1	n.a.+	1
Law (civil)	119	104	109	-8%	-10
Law (corporate)	5	4	4	-20%	-1
Law (taxation)	27	0	0	-100%	-27
Linguistics and Terminology	59	56	56	-5%	-3
Livestock	5	2	2	-60%	-3
Medical profession	31	39	37	19%	6
Natural resources	0	1	1	n.a.+	1

⁴⁶ Only professional profiles with more than ten experts in any year

Composition of the Commission's expert groups and the status of the register of expert groups

Professional profile	Number of 'in personal capacity' individuals				
	2013	2014	2015	Change (%) 2013-2015	Change (absolute) 2013-2015
Other (Advertising)	0	0	0	0%	0
Other (Agri-food/healthy diet)	0	0	0	0%	0
Other (agriculture & forestry)	0	0	0	0%	0
Other (Aquatic resources)	0	0	0	0%	0
Other (Archaeology)	0	0	0	0%	0
Other (Banking)	0	0	0	0%	0
Other (Bio-based industries)	0	0	0	0%	0
Other (Biomimicry)	0	0	0	0%	0
Other (Civil Society)	0	0	0	0%	0
Other (Cultural Heritage)	0	0	0	0%	0
Other (Cultural Heritage, Archaeology, Conservation)	0	0	0	0%	0
Other (Cultural Heritage, Cultural landscape)	0	0	0	0%	0
Other (Cultural Heritage, Cultural Landscape, Conservation, Sustainable development, Innovation, Smart specialisation)	0	0	0	0%	0
Other (Cultural Heritage, ICT)	0	0	0	0%	0
Other (Cultural Heritage, Innovation)	0	0	0	0%	0
Other (Cultural Heritage, Sustainable Development)	0	0	0	0%	0
Other (Cultural Heritage, Sustainable development, Urban development)	0	0	0	0%	0
Other (Eco-innovation and sustainable employment)	0	0	0	0%	0
Other (Education)	0	0	0	0%	0
Other (employment and social affairs)	0	0	0	0%	0
Other (Energy)	0	0	0	0%	0
Other (Engineering)	0	0	0	0%	0
Other (Foresight)	0	0	0	0%	0
Other (ICT, Innovation)	0	0	0	0%	0
Other (Industrie audiovisuelle)	0	0	0	0%	0
Other (Information Society)	0	0	0	0%	0
Other (Innovation policy)	0	0	0	0%	0
Other (Innovation)	0	0	0	0%	0
Other (Intelligent Transport Systems)	0	0	0	0%	0
Other (International Organisation)	0	0	0	0%	0
Other (International relations)	0	0	0	0%	0
Other (LEIT-Biotechnology)	0	0	0	0%	0
Other (Local transport)	0	0	0	0%	0
Other (Non Government Organisation)	0	0	0	0%	0
Other (Public procurement)	0	0	0	0%	0
Other (Publication)	0	0	0	0%	0
Other (Self regulation)	0	0	0	0%	0

Professional profile	Number of 'in personal capacity' individuals				
	2013	2014	2015	Change (%) 2013-2015	Change (absolute) 2013-2015
Other (Training)	0	0	0	0%	0
Other (Transport)	0	0	0	0%	0
Other (Urban)	0	0	0	0%	0
Other (waste production and management)	0	0	0	0%	0
Other (Water consumption)	0	0	0	0%	0
Public affairs	24	12	12	-50%	-12
Public affairs (independent)	10	4	4	-60%	-6
Public health	48	17	18	-63%	-30
Public relations	4	3	3	-25%	-1
Research	265	227	243	-8%	-22
Science	93	163	121	30%	28
Social service	1	1	1	0%	0
Space and Satellites (research)	0	9	9	n.a.+	9
Statistics	13	18	16	23%	3
Trade Union	2	2	0	-100%	-2

Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

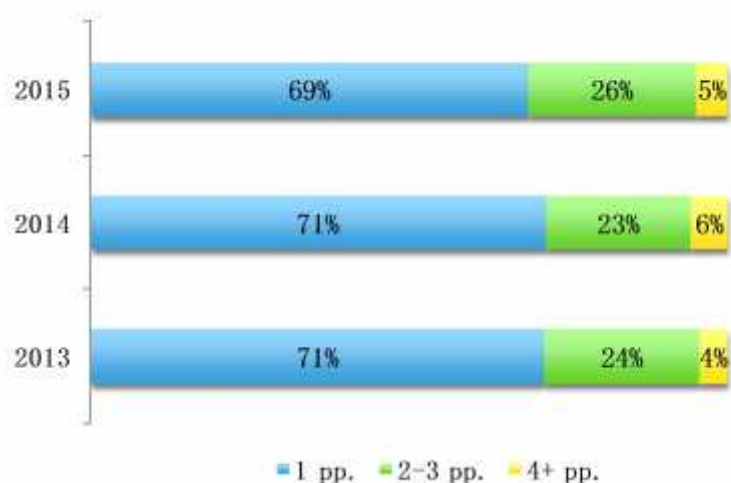
Legend: The value "[*]" for the professional profile column is shown for those individuals that have no information for the field 'professional profile' in the source data; "n.a.+" is shown when the 2013 value is null.

Note: In 2015 the source database shows 88 distinct professional profiles versus 81 in 2013. In addition to this, in 2015 there are 26 professional profiles that did not exist in 2013, namely: Other (Engineering), Other (Urban), Land management, Other (Biomimicry), Other (Foresight), Engineering (maritime), Other (Cultural Heritage, Sustainable Development), Other (Cultural Heritage, Innovation), Other (Cultural Heritage, Cultural Landscape, Conservation, Sustainable development, Innovation, Smart specialisation), Other (Cultural Heritage, Sustainable development, Urban development), Other (Cultural Heritage, ICT), Other (Cultural Heritage, Archaeology, Conservation), Other (Cultural Heritage), Other (Cultural Heritage, Cultural landscape), Forestry, Other (Transport), Other (Archaeology), Other (Innovation policy), Other (Self regulation), Other (ICT, Innovation), Other (Advertising), Other (Publication), Other (Local transport), Other (Water consumption), Other (Eco-innovation and sustainable employment), Other (waste production and management). On the other hand in 2013 there were 19 professional profiles that do not exist for 2015, or at least do not show in with the same wording / title, namely: Other (Olympic Training Centre), Other (Front-line), Other (Energy, Better Regulation), Other (Better Regulation, Railway Industry, Transport), Other (Committee of the Regions), Other (European Parliament)

Other (Culture), Other (Competition), Other (Communication, Press), Other (Social security), Other (ICT (Information and Communication Technology)), Other (Quality management), Other (Representative of BEUC), Other (Innovation, biotechnology), Other (Innovation & Technology policy), Other (innovation & technology), Other (Research & Innovation), Other (Research & Innovation), Other (Government, Globalization).

The REG shows some individual experts appointed in personal capacity with more than one professional profile. Whilst most of the individuals in personal capacity appear with just one profile (71% in 2015 and 69% in 2013), around one quarter appear with two to three profiles, and a small percentage appear with four or more (5% in 2015). This raises questions over these members' actual expertise, or the consistency of data entries.

Figure 11 Individuals 'in personal capacity' (%) appearing with more than one profile



Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

Legend: "pp." = professional profile; "4+" = four or more.

Note: The number of individuals 'in personal capacity' per year is 1702 (2013), 1575 (2014), and 1487 (2015).

Box 1 Case study findings on individual experts

Most selected EGs comprised only MS representatives and organisation representatives. Few selected EGs consisted of individual experts acting in his/her personal capacity. One case stood out, which initially established an EG with individual experts appointed in his/her personal capacity (E02661). The individuals were all selected on the basis of their technical expertise regardless of whether they were professionally linked to an organisation. The reason for providing the members with a status as individual experts was to allow them to freely participate in the EG without formally having to represent their respective organisations' positions. Possible conflicts of interests were to be addressed through provisions in the rules of procedure. No cases were identified.

The changes resulting from the EP-EC dialogue resulted in modifications to the composition of the EG. The individual experts were now expected to represent their respective organisations, with the exception of members coming from academia. De facto this did not change the composition of the EG given that members did not leave. Whether this had any implications on the output of the EG is unknown. According to the interviewed EG representative, final policy positions of the group were always a result of a majority agreement. This limited risks of biased decision-making given that the individual positions of members were subject to a majority vote.

2.1.3.5. Individual experts appointed as representatives of an interest

This sub-section shows individual experts appointed as representatives of an interest per DG, per professional profile, and per interest represented.

Individual experts appointed as representatives per DG

Figure 12 shows that a few DGs concentrate most of the individual experts appointed as representatives of an interest, namely, DGs RTD (286 experts), CNECT (48), TAXUD (37), SANTE (36) and GROW (35). DG RTD stands out as including the highest number by far of individual experts appointed as representatives of an interest in its EGs. Again, the DG's policy portfolio is most certainly the reason for this DG including many representatives from research, academia, and – given its responsibility for innovation policy – also researchers coming from the industry.

Figure 12 Number of individual as representatives by DG



Source: Blomeyer & Sanz based on XML data (EC 2013, 2014, 2015).

Professional profiles of individual experts appointed as representatives

The datasets for 2013 to 2015 associate a wide range of professional profiles to individuals 'as representatives' (80 to 88 profiles). However, an important number of individuals appear to have no professional profile description at all in the source data set, accounting for 9% (2013 and 2014) and 7% (2015) of all individual experts appointed as representatives of an interest. Whilst the EC has taken positive steps in terms of addressing the EP conditions it remains of concern that there is no information on the professional profile of 7% of all individuals appointed as representatives of an interest.

Table 4 also shows two professional profiles standing out, namely 'Industry' (129 in 2015) and Research (106 in 2015).

The highest increase in professional profiles between 2013 and 2015 is in 'Agriculture' (200%), followed by 'Engineering (civil)' (100%), although both rank very low in absolute terms (+2 and +1 respectively), contrary to 'Research' with a 36% increase and leading in absolute terms (+28), followed by 'Communication' (+19) and 'Space and satellites (research)' (+17). The profiles that show higher decreases also coincide with lower ranks in absolute terms, for example, 'Environment' (-67% and -2

in absolute terms), 'Law (civil)' (-50% and -2) and 'Medical profession' (-50% and -1). 'Finance' and 'Civil service' rank even lower in absolute terms, with -4 each. (See Table 4).

Table 4 Number of individuals as representatives per professional profile⁴⁷

professional profile	number of 'representative' individuals				
	2013	2014	2015	change (%) 2013-2015	change (absolute) 2013-2015
* [no profile]	43	47	37	-14%	-6
Academia	36	39	33	-8%	-3
Agriculture	1	3	3	200%	2
Architecture	0	0	0	0%	0
Audit	0	0	0	0%	0
Banking	0	7	7	n.a.+	7
Biodiversity	0	0	0	0%	0
Civil protection	0	0	0	0%	0
Civil service	21	17	17	-19%	-4
Climate	0	0	0	0%	0
Communication	0	19	19	n.a.+	19
Consumer	44	49	49	11%	5
Development	12	12	12	0%	0
Disaster Risk Reduction	0	0	0	0%	0
Economy	9	12	12	33%	3
Engineering (chemical)	0	0	0	0%	0
Engineering (civil)	1	2	2	100%	1
Engineering (infrastructure)	1	0	0	-100%	-1
Engineering (IT)	4	3	2	-50%	-2
Engineering (maritime)	0	0	0	0%	0
Environment	3	1	1	-67%	-2
Finance	26	22	22	-15%	-4
Fisheries and aquaculture	7	7	7	0%	0
Food safety	0	0	0	0%	0
Forestry	0	0	0	0%	0
Humanitarian aid	0	0	0	0%	0
Industry	130	131	129	-1%	-1
Insurance	5	5	5	0%	0
Land management	0	0	0	0%	0
Law (civil)	4	2	2	-50%	-2
Law (corporate)	0	0	0	0%	0
Law (taxation)	10	10	10	0%	0
Linguistics and Terminology	3	2	2	-33%	-1

⁴⁷ Only professional profiles with more than ten experts in any year

professional profile	number of 'representative' individuals				
	2013	2014	2015	change (%) 2013-2015	change (absolute) 2013-2015
Livestock	0	0	0	0%	0
Medical profession	2	2	1	-50%	-1
Natural resources	0	0	0	0%	0
Other (Advertising)	0	0	0	0%	0
Other (Agri-food/healthy diet)	0	0	0	0%	0
Other (agriculture & forestry)	0	0	0	0%	0
Other (Aquatic resources)	0	0	0	0%	0
Other (Archaeology)	0	0	0	0%	0
Other (Banking)	0	0	0	0%	0
Other (Bio-based industries)	0	0	0	0%	0
Other (Biomimicry)	0	0	0	0%	0
Other (Civil Society)	0	0	0	0%	0
Other (Cultural Heritage)	0	0	0	0%	0
Other (Cultural Heritage, Archaeology, Conservation)	0	0	0	0%	0
Other (Cultural Heritage, Cultural landscape)	0	0	0	0%	0
Other (Cultural Heritage, Cultural Landscape, Conservation, Sustainable development, Innovation, Smart specialisation)	0	0	0	0%	0
Other (Cultural Heritage, ICT)	0	0	0	0%	0
Other (Cultural Heritage, Innovation)	0	0	0	0%	0
Other (Cultural Heritage, Sustainable Development)	0	0	0	0%	0
Other (Cultural Heritage, Sustainable development, Urban development)	0	0	0	0%	0
Other (Eco-innovation and sustainable employment)	0	0	0	0%	0
Other (Education)	0	0	0	0%	0
Other (employment and social affairs)	0	0	0	0%	0
Other (Energy)	0	0	0	0%	0
Other (Engineering)	0	0	0	0%	0
Other (Foresight)	0	0	0	0%	0
Other (ICT, Innovation)	0	0	0	0%	0
Other (Industrie audiovisuelle)	0	0	0	0%	0
Other (Information Society)	0	0	0	0%	0
Other (Innovation policy)	0	0	0	0%	0
Other (Innovation)	0	0	0	0%	0
Other (Intelligent Transport Systems)	0	0	0	0%	0

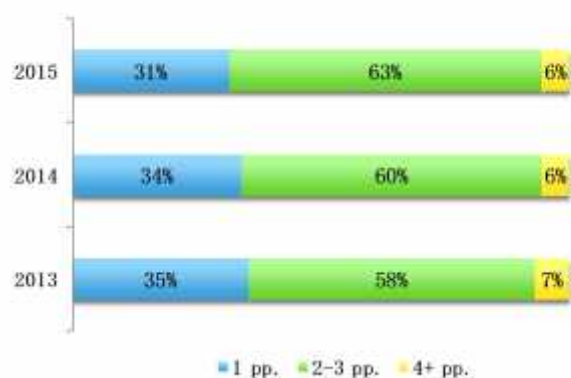
professional profile	number of 'representative' individuals				
	2013	2014	2015	change (%) 2013-2015	change (absolute) 2013-2015
Other (International Organisation)	0	0	0	0%	0
Other (International relations)	0	0	0	0%	0
Other (LEIT-Biotechnology)	0	0	0	0%	0
Other (Local transport)	0	0	0	0%	0
Other (Non Government Organisation)	0	0	0	0%	0
Other (Public procurement)	0	0	0	0%	0
Other (Publication)	0	0	0	0%	0
Other (Self regulation)	0	0	0	0%	0
Other (Training)	0	0	0	0%	0
Other (Transport)	0	0	0	0%	0
Other (Urban)	0	0	0	0%	0
Other (waste production and management)	0	0	0	0%	0
Other (Water consumption)	0	0	0	0%	0
Public affairs	5	4	4	-20%	-1
Public affairs (independent)	1	0	0	-100%	-1
Public health	30	34	33	10%	3
Public relations	0	0	0	0%	0
Research	78	77	106	36%	28
Science	0	0	0	0%	0
Social service	1	0	0	-100%	-1
Space and Satellites (research)	0	17	17	n.a.+	17
Statistics	0	0	0	0%	0
Trade Union	4	4	4	0%	0

Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

Legend: The value "[*]" for the professional profile column is shown for those individuals that have no information for the field 'professional profile' in the source data; "n.a.+" is shown when the 2013 value is null.

In 2015, nearly seven out of ten unique-members, classified as individuals representing an interest, appeared with more than one professional profile, a percentage slightly higher than in previous years. Within this group (individuals with more than one profile) the large majority appear with two or three different profiles, and a small percentage counts four or more. (See Figure 13).

Overall, the percentage of individuals with more than one professional profile has slightly increased, from 65% (2013) to 69% (2015). This raises questions over these members' actual expertise; or the consistency of data entries. Indeed you would expect expertise to be quite particular/specific to one EG rather than ranging across several. On the other hand, this could also be explained with increased sharing of EGs between DGs, i.e., the same expert having to advise more than one EG.

Figure 13 Individuals 'as representatives' (%) with more than one professional profile

Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

Legend: "pp." = professional profile; "4+" = four or more.

Note: The number of individuals 'as representative' per year is 469 (2013), 514 (2014), and 522 (2015)

Individuals 'as representatives' per interest represented

There are only few areas of interest represented that stand out during 2013 to 2015, namely, 'Consumer affairs' (represented by 19% of all individuals 'as representatives' in 2015, with a 15% increase since 2013, i.e. +11 in absolute terms), 'Industry' (17% of all representatives, with a 55% increase, i.e. +26 in absolute terms), 'Finance' (10% of all representatives, 14% increase, i.e. +5 in absolute terms) and 'Public health' (8%, 18% decrease, i.e. -7 in absolute terms). In fact, the highest increases in absolute terms relate to areas including 'Industry' (+26), 'Space and satellite (research)' (+18), 'Consumer affairs' (+11), and 'Audiovisual and media' (+10). On the other hand, 'Public affairs' and 'Public health' with -7 each, and 'Energy' and 'Transport' with -4 each show the highest decrease in absolute terms (See Table 5).

Table 5 Individuals 'as representatives' (number) per type of interest and year⁴⁸

Interest represented	number of individuals as representatives				
	2013	2014	2015	change (%) 2013 to 2015	change (absolute) 2013 to 2015
Consumer affairs	71	82	82	15%	11
Industry	47	44	73	55%	26
Finance	37	42	42	14%	5
Public health	40	43	33	-18%	-7
Research	22	21	22	0%	0
Development	18	18	18	0%	0
Space and Satellites (research)	0	18	18	n.a.+	18
Audiovisual and media	2	12	12	500%	10
Science	11	11	11	0%	0

⁴⁸ Only professional profiles with more than five experts in any year

Interest represented	number of individuals as representatives				
	2013	2014	2015	change (%) 2013 to 2015	change (absolute) 2013 to 2015
Law (taxation)	9	8	8	-11%	-1
Linguistics and Terminology	8	7	7	-13%	-1
Fundamental rights	6	6	6	0%	0
Fisheries and aquaculture	7	6	6	-14%	-1
Transport	10	8	6	-40%	-4
Civil service	8	5	5	-38%	-3
Employment and social affairs	6	5	5	-17%	-1
Environment	8	5	5	-38%	-3
Information society	4	5	5	25%	1
Economy	3	4	4	33%	1
Law (civil)	4	4	4	0%	0
Labour interests	2	3	3	50%	1
Banking	2	3	3	50%	1
Education	6	5	3	-50%	-3
Agriculture	3	2	2	-33%	-1
Customs	2	2	2	0%	0
External trade	1	2	2	100%	1
Insurance	2	2	2	0%	0
Other (Marine environment, pollution)	2	2	2	0%	0
Public affairs	9	2	2	-78%	-7
Other (Border control)	2	2	2	0%	0
Forestry	0	2	2	n.a.+	2
Other (Trade union)	0	2	2	n.a.+	2
Labour market	2	2	2	0%	0
Other (Coal sector)	2	2	2	0%	0
Engineering (IT)	2	1	1	-50%	-1
Other (Producers, enterprises and industry)	1	1	1	0%	0
Statistics	3	1	1	-67%	-2
Civil protection	0	1	1	n.a.+	1
Other (Textiles)	0	1	1	n.a.+	1
Energy	5	2	1	-80%	-4
Other (Alternative Investment Management Association)	1	1	1	0%	0
Other (Fisheries control)	1	1	1	0%	0
Other (Marine pollution)	1	1	1	0%	0
Other (Public procurement)	1	1	1	0%	0
Engineering (civil)	1	1	1	0%	0
Equal opportunities	1	1	1	0%	0
Other (Association of Life Offices)	1	1	1	0%	0

Interest represented	number of individuals as representatives				
	2013	2014	2015	change (%) 2013 to 2015	change (absolute) 2013 to 2015
Other (Maritime safety, pollution)	1	1	1	0%	0
Other (Food and Drink)	0	1	1	n.a.+	1
Other (Transport)	0	1	1	n.a.+	1
Culture	2	1	1	-50%	-1
External relations	1	1	1	0%	0
Food safety	2	1	1	-50%	-1
Medical profession	2	1	1	-50%	-1
Other (Banking)	1	1	1	0%	0
Other (ITS service providers)	1	1	1	0%	0
Other (National ITS associations)	1	1	1	0%	0
Biodiversity	0	1	1	n.a.+	1
Other (Services)	0	1	1	n.a.+	1
Law (corporate)	2	0	0	n.a.-	-2
Natural resources	1	0	0	n.a.-	-1
Other (Better Regulation)	1	0	0	n.a.-	-1
Other (European Parliament)	1	0	0	n.a.-	-1
Competition	1	0	0	n.a.-	-1
Humanitarian aid	1	0	0	n.a.-	-1
Social service	1	0	0	n.a.-	-1
Training	1	0	0	n.a.-	-1
Audit	1	0	0	n.a.-	-1
Other (Health enhancing activities/movement)	1	1	0	n.a.-	-1
Other (Railway Industry, Better Regulation)	1	0	0	n.a.-	-1
Public relations	1	0	0	n.a.-	-1
Space and Satellites (policy)	1	0	0	n.a.-	-1
Engineering (infrastructure)	1	0	0	n.a.-	-1
Other (Committee of the Regions)	1	0	0	n.a.-	-1
Other (SME)	1	0	0	n.a.-	-1
Sport	2	2	0	n.a.-	-2

Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

Legend: "n.a.+" is shown when the 2013 value = null; "n.a.-" is shown when the 2015 value is null.

2.2. BALANCE AND TRANSPARENCY

KEY FINDINGS

- There has been some progress with regard to balance since 2013 with the European Commission modifying the composition of some Expert Groups and clarifying the composition of others. The European Commission maintains its position, however, that balance is optional. In line with this, the imbalance in favour of economic interests has not decreased since 2013. Instead, the total number of Expert Groups presenting an imbalance has increased from 69 in 2013 (8% of all Expert Groups) to 72 in 2015 (9% of all expert groups). Finally, 61 Expert Groups experienced an increasing imbalance between 2013 and 2015 whilst 15 groups experienced a development towards more balance.
- Concerning transparency, there has been progress since 2013 with an increasing use of public calls, and the Register of Expert Groups facilitating access to more information. However, the European Commission maintains its position on optional public calls.
- Overall, the findings confirm that compliance with the European Parliament conditions on balance and transparency was not achieved; neither will the European Commission's proposed reforms (in response to the European Ombudsman inquiry on Expert Groups) achieve full compliance with the European Parliament conditions. The European Commission's proposed linkage between the Register of Expert Groups and the Transparency Register exempts individual members appointed in their personal capacity from registration in the Transparency Register.

This section presents findings from the assessment of the EG system in terms of balance (Section 2.2.1) and transparency (Section 2.2.2).

2.2.1. Balance

This section first reviews the EP-EC dialogue on EGs with a focus on the issue of 'balance', and then presents findings from the analysis of the REG. The section ends with a summary assessment of compliance with EP conditions on balance.

2.2.1.1. EP-EC dialogue on EGs

Reflecting on the balanced composition of EGs, this section takes a specific interest in 'corporate' membership of EGs. Indeed, one of the EP's 2011 conditions was to: *'Scrap exceptions in the obligation to have a balanced composition of expert groups (technical nature + experts in "personal capacity"). Prohibit a single interest category (business, union or other) from having the majority of the non-government and non-EU seats in any expert group. Provide safeguards against capture from special interests and corporate interests'*⁴⁹.

Similarly, the Ombudsman's recent inquiry on the EGs recommended a balanced representation of all relevant interests in each EG, an individual definition of 'balance' to be set out for each individual EG,

⁴⁹ EP (2011) Annex to texts adopted at the sitting of Wednesday, 26 October 2011, Amendments to the draft general budget of the European Union for the financial year 2012, PE 473.473

and a provision containing general criteria for the delimitation of economic and non-economic interests⁵⁰.

The Ombudsman considers current EC provisions on balance *'unsuitable to guarantee that all expert groups are balanced. Nor does it demonstrate commitment on the part of the Commission to strive for a balanced composition of expert groups in each and every case'*⁵¹.

The following table presents an overview of the Ombudsman recommendations, reflecting deficiencies identified in the course of the Ombudsman's inquiry (see Table 6).

Table 6 Ombudsman on balance and conflicts of interest

Criterion	Condition
Balance	A balanced representation of all relevant interests in each expert group
	An individual definition of 'balance' to be set out for each individual expert group
	A provision containing general criteria for the delimitation of economic and non-economic interests
Conflicts of interest	Carefully assess individuals' backgrounds with a view to detecting any actual, potential or apparent conflicts of interest
	Ensure that no individual with any actual, potential or apparent conflict of interest will be appointed to an expert group in his/her personal capacity
	Consider, in a situation of conflict of interest, the possibility to appoint an individual as a representative of a common interest shared by stakeholders or to appoint his/her organisation of affiliation to the expert group
	Publish a sufficiently detailed CV of each expert appointed in his/her personal capacity on the expert groups register
	Publish a declaration of interests of each expert appointed in his/her personal capacity on the expert groups register

Source: Blomeyer & Sanz on basis of Ombudsman recommendations

Indeed, the current system does not provide for a definition of 'balance'. The Horizontal Rules note: *'Where individual experts are appointed to represent an interest or where organisations are appointed as members of expert groups, Commission services shall, **as far as possible**, ensure a balanced representation of relevant stakeholders, taking into account the specific tasks of the expert group and the type of expertise required'*⁵².

EC correspondence on EGs between September 2013 and January 2014 clarifies the EC's interpretation of the requirement of balance. The EC confirms that balance is considered optional (*'strives to obtain a balanced composition'*)⁵³. Mandatory balance is ruled out, considering differences in the EG mandates: *'in light of the diversity of tasks carried out by expert groups, setting general*

⁵⁰ European Ombudsman (2015) Letter to the European Commission requesting an opinion in the European Ombudsman's own-initiative inquiry OI/6/2014/NF concerning the composition of Commission expert groups, 27 January 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/58861/html.bookmark>

⁵¹ European Ombudsman (2015) Letter to the European Commission requesting an opinion in the European Ombudsman's own-initiative inquiry OI/6/2014/NF concerning the composition of Commission expert groups, 27 January 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/58861/html.bookmark>

⁵² EC (2010) Communication from the President to the Commission, Framework for Commission Expert Groups: Horizontal Rules and Public Register, SEC (2010) 7649 final Rule 9(2), bold font by the author, 10 November 2010

⁵³ See for example the contribution by DG EAC, letter to the EP of 20 December 2013

arrangements concerning the membership of all groups, irrespective of their mandate, is not appropriate⁵⁴.

Box 2 Balance in the US

In the US, Federal Advisory Committees are required to be '*fairly balanced in terms of the points of view represented*'⁵⁵. This requirement was introduced to prevent state capture⁵⁶. There is no further definition of balance in the Act, however, at a new Committee's first meeting, relevant interests have to be identified in the Committee's Charter. Administrative regulations require the establishment of a 'membership balance plan' for 'discretionary' Federal Advisory Committees (comparable to informal EGs)⁵⁷. The membership balance plans set out how balance is being achieved. How to achieve balance is left to the discretion of each Agency. Guidance specifies: '*Although numerical parity is not required, too many or too few individuals representing one interest or area of expertise could result in the Federal advisory committee not being balanced in the viewpoints represented.*'

Looking specifically at the issue of corporate membership, EC correspondence suggests that balance is achieved if 'corporate' membership accounts for 50% or less of total EG membership, with the remaining membership made up of any other type of member (e.g. research institutes, academia), but not necessarily involving any organisation representing consumer interests⁵⁸.

There is one notable exception with regard to the EC position on optional balance. DG AGRI appears to support a mandatory balance: '*I would like to underline that the new decision [on a framework for civil dialogue groups] will foresee, explicitly, a mandatory balance of represented interests via a public call for proposals, in particular in regard of economic and non-economic interests. It is further foreseen that a seat reserve will be established for each of the groups to keep the door open for new members and expressed interests that emerge after the call for proposals. There will be the possibility for each of the groups to formulate opinions or own-initiative resolutions, based on consensus. If it is so agreed, it will of course be possible to reflect minority opinions, too. Those opinions and resolutions will be published online, as any other working material so far*'⁵⁹.

Notwithstanding the EC's position on optional balance, the correspondence between the EP and EC points to EC efforts to enhance balance:

- The EC's 2012 State of Play report refers to the identification of more than 50 groups where composition is to be re-balanced, 50 groups were closed, an additional 11 groups were to be closed by summer 2012; Feedback on the effort of individual DGs suggests a follow-up on EP

⁵⁴ EC (2012) State of play concerning the conditions set by the European Parliament to lift the reserve in the 2012 Budget with regard to groups of experts, 6 September 2012

⁵⁵ Federal Advisory Committee Act, Section 5(b)(2)

⁵⁶ Croley, S., Funk, W. (1997) The Federal Advisory Committee Act and Good Government. 14 Yale Journal on Regulation, page 464

⁵⁷ U.S. General Services Administration (GSA) Committee Management Secretariat (2011) Federal Advisory Committee Membership Balance Plan

https://www.whitehouse.gov/sites/default/files/microsites/ostp/b_flaak_balance_plan.pdf (last accessed on 9 June 2015)

⁵⁸ See for example the contributions by DGs Connect (ARES(2013)3754277, 18 December 2012), ENTR (ARES(2013)3986885, 19 December 2013), JUST (ARES(2014)20750, 8 January 2014)

⁵⁹ EC DG AGRI (2014), Letter to European Parliament, ARES(2014)11595, 6 January 2014

conditions in 11 DGs⁶⁰, with the composition of 31 groups clarified, the composition of four groups modified, and six groups closed⁶¹.

- The February 2013 State of Play report refers to the modified composition of 12 groups, corrected entries of 31 groups, and four groups closed; Feedback on the effort of individual DGs suggests a follow-up on EP conditions in 14 DGs⁶².
- The June 2013 State of Play report refers to ongoing reform. There is, however, no evidence of any modification of specific EGs, i.e., no changes vis-a-vis the February 2013 State of Play report; the report refers to eight DGs engaged in addressing EP conditions⁶³.
- Finally, EC correspondence on EGs between September 2013 and January 2014 mainly relates to a civil society report on EG imbalance and lack of transparency. Whilst noting its overall disagreement with the report, individual feedback by 15 DGs points to further reform,⁶⁴ albeit on a more limited scale than reported in the earlier State of Play reports. Reform efforts comprise the correction of labelling mistakes (EAC, ECFIN, ENTR, TAXUD, JUST), the publication of EG documentation (ECFIN), the modification of EG composition (ENV for two EGs), the closing of EGs (MOVE for one EG / RTD for three EGs), and the formal registration of an EG that was operating informally in the past (MARKT for one EG)⁶⁵.

Table 7 presents a summary of EC efforts to enhance balance during 2012-2014. In total, the composition of 18 EGs was modified to enhance balance, whilst 69 EGs were closed. Put into context, modifications of EG composition affected about 26% of the total number of EGs with an imbalance (This study considers 69 EGs to present an imbalance at the end of 2013).

Table 7 EC progress on balance in 2012-2014

Source	DGs involved	Identified for modification	Composition modified	Closed
State of play 2012	11	50	4	61
State of play February and June 2013	14	-	12	4
DG updates September 2013 – January 2014	8	-	2	4
Total	18	50	18	69

Source: Blomeyer & Sanz on basis of EP-EC correspondence

⁶⁰ AGRI, ENTR, ENV, MARKT, MARE, CONNECT, EAC, RTD, MOVE, SG, TAXUD

⁶¹ EC (2012) State of play concerning the conditions set by the European Parliament to lift the reserve in the 2012 Budget with regard to groups of experts, 6 September 2012

⁶² ENTR, ENV, AGRI, SANCO, CONNECT, TAXUD, SG, EAC, MARE, RTD, AGRI, MARKT, REGIO, ESTAT See EC (2013) Informal Dialogue on Expert Groups, Initiatives taken by Commission Services, 28 February 2013

⁶³ ENTR, SANCO, MARKT, SG, AGRI, TAXUD, EAC, CONNECT See EC (2013) Informal Dialogue on Expert Groups, Initiatives taken by Commission Services, 12 July 2013

⁶⁴ CONNECT, EAC, ECFIN, ENTR, ENV, MOVE, RTD, TAXUD, Chief Scientific Adviser to the President, SG, AGRI, HOME, JUST, MARKT, SANCO

⁶⁵ EC correspondence on EG reform takes the form of a general letter issued by the SG and 18 letters by individual DGs dated between September 2013 and January 2014

Box 3 Balance in the UK

In the UK, the Code of Practice for Scientific Advisory Committees includes a dedicated section to 'Balance of expertise'⁶⁶. The Code requires an ex-ante assessment of required expertise with detail on skills, expertise and experience set out in a 'membership template'. The membership template needs to be reviewed regularly in order to allow for adaptation to changing needs for expertise. There are no requirements for balanced representation in terms of economic / non-economic interests.

Addressing criticism over imbalance, the EC emphasises its 'Open Door' policy as adopted by seven DGs⁶⁷, i.e., the EC is open to consider civil society applications to EGs perceived as unbalanced. Moreover, EP recommendations for eligible civil society representatives are welcomed. EC correspondence between September 2013 and January 2014 notes that this offer was not taken up by civil society. Civil society feedback on the open door policy suggests that it might be worth strengthening the dissemination effort regarding this policy. For example, it might be useful for the EC to centralise all future meetings in one EG agenda schedule in order to allow organisations to request access to these meetings in a timely manner.

The EC explains difficulties to establish more balanced EGs mainly with a lack of civil society applications: *'Often NGOs, organisations from civil society or even SMEs, which are invited by Commission departments to become members of expert groups, refuse to participate. This is due to a number of factors, including lack of stakeholder's resources to participate. In this respect, it should be underlined that the Commission reimburses travel and subsistence expenses incurred by participants in the activities of expert groups, and that no stakeholder is excluded from reimbursement'*⁶⁸. For example, DG ENTR considered the composition of EGs 'High-level Group on Business Services' and 'Bio-based Products' to be unbalanced, however, there have been no civil society applications to join these EGs⁶⁹.

The MEPs participating in the EP-EC dialogue acknowledged some of the EC difficulties in addressing imbalance: *'it is often difficult to find sufficient representatives from civil society to fill all the vacancies in the expert groups. We discussed this with the NGOs and suggested to them as a possible solution to recruit experts, not only from within the European umbrella organisations, but also from their national member organisations. Of course, in that case these experts should receive an explicit mandate from the European organisation. However, in its reply DG SANCO stated that, in order to join an expert group, organisations must 'have a permanent existence at Community level with direct access to members' expertise'. This seems to exclude representatives from national member organisations. This way, we end up in a vicious circle. Thus, we favour a solution that explicitly allows representatives from national member organisations to be mandated by their umbrella organisation to participate in certain expert groups'*⁷⁰.

It appears that the EC has changed its position to accommodate this EP proposal: *'concerning the need to have a permanent existence at Community level to be part of an expert group, we would point out that*

⁶⁶ UK Government Office for Science (2011) Code of Practice for Scientific Advisory Committees

⁶⁷ ENTR, ECFIN, SANCO, MOVE, TAXUD, RTD, ENER

⁶⁸ EC (2012) State of play concerning the conditions set by the European Parliament to lift the reserve in the 2012 Budget with regard to groups of experts, 6 September 2012

⁶⁹ EC DG ENTR (2013), Letter to European Parliament, ARES(2013)3986885, 19 December 2013

⁷⁰ EP (2014) letter to EC SG of 6 November 2013

*it is already possible for European organisations to nominate representatives of their national member organisations’.*⁷¹

Box 4 Mandatory balance in Switzerland

The Swiss law on expert groups notes mandatory requirements regarding composition: *‘Under consideration of their task, they must be composed in a balanced way with regard to gender, language, religion, age and interest groups’*⁷².

The MEPs also addressed the issue of EG member remuneration: *‘Although we realise that special allowances have to be the exception, rather than the rule, we think that by mentioning this option on the website, the Commission can attract more representatives from organisations with limited means’*⁷³. In response, the EC adopted a Decision to allow for *‘special allowance to participants in the activities of Commission expert group’*⁷⁴. However, SG interview feedback confirms that to date, no use has been made of this possibility⁷⁵. In the framework of the case studies, individual DGs did not note any intention of making use of the new system of allowances.

Box 5 Case study findings on special allowances

The use of ‘special allowances’ as introduced by the EC in 2014 has not been operationalised. The reason for this might be the recent adoption of this decision. Another possible reason might be the limited scope of the allowance to only those experts ‘appointed in their personal capacity who act independently and in the public interest’. The third reason of the lack of application is the related paperwork. The EGs selected for the case studies generally do reimburse travel and accommodation costs. From the perspective of the DGs, management of reimbursement already constitutes an important part of the coordination workload.

From a more general perspective, we note that the idea behind the ‘special allowances’ is to ensure that financial capacity is not an obstacle for experts in order to be part of EGs. However, the actual participation of experts in the meetings is already facilitated through the reimbursement of travel and accommodation costs. This raises the question what purpose the ‘special allowance’ is to serve. Will it be used to ask for specific technical assistance, such as a research study? Or will it be used to allow experts to build technical capacity? Be it the former, one could argue that such a request for technical assistance should come from the EG as a whole. Be it the latter, one could argue that the allowance does not necessarily provide for sustainability.

⁷¹ EC (2014) DG SANCO letter to European Parliament, ARES(2014)80827 of 15 January 2014

⁷² *‘Sie müssen unter Berücksichtigung ihrer Aufgaben nach Geschlecht, Sprache, Region, Alters- und Interessengruppen ausgewogen zusammengesetzt sein.’* Article 57e(2), Bundesversammlung der Schweizerischen Eidgenossenschaft (2015) Regierungs- und Verwaltungsorganisationsgesetz (RVOG) vom 21. März 1997 (Stand am 1. Mai 2015)

⁷³ EP (2014) letter to EC SG of 6 November 2013

⁷⁴ EC (2014) Commission Decision on conditions for granting a special allowance to participants in the activities of a Commission expert group, as provided for in the horizontal rules for Commission expert groups (C(2010)7649, C(2014)2220 final, 8 April 2014

⁷⁵ Interview with the EC SG, Directorate B Institutional and Administrative Policies, Unit B2 Institutional Affairs, 4 May 2015

Box 6 Compensation of expert group members in Switzerland

In Switzerland, the compensation of expert group members is regulated⁷⁶. There are three categories of compensation depending on the level of expertise of members. Per diems for the expert group chairs benefit of a 25% bonus. Increases are also foreseen to cover travel time. Travel costs are reimbursed.

Finally, the feedback from some EC DGs confirms that imbalance is considered justified for some EGs, e.g., DG TAXUD considers the imbalance of EG 'VAT' justified, since this EG deals with the application of the VAT system to businesses: *'The composition of the VAT Expert Group (VEG) also reflects the purpose for which the VEG was created in the first place. Members of this group are expected to advise Commission services on the preparation of VAT legislative acts and to provide insights as to their practical implementation with a view to improving the functioning of the single market. The administrative burdens resulting from the VAT system fall on business which collects VAT on behalf of Member States. Therefore, tax practitioners and business representatives with a very high level of understanding of the EU VAT system are the best and most relevant experts available to advise the Commission on these matters (in addition to representatives of Member States which address the same issues in another working group, the Group on the Future of VAT (GFV); this group is made up of 56 representatives of the Member States)'*⁷⁷.

Box 7 Case study findings on balance

Our case-study analysis shows variety in the 'real-life' application of the horizontal rules established by the EC concerning balance of expert groups. The rules allow DGs to establish *ad hoc* definitions for balance once establishing an EG. Overall, we find that EGs *a priori* define their objectives as to desired balance of representation. However, this definition can be an internal decision and therefore difficult to check (not made public). Nonetheless, many EGs have terms of reference or rules of procedure, where they could define their desired balance of composition. Moreover, some EGs have a clear legal status and through a creating act could provide more clarity on the desired balance. For example, one EG dealing with ICT standardisation work (E02758) clearly defines in its creating act that the EG shall consist of:⁷⁸

- National authorities of MS and EFTA countries;
- Up to 18 organisations representing industry, SMEs and societal stakeholders;
- Up to 14 European and international standardisation bodies and other non-profit making organisations which are professional societies, industry or trade associations or other membership organisations acting in Europe.

Other EGs outline the desired balance in more general terms without specifying concrete number (e.g. E00860).

The selected EGs overall acknowledge the importance of balanced representation. However, the need for technical expertise is the main bottleneck identified which explains why EGs struggle with ensuring balanced representation. We find this a legitimate problem given that, arguably, some stakeholders represent broader societal interests while EGs require specific technical input. This, perhaps, is more likely to be found in the private sector rather than in civil society. During the interviews we found various reasons why some groups were underrepresented, i.e. lack of interest or technical expertise or the proclaimed absence of the existence of such stakeholders. Regardless of the

⁷⁶Der Schweizerische Bundesrat (2009) Regierungs- und Verwaltungsorganisationsverordnung (RVOV)

⁷⁷ EC (2013) DG TAXUD letter to European Parliament, ARES(2013)4032919, 23 December 2013

⁷⁸ See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:349:0004:0006:EN:PDF>

validity of these arguments, we found little reflection on how to promote interest of underrepresented groups (such as civil society) to apply for EG membership. The main method applied is the use of open call for applications. This aims at establishing a level playing field for all stakeholders interested in participation. However, in practice it does not always guarantee that the EG achieves balanced representation. An interviewed civil society representative suggested ensuring early publication of calls to allow for time to mobilise the required expertise within the organisation's international structure. Overall, the EC could consider to adopt a more proactive approach, apart from open calls for application, in order to ensure more balanced representation. For example, EGs could additionally adopt technical capacity development activities/tasks aimed at their members through activities such as training, mentorship or joint-research. EGs should celebrate the interdisciplinary nature of their members and explore through their interaction possible ways to innovate. Finally, the survey of EG members representing non-economic interests (e.g., NGOs) indicates that despite the modification of composition, economic interests maintain a stronger weight on the case study EGs (this is the view of 68% of survey respondents). Notwithstanding, 47% of survey respondents consider that EG outputs are largely balanced, whilst 44% find a bias towards economic interests.

Box 8 Balance in Germany

In Germany, expert groups are generally characterised by limited regulation since they are considered to operate within the discretionary sphere of the executive⁷⁹. Empirical research looking at specific expert groups suggests an imbalance in favour of expert group members with an economic interest⁸⁰. Research also considers that expert groups are characterised by limited transparency. It is noted, however, that expert groups are not a result of industry or business stakeholders lobbying for the establishment of and participation in an expert group, but rather result from government initiative aiming at generating public support for government initiatives⁸¹.

2.2.1.2. REG data analysis

This section first presents the REG data for EG members classified as corporate, and then looks specifically at the issue of imbalance.

Corporate EG members

'Corporate', i.e., individual private sector companies, constitutes one of the total of 12 organisation types used by the REG. In 2015, a total of 464 organisation members were classified as corporate, about 9% of the total number of organisation members⁸²;

Looking first at corporate members per lead DG, in 2015 three DGs concentrate most of the corporate organisations, i.e., CNECT (119 corporate members), GROW (122), and MOVE (51). A large number of

⁷⁹ Siefken, S. and Schulz, M. (2014) Policy, polity and politics! On the determinants of Advisory Bodies in Germany and The Netherlands, paper for the IPSA 23rd World Congress of Political Science, page 5, http://paperroom.ipsa.org/papers/paper_31348.pdf (last accessed 9 June 2015)

⁸⁰ Krick, E. (2014), Partizipationspotenziale von Expertengremien. Der Trade-off zwischen Inklusion und Effektivität im Verhandlungsprozess, Österreichische Zeitschrift für Politikwissenschaft (ÖZP), 43. Jg. (2014) H. 1, 7–22 and Krick, E. (2006), Politikberatung durch Expertengremien, Legitimation und Funktion der ‚Hartz‘- und der ‚Rürup‘-Kommission, Arbeitspapiere –2/2006 Universität Osnabrück

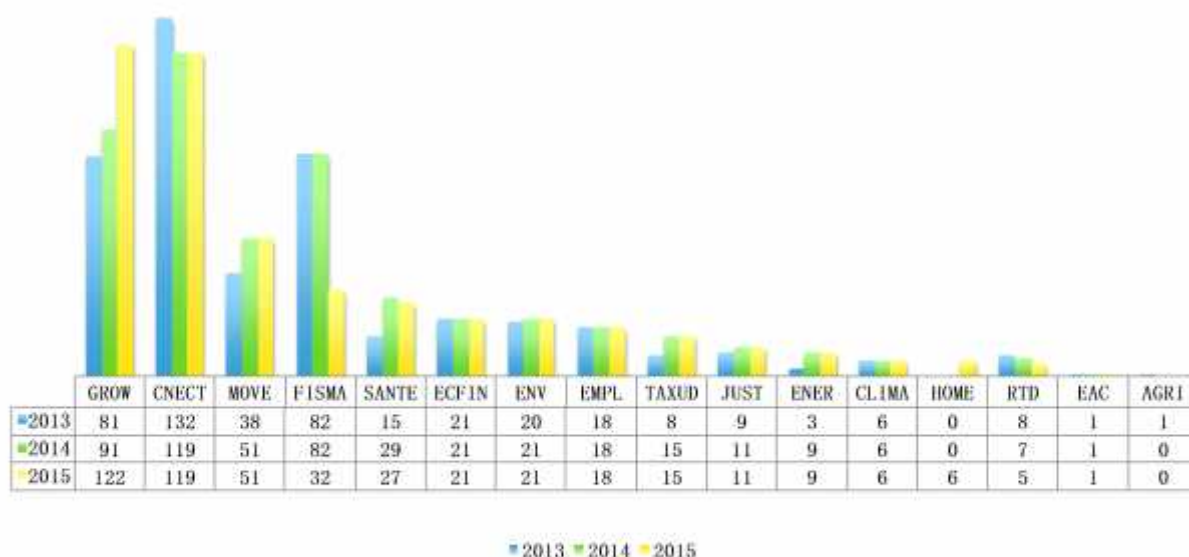
⁸¹ Czada, R (2015) Die deutsche Verhandlungsdemokratie: Diskursform oder Elitenkartell? In: Thomas Meyer / Udo Vorholt (Hrsg.): Die Verhandlungsdemokratie. Dialogische Entscheidungsverfahren in der Politik. (dortmunder politisch-philosophische diskurse Band 12). Bochum/Freiburg: projektverlag: 11 - 36

⁸² Note that, as in preceding sections, the term 'members' refers to non-unique members.

DGs do not count any corporate organisation as member of their EGs (2013-2015) (See Figure 14). The distribution across DGs seems to reflect the SG's and DGs' argument, that some DGs are 'naturally' more dominated by corporate interests due to their policy area/relevant stakeholders. It also suggests that the Ombudsman's recommendation that each EG establish its own definition of balance seems sensible.

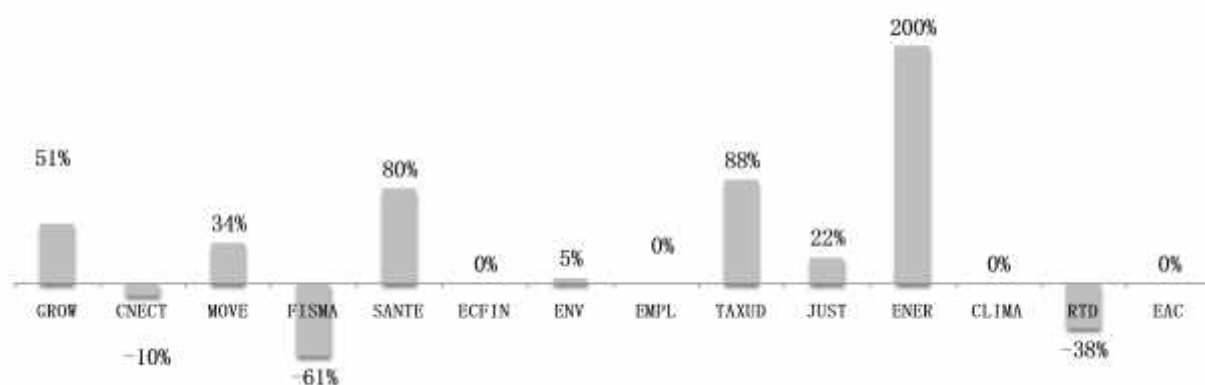
It is also worth noting the DGs that have experienced the highest increase in corporate organisations during 2013-2015, namely, ENER (200%), TAXUD (88%) and SANTE (80%); whilst others have experienced a decrease, namely, FISMA (-61%) or RTD (-38%). AGRI is the only DG that has 'removed' its only corporate organisation (1 in 2013 and none in 2014-2015). In absolute terms, the DGs that show highest increase include GROW (+41), MOVE (+13), and SANTE (+12), whilst FISMA (-50) and CNECT (-13) are the DGs that have most reduced their number of corporate members.

Figure 14 Number of organisations classified as corporate per DG



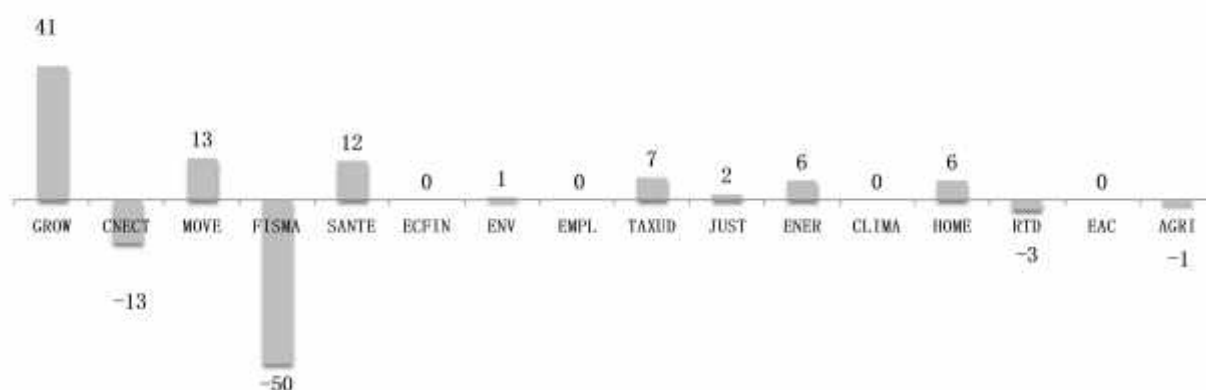
Source: Blomeyer & Sanz based on XML data (EC 2013, 2014, 2015).

Figure 15 Change (%) in number of organisations classified as corporate per DG (2013-2015)



Source: Blomeyer & Sanz based on XML data (EC 2013, 2014, 2015).

Note: DGs HOME and AGRI are not shown in the chart. DG HOME increased from 0 to 6 corporate organisations, whilst DG AGRI decrease from 1 to 0, in 2013-2015.

Figure 16 Change (absolute) in number of organisations classified as corporate per DG (2013-2015)

Source: Blomeyer & Sanz based on XML data (EC 2013, 2014, 2015).

Finally, the following figures look at corporate organisations' 'policy interests'⁸³. In 2015, the data set analysed includes 59 policy areas.

Before looking at the corporate organisations' policy interests, it is worth noting:

In 2015, eight EGs show no information regarding their policy area⁸⁴.

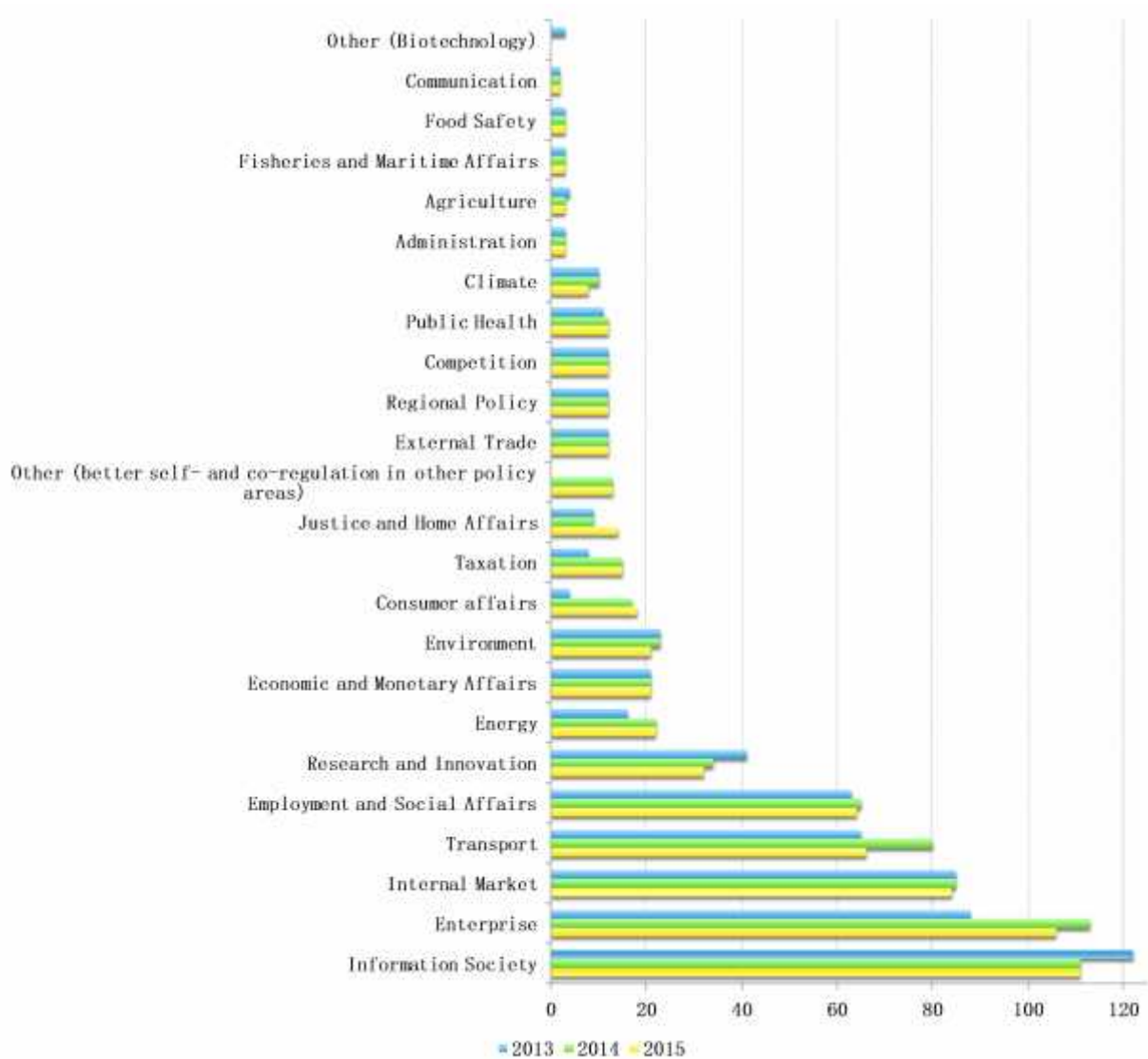
The large majority of EGs are linked to one single (86%) or two (9%) policy areas. A small number of EGs show up to four policy areas, and the following EGs show five or more, namely, 'Transatlantic Trade and Investment Partnership Stakeholder Advisory Group' (5); 'CARS 2020 Expert Group' (6); 'Member States' Group on Key Enabling Technologies' (7); 'KETs High Level Commission expert group' (7); 'Expert Group for Bio-based Products' (7); 'Policy Coherence for Development Expert Group' (11); and 'EU Bioeconomy Panel' (14).

Turning to corporate organisations, out of the 59 possible policy areas, in 2015 corporate organisations were 'only' involved in 23 policy areas. A large number of organisations were involved in 'Information society' policy (111); 'Enterprise' (106); or 'Internal Market' (84). On the other hand, very few were involved in 'Fisheries and Maritime Affairs' (3), 'Food safety' (3), 'Agriculture' (3), or 'Communication' (2) (See Figure 17). In terms of relative increase / decrease of corporate involvement per policy area, it is worth noting the 350% increase for the policy area of 'Consumer affairs' and the 88% increase for 'Taxation'. On the other hand, 'Climate', 'Agriculture', 'Enterprise' and 'Research and Innovation' experienced decreases of between 20% and 25%. Looking at the absolute increase / decrease, 'Enterprise' (+18), 'Consumer affairs' (14), and 'Others' (+13) lead the increase, whilst 'Information Society' (-11) and 'Research and Innovation' (-9) represent the policy areas with highest decrease of corporate organisations.

⁸³ The term 'members' refers to non-unique members.

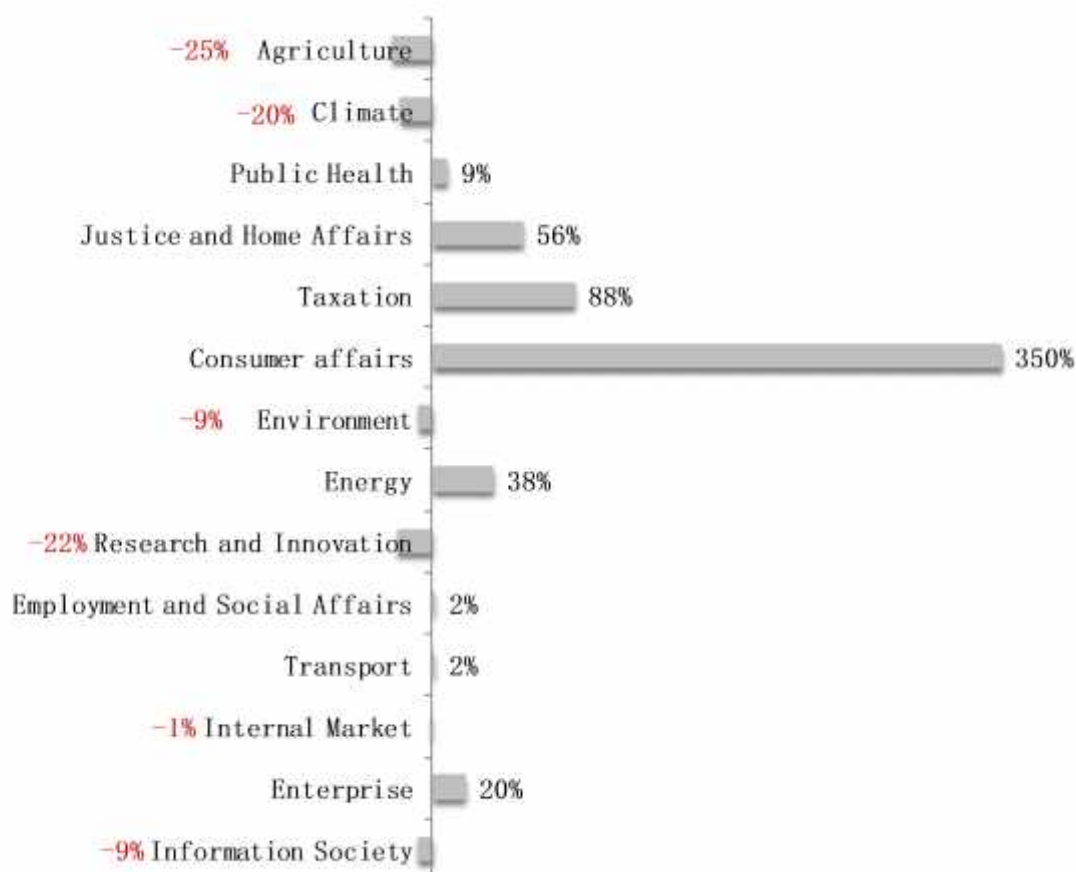
⁸⁴ These groups are: X03082, E03299, E03077, E03010, E02812, E02750, E02691, E02037

Figure 17 Number of organisations classified as corporate per policy area



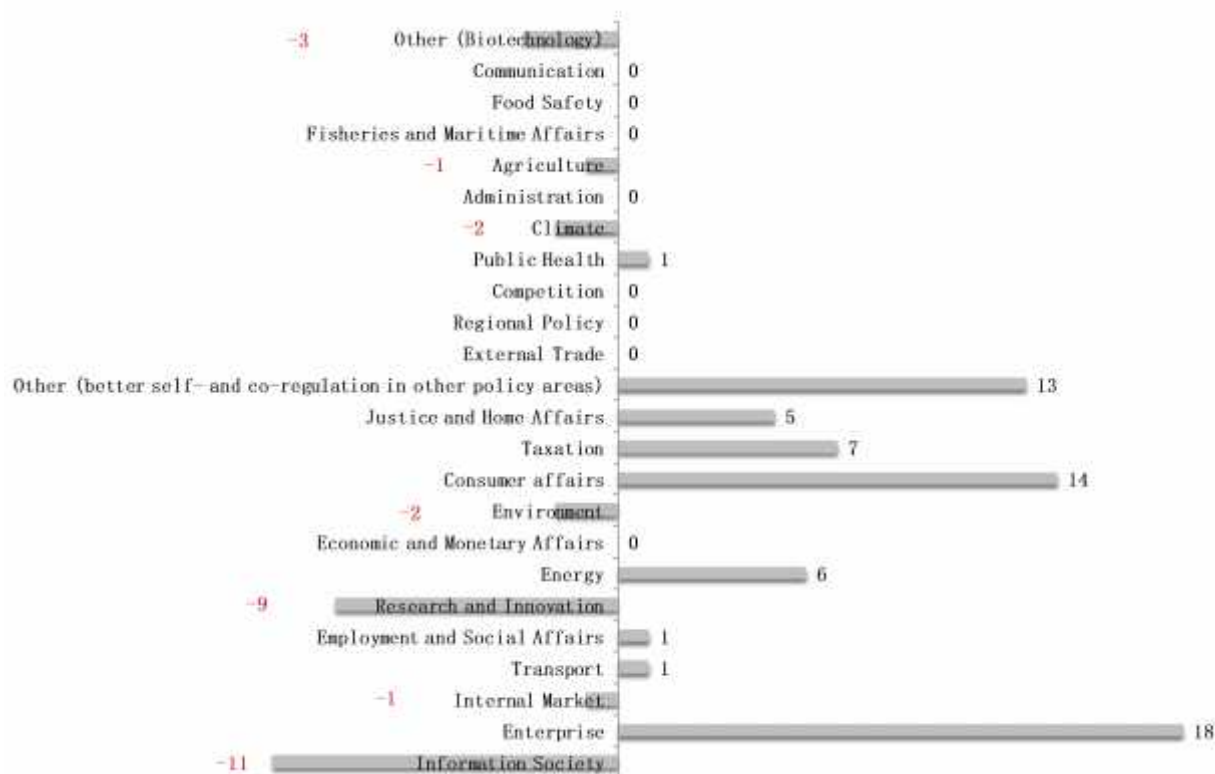
Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

Figure 18 Change (%) in number of organisations classified as corporate per policy area



Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

Note: The figure does not include policy areas that have not experienced any change (0%), nor 'Other (biotechnology)' that had 3 corporate organisations in 2013 and 0 in 2015; nor 'Other (better self-and co-regulation in other policy areas)' that had none in 2013 and 13 in 2015.

Figure 19 Change (absolute) in number of organisations classified as corporate per policy area

Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

Imbalance

Having reviewed the EG membership of corporate organisations, this sub-section looks specifically at the issue of imbalance.

Before commencing the analysis it is worth noting a series of issues to allow for a better understanding of the findings:

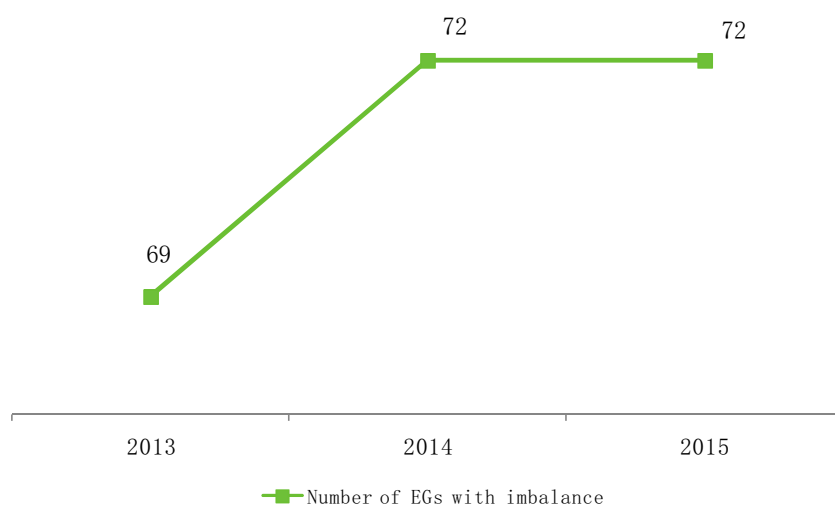
- For the purpose of the analysis, imbalance was defined as a higher number of members with economic interests (organisations classified as 'Corporate' or 'Financial Institution' and individual experts classified as 'Banking', 'Industry', 'Public Affairs' or 'Insurance' – 'Cs' in the following text) versus non-economic interests (organisations classified as 'NGO' and 'Trade Union' or individual experts classified as 'Consumers' or 'Trade Union' – 'NCs' in the following text).
- An important caveat needs to be noted here with regard to the definition of 'imbalance'; the current classification of EG members does not allow for a clear-cut differentiation between economic and non-economic interests (as recommended by the Ombudsman).
- In this context it is also worth noting that the EC reserves the classification of 'corporate' to individual companies, whilst groups of companies are classified as 'association'. This approach is well illustrated by DG HOME feedback on EG reform: *'As regards the allegation of Alter-EU that the non-government members represent individual companies, it can be easily established via the consultation of the Register and their respective websites that (...) are industry associations and not individual companies. They represent the interests of a particular part of the telecommunications industry, but not of one or the other individual member company. (...) Their websites mention their member companies. From this it can be clearly established that (...) are industry associations within the meaning of the Commission Register and cannot be considered to represent only the corporate*

interest of one or the other individual company. European and world-wide professional Associations are labelled in the Register as "Association", in compliance with Commission's internal classification criteria. The label "Corporate" is reserved for individual companies.'

- Most importantly, the analysis does not include the category 'Associations'. However, Associations constitute by far the most 'popular' classification of organisation members (about 30% of the total number of organisation members). However, the REG does not allow any insight into the associations' actual interests (e.g. corporate, consumer, environmental etc.) as this is not further specified. Associations were therefore excluded from the quantitative analysis of imbalance.
- Finally, the analysis of REG data excludes those members that are considered 'neutral' on the dimension economic versus non-economic interests, i.e., national administrations, EU body, EU agency, research institute, academia.

The analysis of REG data shows:

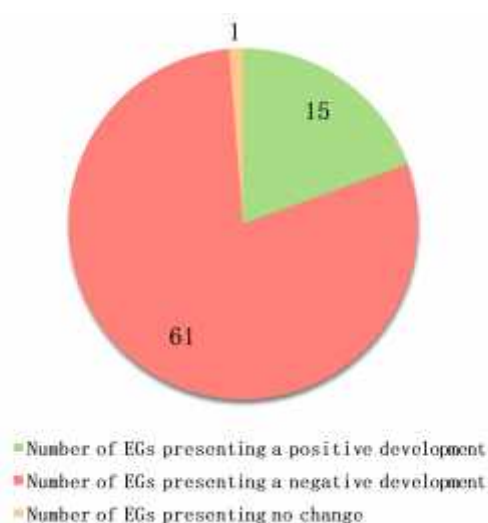
- Overall the comparison between the number of 'Cs' and 'NCs' shows a balance in favour of Cs. In 2013 there were 275 more Cs than NCs, and this imbalance increased to 377 in 2014 and 2015. Therefore – and considering the aggregate of all EGs - during the period 2013 to 2015, the number of Cs has increased by 37%.
- In 75 EGs the number of Cs has outnumbered NCs every year. In 15 EGs NCs have always outnumbered Cs. The 14 remaining EGs may show a balance for one year, and a positive (Cs > NCs) or negative (Cs < NCs) imbalance for other year(s).
- Within the set of EGs (75) where Cs have always outnumbered NCs, in most of the cases the number of NCs equals zero (61 EGs). However, within the opposite set, in all cases where NCs have always outnumbered Cs (14 EGs) there has been at least one C member in the EG.
- Looking at the developments over the years 2013 to 2015, Figure 20 shows a small increase in the total number of EGs presenting an imbalance in favour of Cs, from 69 EGs in 2013 (8% of all EGs) to 72 EGs in 2015 (9% of all EGs). Finally, Figure 21 shows that 61 EGs experienced an increasing imbalance between 2013 and 2015 whilst 15 EGs experienced a development towards more balance.
- Finally, REG data allows distinguishing between different degrees of imbalance (Figure 20). The large majority of EGs characterised by imbalance, present a 'high' degree of imbalance (i.e., no NCs).

Figure 20 Number of EGs presenting imbalance (absolute terms)⁸⁵

Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

Note I: EGs analysed include those having at least one corporate member in any year, i.e. 2013, 2014 or 2015.

Note II: There is an "imbalance" where number of corporate members > number of non-corporate members.

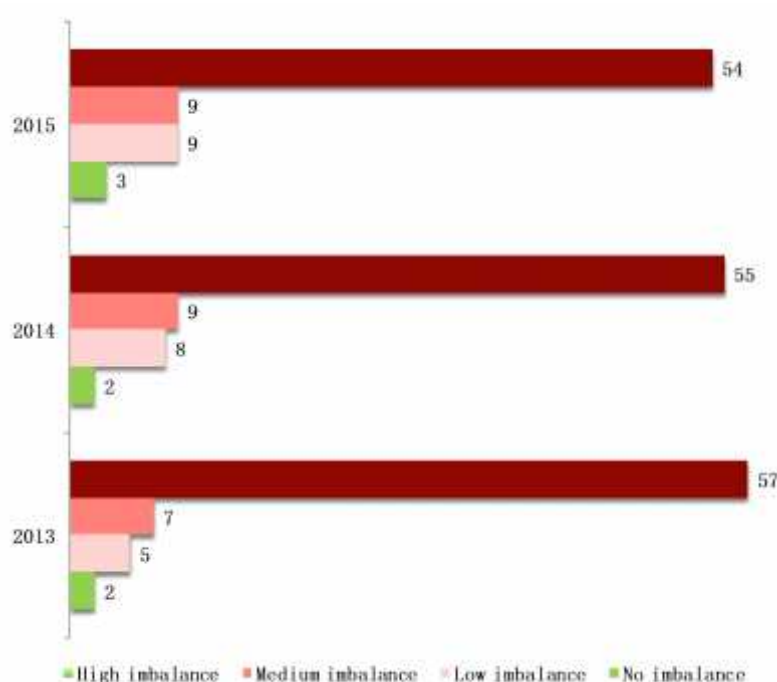
Figure 21 EG's development towards balance, 2013-2015

Source: Author's own elaboration based on XML data (2013, 2014, 2015) provided by the EC.

Note I: The analysis is made over the 77 EGs that have at least one corporate member in 2013 and in 2015. **Note II:** There is an "imbalance" where number of corporate members > number of non-corporate members.

Legend: *Positive development* = EG for which the difference (Corporate – Non-Corporate) over Total number of EGs for the year is higher in 2013 than in 2015; *Negative development* = EG for which the difference (Corporate – Non-Corporate) over Total number of EGs for the year is lower in 2013 than in 2015; *No-change development* = EG for which the difference (Corporate – Non-Corporate) over Total number of EGs for the year is the same for 2013 and 2015.

⁸⁵ The number of EG where there is at least one corporate member and the number of non-corporate members outnumber the corporate members is 18 for 2013, 19 for 2014, and 17 for 2015. And the number of EG where both corporate and non-corporate exist in the same number is 2 for 2013, 2 for 2014 and 3 for 2015.

Figure 22 EG broken down by degree of imbalance (absolute terms)

Source: Author's own elaboration based on XML data (2013, 2014, 2015) provided by the EC.

Note I: EGs analysed include those having at least one corporate member in any year, i.e. 2013, 2014 or 2015.

Note II: There is an "imbalance" where number of corporate members > number of non-corporate members.

Legend: *High* = EGs having no Non-Corporate members; *Medium* = EGs having between 1% to 24% of Non-Corporates; *Low* = EGs having between 25% to 49% of Non-Corporates; "None": EGs having 50% of Non-Corporates and 50% of Corporates.

2.2.1.3. Summary assessment of compliance

The section ends with a summary assessment of EC compliance with the EP conditions on balance. This comprises an assessment of the EC's recent response to the Ombudsman inquiry on EGs⁸⁶.

- *Condition 1 (No exception to EG balanced composition / no single interest category to have majority of non-government / non-EU seats in any EG):* Concerning the first condition, the review shows some progress towards more balanced EGs. Indeed a review of the EP-EC correspondence on EGs shows that the EC has closed some EGs and modified the composition of others. Notwithstanding, the EC also maintains its position of balance being an optional EG feature. The analysis of REG data confirms the persistence of imbalance (72 EGs in 2015 or 9% of all EGs). Concluding, compliance with this condition must be assessed as 'not achieved'. However, since this condition was not reiterated in the context of the 2014 budget reserve, it is not clear to which extent the condition is still considered to apply.
- *Condition 2 (Lobbyists / corporate executives ineligible for membership as 'individual expert appointed in his/her personal capacity'):* The EP-EC correspondence on EGs points to progress for the second condition, with the EC correcting membership status in some cases. However, existing REG data

⁸⁶ EC (2015) Commission's opinion on the European Ombudsman's analysis and suggestions, 3 June 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/60019/html.bookmark> (last accessed on 8 June 2015)

does not allow an assessment of whether some of the 1,487 remaining individual experts appointed in their personal capacity are 'Lobbyists / corporate executives'.

- **Condition 3 (Conflict of interest check for 'individual expert appointed in his/her personal capacity'):** The EP-EC correspondence on EGs does not address this issue directly, and existing REG data does not allow an assessment. Case study work indicates the absence of any systematic approach on conflict of interest checks, however, the EC has committed to strengthened conflict of interest checks in its recent response to the Ombudsman enquiry.
- **Condition 4 (Public declarations of interest for 'individual expert appointed in his/her personal capacity'):** This condition must be assessed as 'not achieved', since the REG does not provide declarations of interest for individual experts appointed in their personal capacity.
- **Condition 5 (Common selection criteria that guarantee balance and absence of conflict of interest):** The fifth condition (Common selection criteria that guarantee balance and absence of conflict of interest) must be assessed as 'not achieved'; there are no common selection criteria.

Finally, looking towards the future, the EC's recent response to the Ombudsman inquiry rules out a reform of the current framework to address the three Ombudsman recommendations of 'balanced representation of all relevant interests in each expert group', 'individual definition of 'balance' to be set out for each individual expert group' and a 'provision containing general criteria for the delimitation of economic and non-economic interests'⁸⁷. Noting mainly practical reasons (e.g., no or unsuitable applications by organisations representing non-economic interests), the EC reiterates its current practice of addressing: 'any perceived imbalance on a case-by-case basis, in order to remedy possible inconsistencies, in light of specific circumstances'⁸⁸.

Table 8 EP conditions on balance

Condition	Year of EP condition		Progress?			Compliance?
	2011	2014	2012	2013	2014	
No exception to EG balanced composition / no single interest category to have majority of non-government / non-EU seats in any EG	✓		yes	yes	yes	no
Lobbyists / corporate executives ineligible for membership as 'individual expert appointed in his/her personal capacity'	✓	✓	yes	yes	yes	cannot be verified
Conflict of interest check for 'individual expert appointed in his/her personal capacity'	✓	✓	no	no	no	no
Public declarations of interest for 'individual expert appointed in his/her personal capacity'	✓	✓	no	no	no	no
Common selection criteria that guarantee balance and absence of conflict of interest (for EGs that are not limited to Member States)	✓	✓	no	no	no	no

Source: Blomeyer & Sanzon basis of EP conditions

⁸⁷ European Ombudsman (2015) Letter to the European Commission requesting an opinion in the European Ombudsman's own-initiative inquiry OI/6/2014/NF concerning the composition of Commission expert groups, 27 January 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/58861/html.bookmark>

⁸⁸ EC (2015) Commission's opinion on the European Ombudsman's analysis and suggestions, 3 June 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/60019/html.bookmark> (last accessed on 8 June 2015)

2.2.2. Transparency

This section first reviews the EP-EC dialogue on EGs with a focus on the issue of 'transparency' (Section 2.2.2.1), and then presents findings from the analysis of the REG (Section 2.2.2.2). The section ends with a summary assessment of compliance with EP conditions on transparency (Section 2.2.2.3).

2.2.2.1. EP-EC dialogue on EGs

The EP and civil society organisations have noted a lack of transparency with regard to EGs. This refers mainly to the constitution of EGs (selection of EG members via public calls), to EG outputs (public information on agendas, minutes of meetings, documents produced etc.), and to insufficient provisions on conflicts of interest.

The following table presents an overview of the Ombudsman recommendations on transparency as identified in the course of the Ombudsman's inquiry (Table 9).

Table 9 Ombudsman on transparency

Criterion	Condition
Transparency / Conflicts of interest	Publish a call for applications for every expert group
	Create a single portal for calls for applications to expert groups
	Introduce a standard minimum deadline of 6 weeks for all calls for applications
	Use the Transparency Register's categorisation to categorise members in Commission expert groups
	Require registration in the Transparency Register for appointment to expert groups
	Systematically check whether registrants sign up to the right section of the Transparency Register
	Link each member of an expert group to his/her/its profile in the Transparency Register
	Re-design the 'statistics' tab on the expert groups register
	Publish documents on expert groups' and their subgroups' work on the expert groups register in a systematic and timely manner
	Publish, on the expert groups register, sufficient information on the interest that an individual expert represents as a representative of a common interest shared by stakeholders
	Seek to ensure that the minutes that are produced to record expert groups' and their subgroups' meetings, including deliberations, are as detailed as possible

Source: Blomeyer & Sanz on basis of Ombudsman recommendations

Public calls

The Horizontal Rules do not require mandatory public calls for the selection of EG members. Referring specifically to the selection of individual experts appointed in their own capacity, the use of public calls is (only) recommended: *'public calls for applications shall be used **as far as reasonably practicable**'*⁸⁹.

EC feedback confirms that public calls are optional: *'Concerning the selection of group members, I recall that the Commission's rules foresee that public calls for applications shall be used 'as far as reasonably practicable' in order to select individuals to be appointed in a personal capacity. However, in practice, such calls are also increasingly used by DGs to select individuals representing an interest and/or organisations, which shows the Commission's genuine efforts to ensure openness and transparency. According to existing rules, where a call for applications is not practicable (for example where extremely specific technical expertise is required), the choice should nevertheless be made on the basis of objectively verifiable criteria, which are explicitly mentioned in the Register for each group concerned. I remain convinced that, in light of the diversity of circumstances faced by expert groups, such flexibility in the selection of groups' members is fully justified'*⁹⁰.

The EP-EC dialogue on EG reform includes several examples of direct selection without public calls. For example, the EC SG explains that an open call for EG 'Debt Redemption Fund and Eurobills' was not feasible: *'Given the complexity but also the overarching nature of the topics to be analysed and their importance for the future of the Economic and Monetary Union at large, it was not appropriate to issue a call for interest as regards the membership of the expert group. The Commission chose the members because they combine the impressive expertise and the varied professional background that are needed to provide thorough analysis on these complex issues from a political, economic and legal point of view'*⁹¹.

Box 9 Case study findings on EG selection process

The call for establishing an EG predominantly comes from within the EC. Various reasons are given for why EGs have been established. These vary from the lack of in-house expertise on specific topics (e.g. E02287), the need for technical external scrutiny/advice (e.g. E02758), to the need for basic stakeholder input for the organisation of public events (e.g. E01461). Before initiating a (public) selection process, DGs frequently launch Inter-Service Consultations to request the formal opinion of other DGs on the establishment of EGs (e.g. E02774)⁹². This represents some progress over previous practice of rather limited coordination between DGs / EGs (Julia Metz).

Based on the consultation with other DGs the role of lead and associate DGs is decided. For example, associate DGs can hold a co-chair position and actively engage in the day-to-day management (e.g. E01461). Alternatively, associate DGs participate as observers and are kept informed on EG output by the lead DG (e.g. E02774).

Most selected cases issued open calls for application. Some restricted the call for applications or used a mixed approach. Various EGs apply an 'open door policy' to allow stakeholders ad hoc access to meetings.

Finally, the survey of EG members representing non-economic interests (e.g., NGOs) indicates that member selection remains largely restrictive (48% of respondents).

⁸⁹ EC (2010) Communication from the President to the Commission, Framework for Commission Expert Groups: Horizontal Rules and Public Register, SEC (2010) 7649 final, Rule 9(2), bold font by the author, 10 November 2010

⁹⁰ EC (2013) letter to European Parliament, ARES(2013) 3714015 of 13 December 2013; EC (2013) EC DG EAC letter to European Parliament of 20 December 2013, EC (2014) DG SANCO letter to European Parliament, ARES(2014)80827 of 15 January 2014

⁹¹ EC SG (2014) letter to European Parliament, ARES(2014) 140954 of 22 January 2014

⁹² Note: this is a key moment to ensure coordination between DGs on EGs and avoid overlap

EG outputs

Concerning the transparency of EG ‘outputs’, the Horizontal Rules’ Chapter IV requires: all EGs are to be published in the REG, including names of individual experts appointed in their personal capacity, and of organisations; and information on the EG activities is to be made public on the REG or on dedicated EG websites linked to the REG.

The existing framework has been criticised: *‘Regarding the transparency of the work of the expert groups, the rules are extremely vague and leave broad room for discretion of the Commission. It is required that “information concerning the activities carried out by the expert groups” is included in the register. Neither the types of documents nor the timeframe is specified. Accordingly, there is no duty to actively provide information to the public. (...) Consequently, the rules governing the transparency of expert groups do not allow for monitoring the actual work of the expert groups by providing agendas, minutes and documents produced in a timely manner’*⁹³.

Box 10 Case study findings on EG outputs

Various documents have been identified relevant to EGs:

- Decision to establish expert groups (if applicable)
- EG rules of procedures
- Agendas of meetings
- Minutes of meetings
- Documents used for meetings
- Output documents, e.g. final decision / advice

A review of the availability / accessibility of these documents via the REG reveals a patchwork of information platforms. EGs publish information in different formats (i.e. Microsoft Word, PDF, OX) as well as using different forums (i.e. EG website, CIRCABC, REG). The selected EGs overall publish the agendas of meetings and frequently also publish the minutes. The details provided in the minutes vary per EG, but could, for example include, lists of participants and detailed breakdown of opinions shared during the meeting. Some EGs also provide meeting documentation such as presentation slides and working documents discussed during the meetings.

Two specific cases provide for a good practice in terms of transparency (E01295, E01296). The EGs provide via the EC’s Communication and Information Resource Centre for Administrations, Businesses and Citizens (CIRCABC) access to all relevant documentation used and produced by the EGs. This information is downloadable in PDF format and numbered corresponding the meeting agenda. The EG representative highlighted that they aim to be as transparent as possible. The usefulness of this level of transparency was confirmed by frequent contact requests by third parties.

EGs	Rules of Procedure	Agendas	Minutes	Additional meeting documents
E02611	✓ (CIRCABC)	✓ (REG)	✓ (REG)	✗
E02774	✓ (REG)	✓ (EG website)	✓ (EG website)	✗
E01461	✗	✗	✗	✗
E01295	✗	✓ (CIRCABC)	✓ (CIRCABC)	✓ (CIRCABC)
E01296	✗	✓ (CIRCABC)	✓ (CIRCABC)	✓ (CIRCABC)

⁹³ Pilniok, A. (2015) Securing the independence of advice? A comparison of the legal regulation of expert committees in the EU and the United States, page 18, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2618068 (last accessed on 16 June 2015)

EGs	Rules of Procedure	Agendas	Minutes	Additional meeting documents
E02661	✓ (REG)	✓ (REG)	✓ (REG)	✗
E02758	✗	✓ (REG)	✓ (REG)	✓ (REG)
X01353	✗	✓ (REG)	✓ (REG)	✗
E02287	✓ (REG)	✓ (CIRCABC)	✓ (CIRCABC)	✓ (CIRCABC)
E00860	✓ (EG website)	✓ (EG website)	✓ (EG website)	✓ (EG website)
E02834	✗	✓ (REG)	✗	✓ (EG website)

Box 11 Transparency in the US

In the US, the Federal Advisory Committee Act requires:

Committee written outputs are public and published on the Register: *'the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist. Detailed minutes of each meeting of each advisory committee shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committee. The accuracy of all minutes shall be certified to by the chairman of the advisory committee'*⁹⁴.

Committee meetings are public and notified in advance to allow for participation⁹⁵.

It is considered that *'The Commission's Horizontal Regulation makes the expert groups transparent only ex-post, while the FACA strives for openness and participation while the actual committee work proceeds'*.⁹⁶

Box 12 Transparency in the UK

In the UK, the Code of Practice for Scientific Advisory Committees includes a dedicated section to 'Communication and transparency'⁹⁷. The Code requires every committee to establish a communication policy, and *'all committees are expected to publish, as a minimum, programmes of work, meeting agendas, minutes, final advice (where appropriate) and an annual report'* (exemptions need to be justified).

⁹⁴ Federal Advisory Committee Act Section 10(b) and (c)

⁹⁵ Federal Advisory Committee Act Section 10(a)(1) and (2)

⁹⁶ Pilniok, A. (2015) Securing the independence of advice? A comparison of the legal regulation of expert committees in the EU and the United States, page 18, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2618068 (last accessed on 16 June 2015)

⁹⁷ UK Government Office for Science (2011) Code of Practice for Scientific Advisory Committees

Conflicts of interest

Finally, concerning conflicts of interest, the Horizontal Rule 9(1) requires the selection of individual experts appointed in their personal capacity to *'be carried out in such a way as to avoid any conflict of interests'*. The same rule also requires the EC to *'inform those experts that they may be excluded from the group or a specific meeting thereof, should a conflict of interest arise'*. There is no further detail on the operationalisation of the conflict of interest requirements, and the EC's recent commitment to strengthen conflict of interest provisions can be considered an acknowledgement of shortcomings in this regard⁹⁸.

Box 13 Case study findings on conflicts of interest

Some EGs that have internal rules of procedure in place do provide for provisions in case of conflict of interest (E02661, E02287). For example, such provisions ensure that in case of a conflict of interest, the EC can decide that the expert in question abstains from participation in the debate and any vote relating to the issues at hand. The responsibility to flag possible conflict of interest lies primarily with the experts themselves. They have to inform the Chairperson prior to the meetings. Cases are to be reported in writing.

The enforcement of the conflict of interest provisions is primarily left to the integrity of the experts themselves. EGs indicated that member organisations are themselves responsible for sending representatives and ensuring that these represent the organisation's interest.

In relation to Member State representation, one EG highlighted that national authorities were urged in the past to refrain from sending industry representatives on their behalf (E02611). Member States enjoy discretion with regard to which person represents them at EGs. It is not uncommon for national administration representatives to be accompanied by technical experts from outside the administration when participating in EG meetings. However, this is considered to become problematic when technical experts participate on behalf of the national administration without the latter being present. The REG is not transparent with regard to displaying where corporate interests are represented, i.e., economic/corporate interests may not only participate as 'associations' but also be hidden in the largest member category, the national authorities.

Box 14 Conflicts of interest in the UK

In the UK, of the 355 agencies and other public bodies, 19 are designated as 'Advisory Committees' and a further seven as 'Advisory Councils'.⁹⁹ The related websites comprise detailed terms of reference for each body, and lists of members including detail on the members' interests. This is inspired by the 40-page Code of Practice for Scientific Advisory Committees¹⁰⁰, providing, inter alia, for: an 'introductory process' for new members covering the issue of conflicts of interest; procedural rules for handling declarations of interest; the role of the body's secretariat in terms of monitoring conflicts of interest; and annual reporting on conflicts of interest. The Code of Practice confirms the application of general government practice on conflicts of interest as set out in *'The Commissioner for Public Appointments Code of Practice for Ministerial Appointments to Public Bodies'* and the *'Office of Science and Technology's Good Practice for Public Sector Research Establishments on Staff Incentives and the Management of Conflicts of Interest'*.

⁹⁸ EC (2015) Commission's opinion on the European Ombudsman's analysis and suggestions, 3 June 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/60019/html.bookmark> (last accessed on 8 June 2015)

⁹⁹ <https://www.gov.uk/government/organisations#cabinet-office> (last accessed on 11 June 2015)

¹⁰⁰ UK Government Office for Science (2011) Code of Practice for Scientific Advisory Committees

Box 15 Mandatory disclosure of interests for expert groups in Switzerland

The Swiss law on expert groups notes mandatory requirements regarding interests. Members need to disclose their interests prior to election to an expert group and candidates refusing disclosure are ineligible for membership¹⁰¹. The last comprehensive evaluation of the expert group system also comprised the preparation of a guidance document and questionnaire on members' interests¹⁰². The questionnaire covers the following member interests: employment status; type of employment; name of employer; membership of boards of Swiss or foreign public or private corporations, foundations etc.; consultancy or expert functions for a federal body; managing or consultancy function for Swiss or foreign interest group; name of interest group and function; etc..

2.2.2.2. REG data analysis

The REG only allows for limited analysis of transparency since there is no systematic data on the EG selection procedure; and information on EG outputs is limited to EG activity reports.

EG selection procedure

The REG fails to provide systematic information on the EG selection procedure, i.e., the database does not include any specific field indicating whether an EG was established on the basis of a public call or via any other selection mechanism. The REG comprises a textual description of the selection procedure under the field 'selection procedure' (nearly all EGs provide information for the field 'selection procedure' for 2013 - 2015; between 20-25% refer to additional external sources). However, for the purpose of this analysis, the related information is not sufficient for two reasons:

- A systematic assessment of the selection procedure would require a 'manual' screening of all REG records;
- Even a 'manual' screening' would not guarantee a conclusive assessment since the level of detail of the REG's data field 'selection procedure' varies from one record to another. Moreover, in some cases the field does not directly provide the required information but refers to external sources, e.g. the EG's website.

EG outputs

Nearly all EGs provide information on their activities through the field 'activity report' (2013-2015)¹⁰³. Moreover, in 2013, 40% of all EGs also provided additional information on their activities through the field 'link' (referring to an EG website); this percentage increased to 55% of all EGs in 2015.

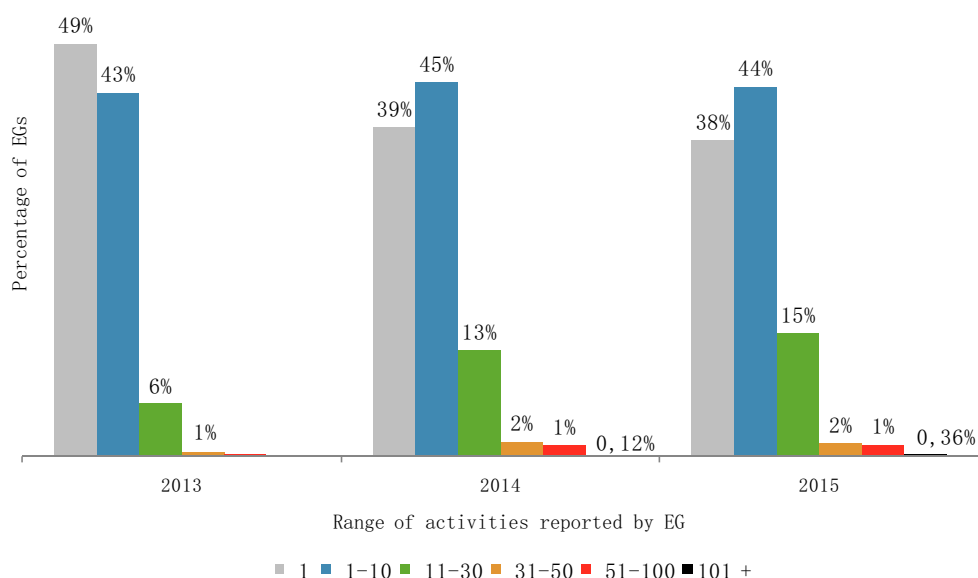
¹⁰¹ Article 57f, Bundesversammlung der Schweizerischen Eidgenossenschaft (2015) Regierungs- und Verwaltungsorganisationsgesetz (RVOG) vom 21. März 1997 (Stand am 1. Mai 2015)

¹⁰² Bundeskanzlei (2012) Leitfaden zur Offenlegungspflicht der Interessenbindungen für Mitglieder ausserparlamentarischer Kommissionen, <https://www.admin.ch/dam/gov/de/Bundesrecht/Ausserparlamentarische-Kommissionen/Leitfaden%20zur%20Offenlegungspflicht%20der%20Interessenbindungen%20für%20Mitglieder%20ausserparlamentarischer%20Kommissionen.pdf.download.pdf/Leitfaden%20zur%20Offenlegungspflicht%20der%20Interessenbindungen%20für%20Mitglieder%20ausserparlamentarischer%20Kommissionen.pdf> (last accessed on 11 June 2015) and Fragebogen (Questionnaire), <https://www.admin.ch/dam/gov/de/Bundesrecht/Ausserparlamentarische-Kommissionen/Fragebogen.doc.download.doc/Fragebogen.doc>

¹⁰³ By "provide information" we mean that there is at least one activity recorded.

In 2015, 38% of all EGs list reports for one single activity; 44% list reports for between 1 and 10 activities; 15% list reports for between 11 to 30 activities (see Figure 23). The reporting activity shows a positive trend, i.e., more EGs show more than one activity report in 2015 than in 2013. In 2013 one EG issued on average 3.85 reports, reaching 6.85 reports per EG in 2015.

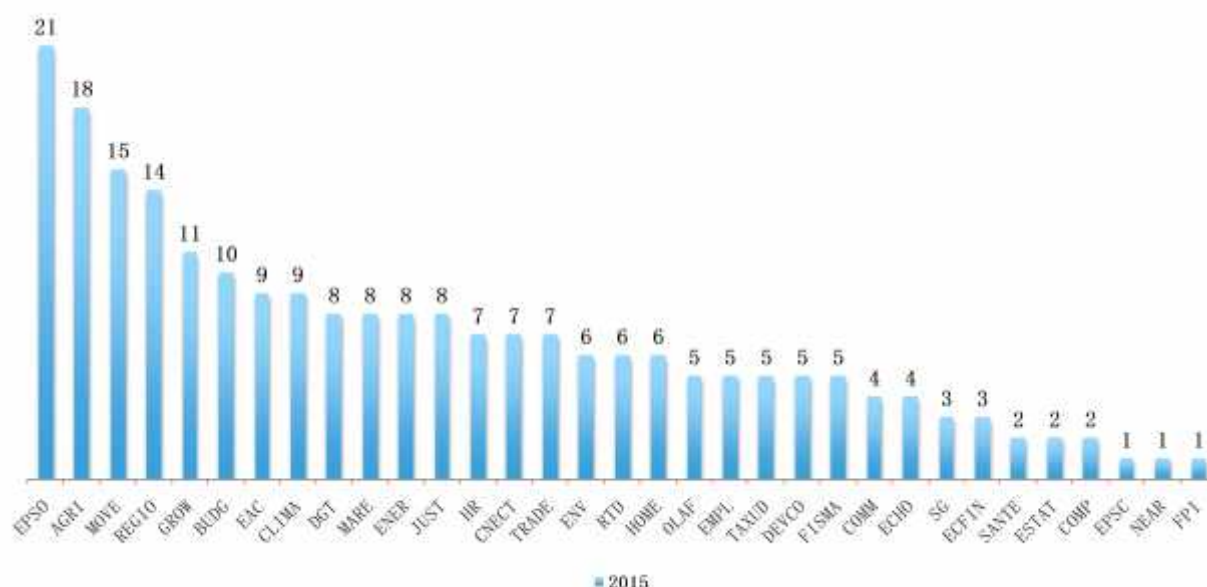
Figure 23 Range of activities reported by EGs (%)



Source: Blomeyer & Sanz based on XML data (EC, 2013-2015)

Note: The figures presented for each year consider the total number of activities reported by the EG as of that year regardless of when the report was recorded. I.e. The number of activity reports for 2015 should include those produced for 2013 (if any), 2014 (if any) and the new reports for 2015 (if any).

Looking at the EGs' reporting activity per DG, some DGs stand out for the reporting activity of their EGs, e.g., in 2015, EPSO (21 reports on average per EG), AGRI (18), MOVE (15), REGIO (14), GROW (11) and BUDG (10). Other DGs stand out for under-average reporting activity, e.g., ECFIN (3), SG (3), SANTE (2), ESTAT (2), COMP (2), EPSC (1), NEAR (1), and FPI (1). Moreover, several DGs experienced an important increase in reporting activity between 2013 and 2015.

Figure 24 Activity report records per EG, on average, per DG (2015)

Source: Blomeyer & Sanz based on XML data (EC, 2015).

Note: The average is calculated as the total number of activity report records in 2015 for all EGs linked to a DG over the total number of EGs linked to the DG. All figures are for 2015 except for COMM that shows the value for 2014 as this DG does not have any EG in 2015.

2.2.2.3. Summary assessment of compliance

The section ends with a summary assessment of EC compliance with the EP conditions on transparency. This comprises an assessment of the EC's recent response to the Ombudsman inquiry of EGs¹⁰⁴.

Condition 1 - Mandatory open selection process with a public call and a published mandate

- The EC maintains its position on the optional nature of the public call. The condition must therefore be considered as not achieved.

Condition 2 - All EG outputs published online / EG reports published prior to adoption

- REG analysis shows progress with the publication of EG activity reports, however, overall the EC maintains its position of no mandatory publication of all EG outputs. The condition must therefore be considered as not achieved.

Condition 3 - Existing rules to be reviewed to address Ombudsman findings

- Looking towards the future, the EC's recent response to the Ombudsman suggests commitment to reform, e.g., via a revised REG, registration of organisations and experts appointed as representatives of an interest in the Transparency Register, and linkages between the REG and the Transparency Register for these two types of EG members¹⁰⁵.
- However, the EC response does not follow up on Ombudsman recommendations concerning individual experts appointed in their own capacity, e.g. publication of the CVs and declarations of interest of individual experts appointed in their own capacity: 'Registration in the *Transparency Register of self-employed individuals because of their sole appointment to a give expert group in their*

¹⁰⁴ EC (2015) Commission's opinion on the European Ombudsman's analysis and suggestions, 3 June 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/60019/html.bookmark> (last accessed on 8 June 2015)

¹⁰⁵ EC (2015) Commission's opinion on the European Ombudsman's analysis and suggestions, 3 June 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/60019/html.bookmark> (last accessed on 8 June 2015)

*personal capacity would be inappropriate, because these experts are required to act independently and in the public interest*¹⁰⁶.

- Moreover, reforms concern the selection of EG members with the EC announcing that *'in principle the future selection of expert group members shall be carried out via public calls for applications'*. The words *'in principle'* suggest that the EC reserves the right of flexibility.
- Finally, the EC notes the preparation of new provisions on addressing conflicts of interest of individuals appointed in their personal capacity, including a definition of *'conflict of interest'* and a *'conflict of interest assessment'* allowing the identification of experts that will be required to complete a declaration of interests (i.e., individual experts will not automatically be required to submit a declaration). Concerning the declarations of interest, the EC does not follow the Ombudsman recommendation of annual updates, but, noting administrative burden, considers an update in case of a change of information sufficient (note that the EC might reconsider this – experience with declarations of interests supports annual updating since the exercise of completing the form raises awareness on conflicts of interest; moreover, administrative burden should be limited since the task of conflict of interest assessment and verification will be spread across all DGs using this type of EG member).
- The EC response suggests limited follow-up on Ombudsman recommendations relating to transparency of EG deliberations (e.g., minutes of meetings): *'By definition, the work carried out by expert groups is a collective one, which very often leads to decisions taken by consensus, in a spirit of mutual trust. Experts should be able to contribute freely to the work of groups, without any risk of external pressure; it is important that deliberations take place confidentially, as appropriate. Existing arrangements already foresee some flexibility: in agreement with the Commission's services, the group may, by simple majority of its members, decide to open its deliberations to the public.'*

Table 10 EP conditions on transparency

Condition	Year of EP condition		Progress?			Compliance?
	2011	2014	2012	2013	2014	
Mandatory open selection process with a public call and a published mandate (for EGs that are not limited to Member States)	✓	✓	yes	yes	yes	no
All EG outputs published online; EG reports published prior to adoption	✓	✓	yes	yes	yes	no
Existing rules to be reviewed to address Ombudsman findings		✓	n.a.	n.a.	n.a.	no

Source: Blomeyer & Sanz on basis of EP conditions

¹⁰⁶ European Ombudsman (2015) Letter to the European Commission requesting an opinion in the European Ombudsman's own-initiative inquiry OI/6/2014/NF concerning the composition of Commission expert groups, 27 January 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/58861/html.bookmark>

2.3. EFFICIENCY

KEY FINDINGS

- The Horizontal Rules provide only limited detail on the role of the Secretariat General and coordination between Directorates General; most notably, it is not clear to what extent the Secretariat General can enforce the Horizontal Rules vis-à-vis individual Directorates General.
- The analysis of the Register of Expert Groups suggests that the Secretariat General lacks the mandate and resources to enforce a consistent handling of information inputs to the Register; despite the Secretariat General's efforts, even new Expert Groups (established since November 2014) continue to be affected by data entry inconsistencies.
- There are examples of Directorates General coordinating on Expert Groups, and the analysis of the Register shows an increased use of the function of 'Associated Directorate General', i.e., participating in an existing group led by a different Directorate instead of establishing a new separate group.

This section reflects on the EG system's efficiency, looking at the EC SG's oversight and coordination function (Section 2.3.1) and coordination between DGs (Section 2.3.2).

2.3.1. The role of the Secretariat General

The Horizontal Rules entrust the SG with a series of oversight and coordination tasks¹⁰⁷. Within the SG, these tasks are allocated to Unit B2 'Institutional Affairs' (Directorate B 'Institutional and Administrative Policies')¹⁰⁸. Liaison between the SGs and the DGs is ensured via a network of EG contact persons, i.e., every DG has appointed a contact person on EGs to liaise with the SG¹⁰⁹. Moreover, there are frequent direct contacts between the SG and 'managers' of EGs in individual DGs. Overall, existing research on the SG's role considers: *'In the European Commission, the administrative oversight mechanisms are not as elaborate as they are in the US. At the level of the Commission's services, no organisational measures are prescribed by the Horizontal Rules. There is no functional equivalent to having a central Committee Manager at each agency. The responsibility lies only with the competent subdivision of the particular DG. One might argue that since the Horizontal Rules only apply to the Commission as single, albeit very large agency, no organisational precautions are necessary. However, research on the Commission has shown the diversity and heterogeneity of the services, which resemble – from an organisational theory perspective – agencies on their own. Given the structure of the European Commission, it is hardly comprehensible that a decentralised approach provides the same functions both*

¹⁰⁷ EC (2010) Communication from the President to the Commission, Framework for Commission Expert Groups: Horizontal Rules and Public Register, SEC (2010) 7649 final, 10 November 2010

¹⁰⁸ The staff directory lists a total of 12 staff, including 1 head, 1 deputy head, 5 policy officers, 4 administrative assistants, and one secretary. Exchanges with the unit suggest that two staff members have a substantial dedication to the EG system. <http://europa.eu/whoiswho/public/index.cfm?fuseaction=idea.hierarchy&nodeID=186996&lang=en> (last accessed on 19 June 2015)

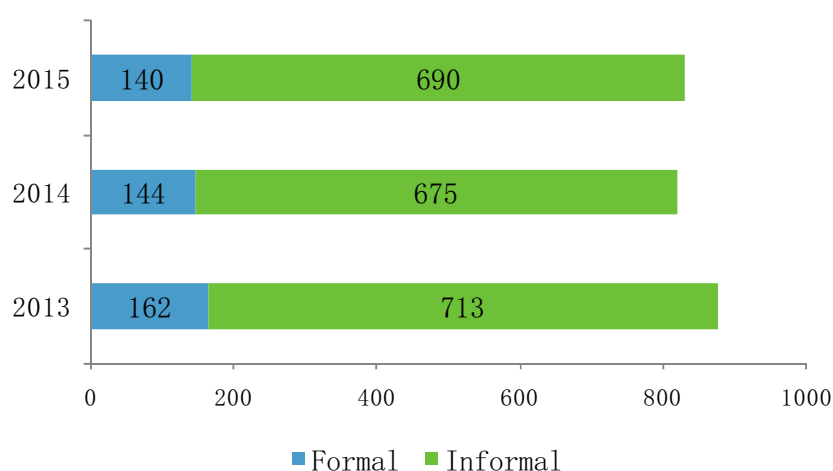
¹⁰⁹ Interview with the EC SG, Directorate B Institutional and Administrative Policies, Unit B2 Institutional Affairs, 4 May 2015

*within the GD and towards the Secretariat-General. It therefore seems favourable to adopt a similar policy in the Horizontal Rules and require the DGs to install such a position.*¹¹⁰

Establishment of informal EGs

An EC service wishing to set up an informal EG 'shall submit a request to the Secretariat General via the Register. If all relevant information is provided, the Secretariat General shall give formal authorisation for setting up the expert group' (Rule 4(4)). About 84% of all EGs are classified as informal in 2015 (Figure 25), and their establishment thus requires prior SG authorisation. Moreover, SG interview feedback confirms that individual DGs always consult with the SG in case of plans to establish a formal EG, that is, an EG established on a legal basis, such as a Decision¹¹¹.

Figure 25 Number of formal vs. informal EGs (2013-2015)



Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

Register of Expert Groups

The SG hosts the REG¹¹². In this context, the EP-EC exchange of correspondence points to SG efforts in terms of enhancing the consistency of individual DG's data entries in the REG: *'Concerning labelling of organisations, I will again ask services to check groups placed under their responsibility and correct any possible remaining errors'*¹¹³.

However, the analysis of REG data indicates only limited success. For example, there are inconsistencies in terms of DGs classifying members under one of the 12 different types of organisation - several EG members appear with up to five different organisation 'labels'. Section 2.1.3.2 has already noted inconsistencies in terms of the same organisation appearing with different

¹¹⁰ Pilniok, A. (2015) Securing the independence of advice? A comparison of the legal regulation of expert committees in the EU and the United States, page 20, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2618068 (last accessed on 16 June 2015)

¹¹¹ Interview with the EC SG, Directorate B Institutional and Administrative Policies, Unit B2 Institutional Affairs, 4 May 2015

¹¹² EC (2010) Commission Staff Working Document, Accompanying document to the Communication from the President to the Commission, Framework for Commission Expert Groups: Horizontal Rules and Public Register, SEC (2010) 1360 final, 10 November 2010

¹¹³ EC (2013) letter to European Parliament, ARES(2013) 3714015 of 13 December 2013

names (up to 25 times in the case of the European Consumer Organisation, BEUC). Inconsistencies continue to affect REG data since the new Commission took office. For example:

- EG 3258, established in November 2014, lists the Council of Europe as 'EU Body', however, EFTA, the OECD and WHO are noted as 'International Organisations';
- EG 3216, also established in November 2014, classifies the Legislation Department of Norway's Ministry of Justice and Public Security as 'Trade Union', however, the same Ministry, listed separately in the same EG is classified as 'Third Country'. EG 3216 also classifies the Icelandic Patent Office as 'Trade Union' whilst Iceland's State Office of Industrial Property is classified as 'Candidate Country'.
- Finally, EG 3278, established in February 2015, classifies Cyprus' Ministry of Agriculture, Natural Resources and Environment as 'NGO'.

Responding to the Ombudsman inquiry, the EC noted its intention to address inconsistent labelling: *'Commission departments will review the classification of expert group members in the Register of expert groups in order to avoid inconsistent labelling of organisations. This will be part of the overall exercise to improve data reliability on the Register'*¹¹⁴.

Guidance

The exchange of correspondence between the EP and EC during 2012 to 2014 confirms the SG's function in terms of guiding individual DGs on EG reform. Indeed, the December 2013/January 2014 DG 'updates' on EGs refer to a note by the SG asking DGs to respond to the EP (letter of 6 November 2013) with regard to the 2013 ALTER-EU report on EGs (A Year of Broken Promises): *'As regards the recent report issued by Alter-EU to which you make reference in your letter, please note that all responsible departments have been asked to provide you with detailed information concerning the groups under their responsibility mentioned in that report'*¹¹⁵.

Box 16 Coordination in the US

In the US, the Federal Advisory Committee Act provides for multi-level governance of Committees: At the central level, the General Services Administration *'shall establish and maintain within the General Services Administration a Committee Management Secretariat, which shall be responsible for all matters relating to advisory committees'*¹¹⁶; within each Agency an 'Advisory Committee Management Officer' is designated to ensure coordination/monitoring within an Agency: *'(1) exercise control and supervision over the establishment, procedures, and accomplishments of advisory committees established by that agency; (2) assemble and maintain the reports, records, and other papers of any such committee during its existence;'*¹¹⁷

¹¹⁴ EC (2015) Commission's opinion on the European Ombudsman's analysis and suggestions, 3 June 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/60019/html.bookmark> (last accessed on 8 June 2015)

¹¹⁵ EC (2013) letter to European Parliament, ARES(2013) 3714015 of 13 December 2013

¹¹⁶ Federal Advisory Committee Act Section 7(a)

¹¹⁷ Federal Advisory Committee Act Section 8(b)

Box 17 Compliance in the UK

In the UK, The Commissioner for Public Appointments oversees compliance with ‘The Code of Practice for Ministerial Appointments to Public Bodies’¹¹⁸. Advisory Committees and Councils are subject to the Commissioner’s oversight¹¹⁹. The Commissioner, inter alia, investigates complaints about appointment processes; conducts regular audits of appointment processes; and issues annual reports on appointment processes. With regard to Advisory Committees, the Commissioner specifically oversees the appointment of the Advisory Committees’ Chairs. Moreover, the Commissioner handles complaints regarding transparency and openness. The Commissioner’s annual reports note breaches of the Code.

Box 18 Coordination of expert groups in Switzerland

In Switzerland, the Federal Government (‘Bundesrat’) tasked the Federal Chancellery (‘Bundeskanzlei’) with a series of central tasks concerning the system of expert groups (e.g., regular four-year evaluation and membership renewal). Moreover, each Ministry (‘Department’) has nominated a contact person for expert groups¹²⁰.

2.3.2. Coordination between Directorates General

The Horizontal Rules require DGs to consult informally between each other before setting up a new EG *‘in order to ensure coordination and avoid duplication’*¹²¹. Moreover, the Horizontal Rules motivate EC Services to merge EGs *‘having a limited scope that fall within the same policy area into one single group with a wider scope, in particular for groups composed exclusively of Member States’ authorities, whose representatives may vary according to the agenda’*¹²².

There is no quantitative data on informal consultation and effectiveness in terms of avoiding duplication¹²³. In general terms, the SG considers that there is limited scope for mergers or for refraining from setting up a new EG, and this is explained with the EGs’ very specific thematic focus¹²⁴. Previous studies of the EG system show that it was marked by strong sectorial specialisation and weak horizontal coordination. When the number of EGs peaked in 2007-2008, only about 230 of the over 1300 groups active at that time were listed as associated with other DGs than its lead DG. Also after the considerable downscaling of the system, this still seems to be the case.

¹¹⁸ UK Commissioner for Public Appointments (2012) Code of Practice for Ministerial Appointments to Public Bodies

¹¹⁹ UK (2013) Public Appointments Order in Council, <http://publicappointmentscommissioner.independent.gov.uk/wp-content/uploads/2013/05/2013-Order-in-Council.pdf>, and UK (2014) Public Appointments Order in Council, <http://publicappointmentscommissioner.independent.gov.uk/wp-content/uploads/2012/02/Order-in-Council-for-Privy-Council-2014.pdf>

¹²⁰ <https://www.admin.ch/gov/de/start/bundesrecht/ausserparlamentarische-kommissionen.html#961115345> (last accessed on 11 June 2015)

¹²¹ EC (2010) Communication from the President to the Commission, Framework for Commission Expert Groups: Horizontal Rules and Public Register, SEC (2010) 7649 final, Rule 4(1), 10 November 2010

¹²² EC (2010) Communication from the President to the Commission, Framework for Commission Expert Groups: Horizontal Rules and Public Register, SEC (2010) 7649 final, Rule 5, 10 November 2010

¹²³ Interview with the EC SG, Directorate B, Unit B2 Institutional Affairs, 4 May 2015

¹²⁴ Interview with the EC SG, Directorate B, Unit B2 Institutional Affairs, 4 May 2015

Box 19 Case study findings on coordination

Overall, the coordination of EGs is left to the discretion of the respective DGs and their responsible units. DGs have overall coordinators that primarily ensure harmonisation with relation to REG requirements and to some degree publication of documentation. Apart from more operational coordination there is little interest in output coordination. The main argument is that EGs already formally or informally liaise with relevant DGs to coordinate their work.

SG interview feedback noted one example of 'rationalisation', i.e., in the past, DG MOVE operated several EGs on transport security, with one EG per mode of transport; further to SG guidance, DG MOVE merged the EGs, with one single EG now meeting in different constellations depending on the mode of transport concerned¹²⁵.

Further examples are noted in the EP-EC correspondence on EGs, for example, for DG CONNECT's former 'Advisory Group – ICT Infrastructure for energy-efficient buildings and neighbourhoods for carbon-neutral cities': *'DG CONNECT's initial intention was to open a call for applications in September 2012 with a view to expanding the group's membership to civil society representatives. It was then decided to include the members of this group in the Smart Cities Stakeholders Platform run by DG ENER (...). This will allow a better integration of smart cities-related activities while avoiding several redundant groups. The platform comprises at present three thematic Working Groups (Energy Supply Networks, Energy Efficiency in Buildings, Mobility and Transport). A fourth thematic Working Group dedicated to ICT-related aspects in smart cities will be established. This working group will include members coming from the Advisory Group – ICT Infrastructure for energy-efficient buildings and neighbourhoods for carbon-neutral cities ICT, as well as civil society representatives and other interested parties. One of the guiding principles of the Platform is openness - anyone can join the Platform and submit relevant content.'*¹²⁶

An analysis of REG data allows for further insights into the extent of coordination between DGs. Indeed, all EGs have a 'Lead DG' (Figure 2). In addition to this Lead DG, an EG can have one or more 'Associated DGs'. Whilst the Lead DG manages the EG, the Associated DGs also benefit from the work of the EGs. In its introduction to the Horizontal Rules, the EC explains: *'Today the majority of groups listed in the Register are managed by one DG and are not linked or associated with other services. According to the new framework, a service wishing to set up an expert group is required to informally consult other relevant services, inter alia in order to ensure coordination and avoid duplication. In addition, services are to endeavour to merge different groups having a limited scope that fall within the same policy area into one single group with a wider scope. This is particularly relevant when a group is exclusively composed of Member States' authorities, where representatives may vary according to the agenda'.*

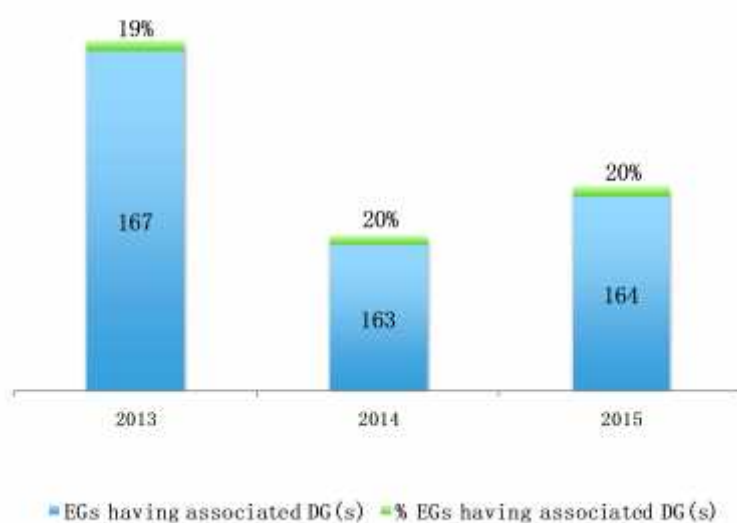
In 2015, 164 EGs count, besides the Lead DG, one or more Associated DGs. At around 20% (of the total number of EGs), the percentage of EGs with Associated DGs has remained stable over the period 2013-2015 (See Figure 26). In 2015, the 164 'shared' EGs counted on average 2.8 Associated DGs. This number has experienced an increase between 2013 and 2015 (See Figure 27).

¹²⁵ Interview with the EC SG, Directorate B, Unit B2 Institutional Affairs, 4 May 2015

¹²⁶ EC (2013) Informal Dialogue on Expert Groups, Initiatives taken by Commission Services, State of play, February 2013

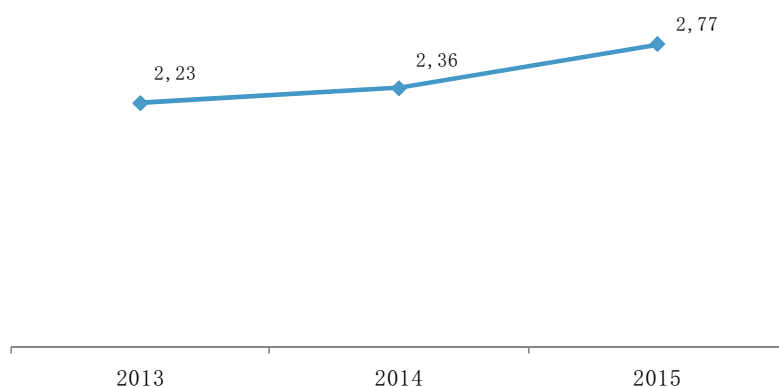
The leading Associated DGs include GROW, JRC, RTD, SANTE, ENV, EMPL, and FISMA (Associated DGs for more than 20 EGs in 2015) (See Figure 28)¹²⁷. It is also worth noting that some DGs appear to have developed efforts in terms of increasing their association to EGs led by other DGs, e.g., ESTAT, REGIO, BUDG, TAXUD, CLIMA, EMPL, MARE, EAC, JRC, and JUST. Looking at absolute numbers, the table is led by EMPL (+5), REGIO (+5), DIGIT (+5), JRC (+4) and ESTAT (+4). On the other hand, some DGs decreased their number of associated EGs, which is particularly notorious in the case of MOVE (-6) and FISMA (-6).

Figure 26 EGs with Associated DGs



Source: Blomeyer & Sanz based on XML data (EC2013, 2014, 2015).

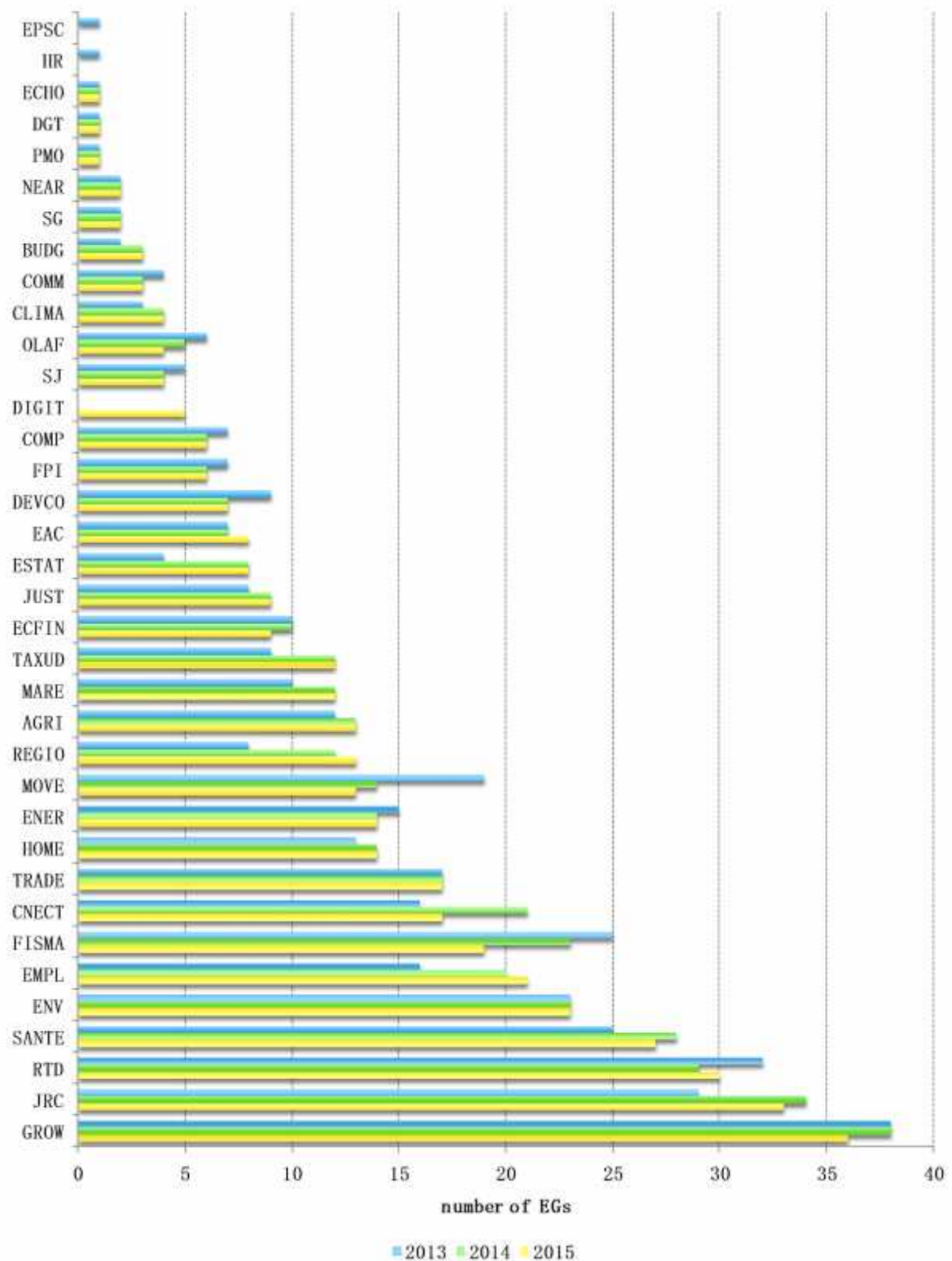
Figure 27 Average number of associated DGs per EG



Source: Blomeyer & Sanz based on XML data (EC2013, 2014, 2015).

¹²⁷ FISMA counts 19 in 2015, however FISMA is included in the top group of DGs since it was referenced as 'associate DG' by 23 and 25 EGs in 2014 and 2013 respectively.

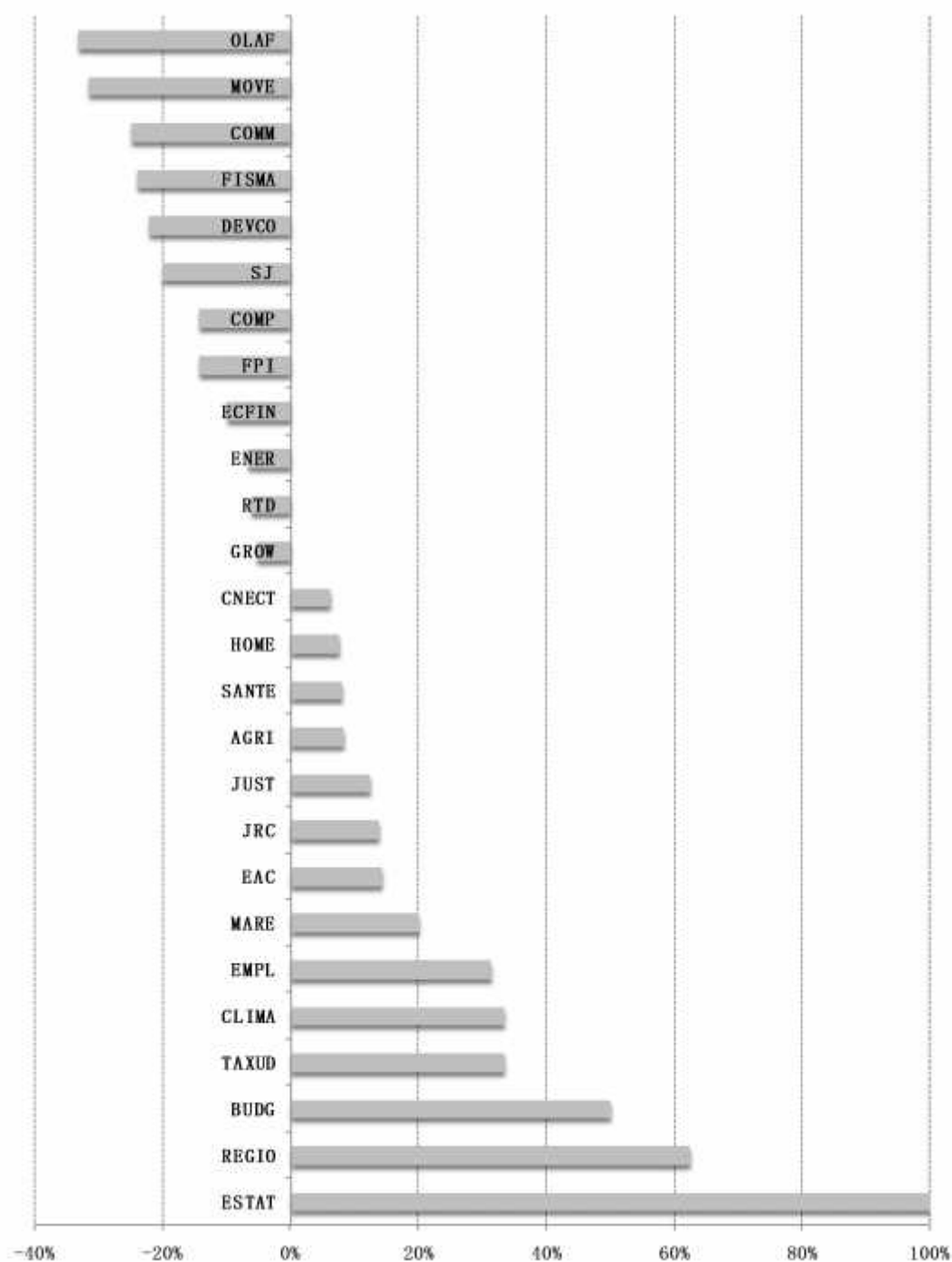
Figure 28 Number of EGs associated to DGs



Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

Note: All EG have a 'Lead DG'. However, and further to this, some EG are also 'associated' to other DGs. This analysis focuses only on DGs that are referenced as 'associate' by any EG.

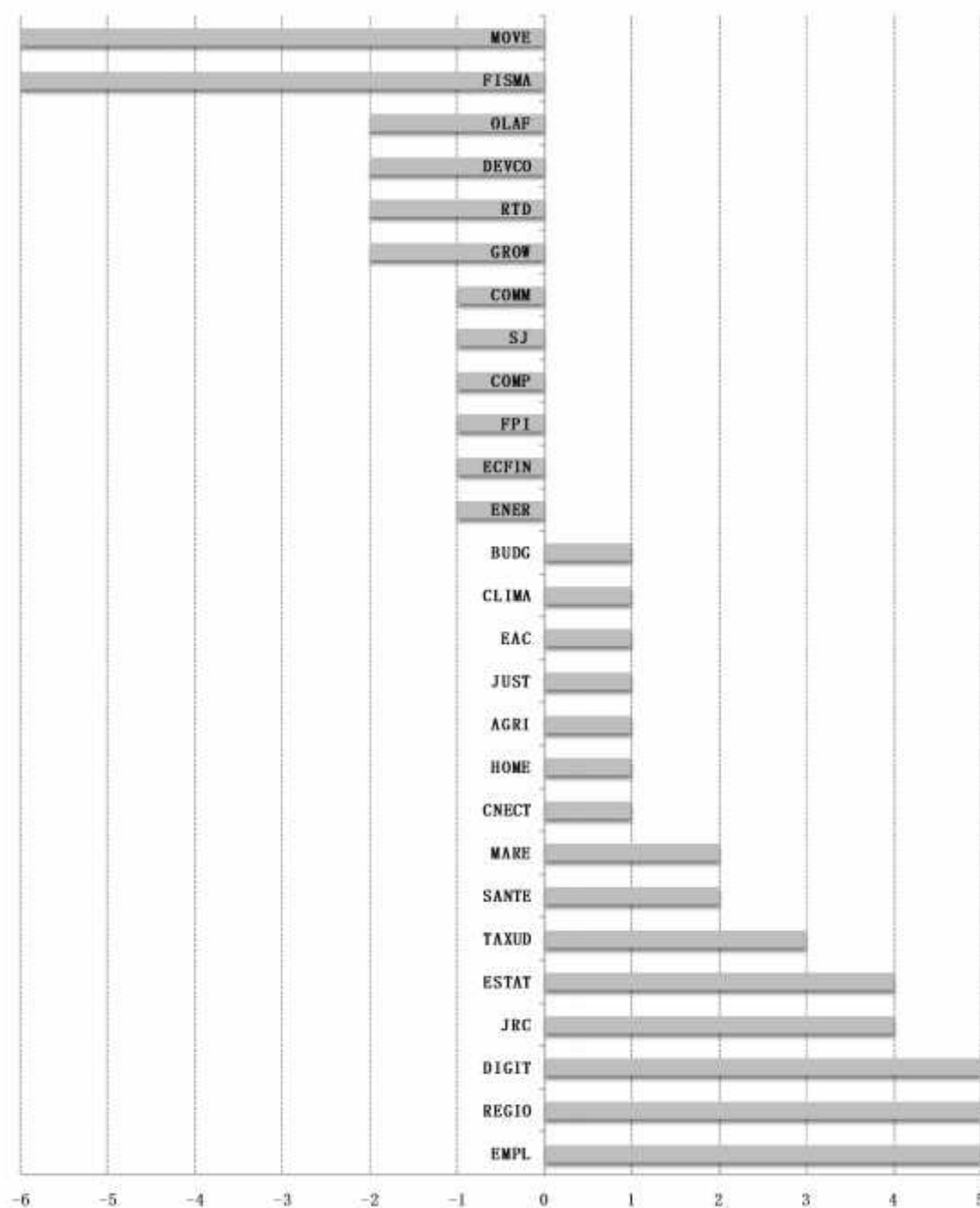
Figure 29 Change (%) in number of EG associated to DGs, 2013-2015



Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

Note I: All EGs have a 'Lead DG'. However, and further to this, some EG are also 'associated' to other DGs. This analysis focuses only on DGs that are referenced as 'associate' by any EG.

Note II: The following DGs do not present any change in terms of number of EG associated to them for 2013-2015, and thus are not shown in the figure, namely, TRADE, ENV, SG, NEAR, PMO, DGT, and ECHO. Further DGs not shown in the figure include: HR and EPSC that had 1 EG associated to them in 2013 and 0 in 2015; and DIGIT that had 0 EG associated in 2013 and 2014, and 5 in 2015.

Figure 30 Change (absolute numbers) in number of EG associated to DGs, 2013-2015

Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

Note I: All EGs have a 'Lead DG'. However, and further to this, some EG are also 'associated' to other DGs. This analysis focuses only on DGs that are referenced as 'associate' by any EG.

Note II: The following DGs do not present any change in terms of number of EG associated to them for 2013-2015, and thus are not shown in the figure, namely, TRADE, ENV, SG, NEAR, PMO, DGT, and ECHO. Further DGs not shown in the figure include: HR and EPSC that had 1 EG associated to them in 2013 and 0 in 2015; and DIGIT that had 0 EG associated in 2013 and 2014, and 5 in 2015.

Finally, the ratio between leading an EG and being associated to an EG, can be considered a proxy indicator for efficiency, i.e., being associated to an EG allows the DG to avoid establishing / leading a new EG whilst still allowing the DG to benefit from and contribute to an EG.

Table 11 shows the ratios with several DGs standing out for their high ratios, e.g. FISMA, EMPL, CNECT and ENER.

Table 11 Ratio between EG leadership and association

DG	Number of EGs led by the DG			Number of EGs that have the DG as 'associated DG'			Ratio Associated : Lead			ratio change (2013-2015)
	2013	2014	2015	2013	2014	2015	2013	2014	2015	
TAXUD	127	78	84	9	12	12	0,1	0,2	0,1	positive
ESTAT	82	86	87	4	8	8	0,0	0,1	0,1	positive
SANTE	79	86	71	25	28	27	0,3	0,3	0,4	positive
GROW	68	69	90	38	38	36	0,6	0,6	0,4	negative
RTD	65	48	52	32	29	30	0,5	0,6	0,6	positive
EAC	59	54	45	7	7	8	0,1	0,1	0,2	positive
ENV	53	61	60	23	23	23	0,4	0,4	0,4	negative
AGRI	49	33	31	12	13	13	0,2	0,4	0,4	positive
MOVE	41	47	48	19	14	13	0,5	0,3	0,3	negative
HOME	35	30	34	13	14	14	0,4	0,5	0,4	positive
JUST	32	30	38	8	9	9	0,3	0,3	0,2	negative
FISMA	30	35	16	25	23	19	0,8	0,7	1,2	positive
EMPL	23	24	31	16	20	21	0,7	0,8	0,7	negative
CNECT	22	23	28	16	21	17	0,7	0,9	0,6	negative
ENER	19	21	22	15	14	14	0,8	0,7	0,6	negative

Source: Blomeyer & Sanz based on XML data (EC, 2013, 2014, 2015).

Note: The table is limited to DGs leading at least 20 EGs in any given year.

3. RECOMMENDATIONS

Conclusions and recommendations

- Based on this study's findings, it is considered that a more systematic approach to balance would help overcoming information asymmetries and contribute to throughput legitimacy. Enhanced transparency also has potential to enhance Expert Group outputs.
- This study recommends a systematic approach to balance, the promotion of full transparency, more resources for Secretariat General oversight and enforcement, and the systematic evaluation of expert group performance at the level of the system of Expert Groups and for all individual Expert Groups.
- The study identifies a need for follow-up research on three issues: the use of the member category 'Association'; the use of external expertise by the EU Agencies; and the EC's use of alternative sources of expertise, considering that this might be characterised by lower levels of balance and transparency than the use of EGs.

This final section includes a series of concluding considerations (Section 3.1) and recommendations (Section 3.2).

3.1. CONCLUDING CONSIDERATIONS

This section explains how more balanced EGs might help the EC to obtain enhanced EG outputs (Section 3.1.1); moreover, balance is supported with arguments drawing on the concept of throughput legitimacy (Section 3.1.2); finally, it is considered that more transparency can also have positive implications for EG outputs (Section 3.1.3).

3.1.1. Balance can overcome information asymmetries

In the social sciences, 'principal-agent theory' is used to explain information asymmetries between the 'principal', in this case the EC intending to obtain expertise, and the 'agent', in this case the expert group member¹²⁸. The principal requires information from the agent, however, the agent acts 'politically', i.e., the agent does not disclose information that does not serve his interests. Applied to the EG system, this would support more 'systematic' balance in the form of, at the least, a minimum representation of non-economic interests on all EGs. Including a representative of non-economic interests on every EG would act as a 'safety mechanism' to detect and alert the EC on bias in EG outputs. Indeed, the EC might not always be in a good position to detect such bias itself, since the establishment of an EG is motivated inter alia by lack of sufficient in-house expertise.

The EC argument of also drawing on alternative sources of information to complement EG outputs is not very convincing: *'the degree of overall involvement of stakeholders should be assessed in light of all initiatives taken by the Commission, not just on the basis of expert group membership. In fact, the Commission regularly relies on other tools supplementing the work of expert groups, such as public*

¹²⁸ Bohne, E. (2009) The politics of the ex-ante evaluation of legislation

*consultations, seminars, studies and reports or opinions provided by European agencies*¹²⁹. Indeed, the EC's argument undermines the *raison d'être* of having an EG in the first place – why shouldering the administrative burden of establishing an EG if only biased output is expected. The added value of EGs is to gather various actors in one setting and to benefit from the variety of points of view.

Box 20 Case study findings on alternative sources of expertise

Without exception, the interviewed representatives stressed that the use of EGs is complementary to other arrangements in place to ensure quality output from the EC. EGs are to be placed within a web of decision-making moments in which the EC receives stakeholder input and translates this into output. Different views were given as to the weight of EG output. This partially depended on the type of EG, meaning that some are established to prepare legislative proposals, prepare delegated acts or support implementation of EU legislations, programmes and policies. Overall, the interviewed EC officials see themselves as gatekeepers to which and how EG outputs are translated in final decision-making.

Various identified parallel arrangements to complement the EG outputs with policy positions supported by civil society / non-economic interests are:

- Public consultations;
- EC participation / representation in international forums;
- Financial support to civil society;
- Informal consultation of non-EG stakeholders.

3.1.2. Balance contributes to legitimacy

As discussed in Section 1.1.1, inputs via throughput lead to outputs and outcomes. In the legitimacy literature, the inputs concern the democratic process, and participation. Output legitimacy relates to the quality of public policy, the benefits it brings to citizens, and the support that entails. Throughput legitimacy is often equated with procedural legitimacy, i.e., how things are done within the administration/political sphere. The procedural reforms proposed in this report would enhance input legitimacy as they improve the inputs (democracy of the system) as well as potentially improve outputs.

Moreover, the integrity of the throughput phase contributes to two objectives. First, *'the quality of governance in the throughput phase is crucial for the problem-solving quality of the output'*, and second *'Individuals and communities are willing to accept the results of an 'integrity' process, even when they disagree with the content of the resulting policies'*¹³⁰.

Applying this concept to the EGs, more balanced composition of EGs might contribute to an enhanced quality (e.g., consensus on EG outputs) and broader acceptance of EG outputs (e.g., European-level EG members communicate EG outputs to their membership base)¹³¹.

In this context it is worth noting that the survey of EG members representing non-economic interests (e.g., NGOs) indicates that their EGs have failed to contribute to consensus between economic and

¹²⁹ EC (2015) Commission's opinion on the European Ombudsman's analysis and suggestions, 3 June 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/60019/html.bookmark> (last accessed on 8 June 2015)

¹³⁰ Huberts, L. (2014) The Integrity of Governance, What it is, What we know, What is done, and Where to go, page 202

¹³¹ On the concept of 'throughput legitimacy', see Schmidt, V. A. (2013), Democracy and Legitimacy in the European Union Revisited: Input, Output and 'Throughput'. Political Studies, 61: 2–22.

non-economic interests (45% of respondents), and this can be related to limited balance of interests within the concerned EGs.

3.1.3. Transparency enhances quality of EG outputs

In its response to the Ombudsman inquiry, the EC has ruled out a systematic approach on transparency: *'By definition, the work carried out by expert groups is a collective one, which very often leads to decisions taken by consensus, in a spirit of mutual trust. Experts should be able to contribute freely to the work of groups, without any risk of external pressure; it is important that deliberations take place confidentially, as appropriate. Existing arrangements already foresee some flexibility: in agreement with the Commission's services, the group may, by simple majority of its members, decide to open its deliberations to the public'*¹³².

Existing research on the expert group system in the U.S. supports the EC position: *'transparency may hinder the free exchange of ideas, stifle creativity, weaken the feeling of collegiality and the sense of teamwork and induce private actors to withhold embarrassing information'*¹³³. However, more systematic transparency might also contribute to enhanced quality of EG outputs. Indeed EG members might feel motivated to ensure high quality levels, knowing that their outputs might be exposed to public scrutiny.

3.2. RECOMMENDATIONS

This section presents a series of recommendations to enhance balance, transparency and efficiency (Section 3.2.1) recommends regular evaluation of the system's performance, drawing inter alia on comparative research (Section 3.2.2); and notes areas that require additional research, following up on some of the findings in this study (Section 3.2.3). Finally, a note on the European Ombudsman recommendations on expert group reform: The Ombudsman's recommendations have been discussed throughout this report. Whilst the Ombudsman based its recommendations on a largely qualitative approach, this report has used a combined qualitative/quantitative approach, with findings not only fully validating the Ombudsman recommendations but also showing the magnitude of some of the issues, e.g. the extent of imbalance in EG composition and inconsistent labelling of EG members. This report therefore endorses the Ombudsman recommendations and limits itself to emphasise a selection of the Ombudsman recommendations considered to be of particular priority on the basis of the findings.

3.2.1. Enhancing balance, transparency and efficiency

Balance

With regard to balance it is recommended that the EC ensures civil society representation on all EGs, and defines balance for each EG in line with EG requirements (balance can be defined in the decision establishing the EG or in the call for applications).

¹³² EC (2015) Commission's opinion on the European Ombudsman's analysis and suggestions, 3 June 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/60019/html.bookmark> (last accessed on 8 June 2015)

¹³³ Karty, A. (2002) Closure and Capture in Federal Advisory Committees, 4 Business and Politics, page 219

Transparency

Concerning transparency the EC should systematically promote the publication of all EG agendas, minutes of meetings, decisions and reports and other outputs. For EGs that have decided not to open their deliberations to the public, the EC should explain why they feel transparency would be detrimental, thus allowing for public scrutiny to focus on these groups (the REG should allow a search for EGs not publishing all detail of their work).

Moreover, the EC should consider strengthening its open door policy. For example, it might be useful for the EC to centralise all future meetings in one EG agenda schedule in order to allow organisations to request access to these meetings in a timely manner.

Concerning individual experts appointed in their personal capacity, the emphasis should be on comprehensive declarations of interests to ensure that these experts are really acting in their personal capacity. Note that the EC declined considering registration of these experts in the Transparency Register: *'Registration in the Transparency Register of self-employed individuals because of their sole appointment to a given expert group in their personal capacity would be inappropriate, because these experts are required to act independently and in the public interest'*¹³⁴.

Finally, concerning the declarations of interest, the EC does not follow the Ombudsman recommendation of annual updates, but, noting administrative burden, considers an update of the declaration in case of a change of information sufficient. Again, it might be worth reconsidering this position. Experience with declarations of interests underlines the importance of annual updating since the exercise of completing the form raises awareness on conflicts of interest; moreover, administrative burden should be limited since the task of conflict of interest assessment and verification will be spread across all DGs.

Efficiency

Whilst the EC has already noted its commitment to a more systematic revision of the REG, it is recommended that this be accompanied with more substantial resources for oversight and enforcement (by the SG). DGs failing to comply with SG instructions on specific EGs should be sanctioned with the suspension of the concerned EGs. Moreover, the SG should be tasked with regular reporting on the EG system and evaluation at regular intervals, e.g. every four years, building on individual EG's annual performance reviews (see below). The review of SG resources should consider value for money: The US system of expert groups cost some EUR 160 million in 1997 for 892 groups counting a total of some 36,600 members (more recent information is not available, however, the number of expert groups has remained stable since 1997).¹³⁵

3.2.2. Evaluate performance

Findings also support a more systematic approach to the review of the performance of the EG system, both at the level of the EG system, and at the level of individual EGs. Whilst the overall system would benefit of evaluation every four years, individual EGs should be evaluated on an annual basis. Evaluation should also draw on comparative research, thus allowing the development of the EG

¹³⁴ EC (2015) Commission's opinion on the European Ombudsman's analysis and suggestions, 3 June 2015, <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/60019/html.bookmark> (last accessed on 8 June 2015)

¹³⁵ US Government (1999) 27th Annual Report of the President on Federal Advisory Committees, Fiscal Year 1998

system to benefit from experience in countries with a more long-standing experience of expert groups, whilst also taking into account the specific circumstances of the EC and the EU legislative process.

Other expert group systems foresee regular performance reviews:

- Evaluation in the US is a regulatory requirement: *'An important and potentially contentious issue surrounding the use of advisory committees is how to judge their success. A general review of readily available literature regarding federal advisory committees suggests that the success of an advisory committee is fundamentally linked to a precise, unambiguous knowledge of the objectives and purposes of the particular committee (i.e., knowing exactly what needs to be accomplished and how to accomplish it) and is generally judged in terms of actual contributions made towards decision-making. However, the determination of the value of the contributions made or evaluation of committee performance is more directly tied to the unique function of the committee. (...) To address that unique need, the Secretariat contracted with the Gallup Organization to conduct a series of focus groups among federal officials and advisory committee participants and managers to gain and incorporate insights and guidance from federal officials, federal advisory committee members, and federal advisory committee managers on the specific performance measures that would be appropriate for advisory committees'*¹³⁶. Evaluation is organised at system and individual EG level: *'In the exercise of its legislative review function, each standing committee of the Senate and the House of Representatives shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such advisory committee should be abolished or merged with any other advisory committee, whether the responsibilities of such advisory committee should be revised, and whether such advisory committee performs a necessary function not already being performed. Each such standing committee shall take appropriate action to obtain the enactment of legislation necessary to carry out the purpose of this subsection'*¹³⁷.
- In the Netherlands, expert groups are subject to regular evaluation (every four years)¹³⁸. Similarly, Switzerland subjects its well-established system of expert groups to systematic review every four years¹³⁹.

Finally, there is a need for clear targets and indicators to facilitate the evaluation of performance – as noted in the introduction to this report the EP conditions were drafted in a way that did not always allow for easy verification of compliance, and were not accompanied by clear targets.

¹³⁶ <http://www.gsa.gov/portal/category/21245> (last accessed 19 June 2015)

¹³⁷ Federal Advisory Committee Act Section 5(a)

¹³⁸ Siefken, S. and Schulz, M. (2014) Policy, polity and politics! On the determinants of Advisory Bodies in Germany and The Netherlands, paper for the IPSA 23rd World Congress of Political Science, page 10, http://paperroom.ipsa.org/papers/paper_31348.pdf (last accessed 9 June 2015)

¹³⁹ Switzerland counts with substantial experience with expert groups ('Ausserparlamentarische Kommissionen'), with expert groups considered an instrument of participative democracy. Current data show 120 expert groups. The current regulation of expert groups entered into force in 2009 ('Regierungs- und Verwaltungsorganisationsgesetzes'), following a comprehensive review of the expert group system between 2005 and 2008. The law provides for the conditions required for establishing an expert group (e.g., lack of required expertise within the federal administration); limits membership to four years; provides for systematic review of expert group purpose and renewal of membership every four years ('Gesamterneuerungswahlen'); limits membership to 15 members per group; notes mandatory requirements regarding composition; disclosure of interests; and for compensations. For the legal basis see: Bundesversammlung der Schweizerischen Eidgenossenschaft (2015) Regierungs- und Verwaltungsorganisationsgesetz (RVOG) vom 21. März 1997 (Stand am 1. Mai 2015) and <https://www.admin.ch/gov/de/start/bundesrecht/ausserparlamentarische-kommissionen.html#684798240> (last accessed on 11 June 2015). For recent research, see Seifert, M. (2012) Diplomarbeit, Politikberatung in Österreich: „Funktionsweisen von Expertenkommissionen im sozialpolitischen Entscheidungsprozess“

Box 21 Case study findings on EG performance

EG relevance is primarily evaluated on the basis of policy relevance. Other criteria such as quality of the output are not necessarily prioritised. It has to be noted that no cases were identified of formalised evaluation of the functioning of EGs. In specific cases, EGs are closed once the formal mandate is expired (E02661). Other cases, the reasons for closure are more of a practical nature. For example, one EG that originally was called to life in order to steer the preparation of the Annual European Tourism Forum was closed partially based on efficiency issues (E01461). The EG consisted of member organisations and three MS representing the trio presidency of the Council. In order to organise the annual forum, it was not practical to meet through an EG meeting, partially due to the rotating MS members and partially due to the bureaucratic identity of EGs. Relevant stakeholders are now directly contacted and the main preparatory decisions are taken in collaboration with respective MS holding the trio presidency of the Council.

3.2.3. Follow-up research

The report has also identified specific areas for follow-up research. This includes:

- Use of the membership category 'association'. As discussed with regard to imbalance, the category of 'association' was excluded from the analysis, since the REG does not provide detail on the economic or non-economic interests of Associations. However, 'association' is the most popular category of organisational membership, with REG figures showing the growing importance of this category. In this context there is a need for follow-up research on the association members.
- Use of external expertise by EU Agencies. Some expert groups have been merged into EU agencies, such as the Scientific Committee on Food, which has been merged into the EFSA. Interesting in this regard is the increase in EG members from EU agencies. Note that some researchers consider the expert groups used by the EU Agencies were modeled on the American experience. This would support 'harmonisation' at EU 'executive' level, i.e., between the Agencies and the EC: *'The expert groups established by European independent agencies, which were modelled with a view to the US experience, are not covered by the Horizontal Rules. This is despite the fact that, given the regulatory tasks of the agencies, their demand for external expertise is at least at the same level as the Commission's. Only the specific regulations of the agencies contain – mostly general – rules on the institutionalised use of expertise by these agencies. This marks a major difference to the regulatory approach in the advisory committees in the US. Therefore, exploring the legal regulation of the expert groups of the European regulatory agencies remains a worthwhile future research topic'*.¹⁴⁰
- There has been a substantial decrease in the number of EGs, from some 1,600 EGs in 2006 to 830 in 2015. This study has explained this decrease with EC efforts to address EP and civil society concerns. However, it could also be that the EC, avoiding the EP and civil society focus on EGs, has turned to other ways of inserting external input and expertise/information than through establishing EGs. This could be considered a hidden 'cost' of too much regulation and formalisation of EGs, i.e., that for instance more informal contacts/ single person reports, professional think tanks etc. become the functional equivalent of EGs and that these are even less balanced and transparent than EGs.

¹⁴⁰ Pilniok, A. (2015) Securing the independence of advice? A comparison of the legal regulation of expert committees in the EU and the United States, page 6, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2618068 (last accessed on 16 June 2015)

ANNEX

Preliminary note:

The following analysis for this annex is based on 2015 data, drawing on the XML data sets on Expert Groups provided by the EC (2015).

This annex looks at the nationality (EU28) of Expert Group members. The first eight subsections look at individual experts (with no distinction between the two individual expert categories (in their own capacity / representing an interest); the last section looks at representatives of national administrations (Member State representatives).

KEY FINDINGS

- This annex looks at the nationality (EU28) of Expert Group members. The first eight sub-sections look at individual experts (with no distinction between the two individual expert categories (in their own capacity / representing an interest); the last section looks at representatives of national administrations (Member State representatives).
- On average, an Expert Group counts 30 participants (21 from national administrations; 2.5 individual experts; and 6.5 from organisations).
- Out of the 830 Expert Groups, representatives from national administrations are present in all 830 Expert Groups (669 from EU28; 161 from other countries); individual experts in 133; and organisations in 371.

Individual experts

- On average, individual experts with one of the EU28 nationalities participate in some 45 Expert Groups. However, there are significant variations between the EU28 nationalities. For example 11 nationalities (mostly 'old' Member States) count with an above-average representation.
- On average, a specific EU28 nationality counts 1.54 individual experts per Expert Group (considering only Expert Groups where the Member State participates with experts). Moreover, the average for old Member States is higher than for new Member States, 1.6 and 1.3 respectively.
- Six EU28 nationalities have an above average representation of experts per EG, namely France (1.84), Germany (2.16), Italy (1.87), Romania (1.8), Slovakia (2.8), and the UK (2.18). However, it is possible that a Member State is over represented in Expert Groups in which it has individual experts, but the number of these Expert Groups be very small –compared to EU28 average (E.g. Slovakia).
- Four EU 28 nationalities are not only present in more Expert Groups than the EU28 average, but also, they participate with more individual experts than the average. These include France, Germany, Italy, and the UK.
- On the other side, there are EU 28 nationalities present in an above-average number of Expert Groups but with a number of individual experts below the average, namely Belgium, Finland, The Netherlands, Poland, Portugal, Spain, and Sweden.
- 2,784 individual experts participate in 33 different policy areas through the corresponding Expert Groups, i.e. 84 individual experts per policy area.
- Eleven policy areas include a number of experts above the average. This concerns most notably the policy areas 'Research and Innovation' (878 experts; 32%). The other areas include 'Customer affairs' (64; 2%), 'Employment and Social Affairs' (97; 4%), 'Energy' (100; 4%), 'Environment' (125; 5%); Fisheries and Maritime Affairs (112; 4%), 'Information Society' (117; 4%), 'Internal Market' (122; 4%), 'Justice and Home Affairs' (184; 7%), 'Languages and Multilingualism' (91; 3%), and 'Public Health' (89; 3%).

- Italy is the only EU28 nationality with an above-average number of individual experts in all eleven policy areas mentioned above. France, Germany, The Netherlands, and the UK are above the average in ten areas.

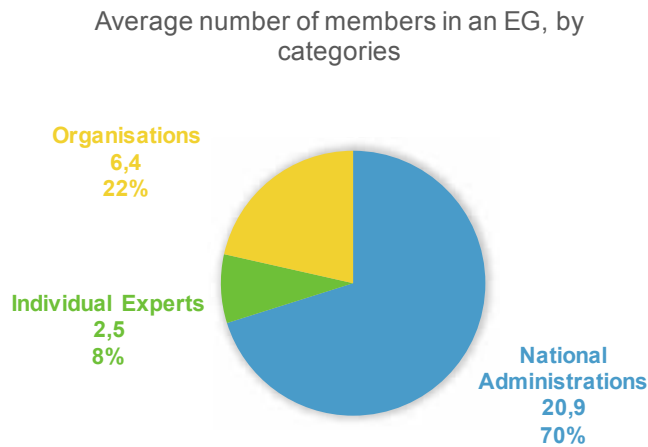
National administrations

- Member States (or EU National administrations) are present in 669 Expert Groups (out of the total of 830 EGs). In most cases (82% or 546 Expert Groups) an Expert Group counts with a representation of 27 or 28 Member States. In 8% of the cases, the participation counts 20 to 26 Member States per Expert Group; In 7% the participation counts 10 to 19 Member States; and finally, 3% of the Expert Groups count with the participation of one to nine Member States.
- The number of non-unique Member States participating as 'national administrations' in Expert Groups amounts to 17,230 and since an Expert Group may be linked to more than one policy area, there are 20,259 non-unique Member State representatives participating in policy areas.
- Member States participate (as 'National administrations') in 51 out of the 59 policy areas listed in the 2015 data set. 16 of these policy areas account for 80% of non-unique Member State participation.
- The policy areas of Statistics and Environment show the highest rates, with 11% and 8% of non-unique Member State participation. This group is followed by seven policy areas ranging between 5% to 6%, namely, Internal Market; Enterprise; Justice and Home Affairs; Transport; Taxation; Public Health; and Education. The remaining group (42 policy areas) have between 0.1% to 4% participation.
- Looking at the six policy areas with the highest non-unique Member State participation (namely Statistics, Environment, Internal Market, Enterprise, Justice and Home Affairs, and Transport), the countries with an above-average participation in all six areas are 'old' Member States, namely Finland, France, Germany, Italy, Spain, and the UK. These are followed by Belgium, Poland, and Sweden, above the average in five policies. On the other side, Member States such as Bulgaria, Croatia, Greece and Malta have an above-average representation in one policy area, and Luxembourg is always below the average for all six policy areas.

1. TYPICAL EG COMPOSITION

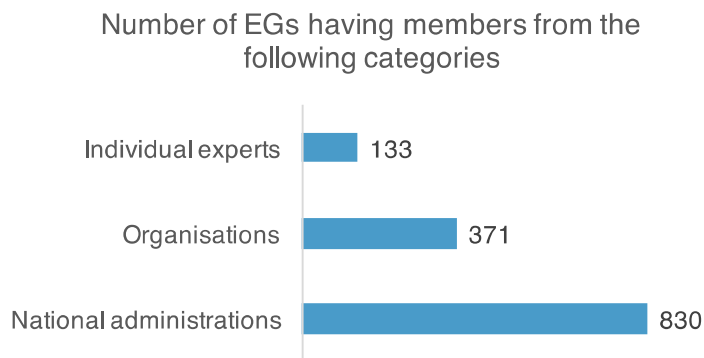
30 participants in an EG, on average.

On average, an EG counts 30 participants (21 from national administrations; 2.5 individual experts; and 6.5 from organisations).¹⁴¹



Source: Blomeyer & Sanz based on XML data (EC, 2015)

The calculation of the average is based on all EGs regardless of whether an EG includes any of the three main categories, namely, national administrations, individual experts, and organisations. In fact, out of the existing 830 EGs, representatives from national administrations (from EU and other countries) are present in 830 EGs; individual experts in 133; and organisations in 371.



Source: Blomeyer & Sanz based on XML data (EC, 2015)

¹⁴¹ An organisation can take one of the following categories: corporate; NGO; trade union; association; academia; EU agency or EU body; financial institution; research institution; international organisation; third and candidate country.

2. AVERAGE NUMBER OF INDIVIDUAL EXPERTS PER EG

15 individual experts participate in an EG, on average.

Note: average based on the 133 EG that include individual experts.

From now on, we will continue the analysis focusing only on those 133 EG that include among their members, the category 'individual experts' – either in their own capacity, or as representatives of an interest.

In this respect, the average number of individual experts per EG (of the 133 groups mentioned before) is 15.

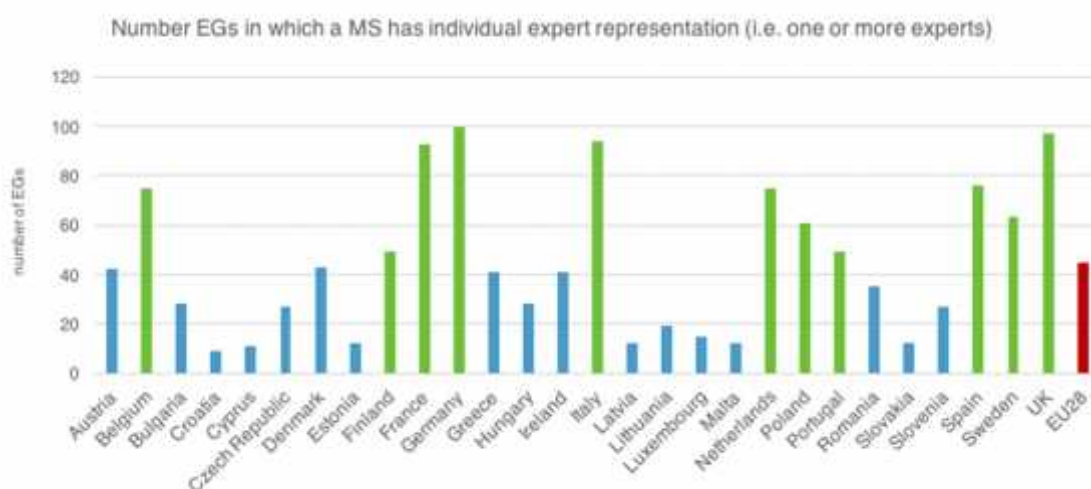
3. INDIVIDUAL EXPERT NATIONALITIES (EU28) PER EG

A EU28 nationality is present, through individual experts, in **45** EGs.

This section reviews the number of EGs in which a MS has individual expert representation (i.e. one or more experts). Before continuing with the analysis, it is worth noting that we are talking of experts that are not 'formal' representatives of their country of origin / Member State.

On average an EU28 country is present in 45 EGs. However, there are significant variations across nationalities (EU28). In this respect, eleven nationalities (EU28) participate in a far higher number of EGs than the EU28 average, the majority of which are 'old' MS except for Poland. Among this group of eleven MS, it is worth highlighting four that double the presence in EGs than the EU28 average, namely, France, Germany, Italy, and the UK. The full list of eleven MS is formed by Belgium (participates in 75 EGs), Finland (49), France (93), Germany (100), Italy (94), Netherlands (75), Poland (61), Portugal (49), Spain (76), Sweden (63), and the UK (97).

On the other hand, the list of nationalities (EU28) that participates in a smaller number of EG is formed by 'new' MS except for Luxembourg. The following nationalities (EU28) participate in less than half the EU28 average, namely, Croatia (9), Cyprus (11), Estonia (12), Latvia (12), Lithuania (19), Luxembourg (15), Malta (12), Slovakia (12).



Source: Blomeyer & Sanz based on XML data (EC, 2015)

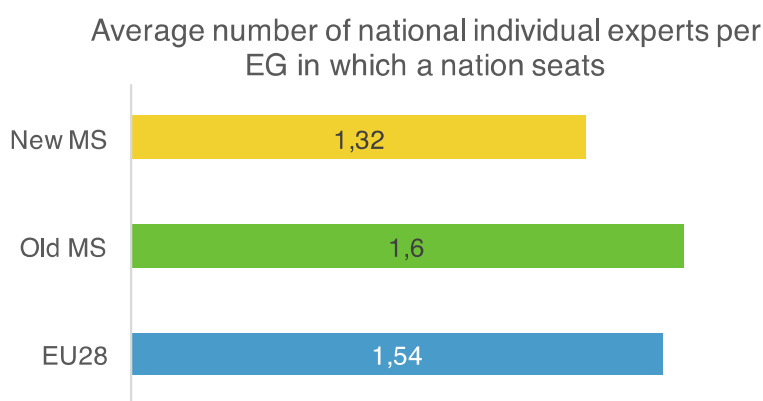
Legend: In green, MS that are above EU28 average (in red).

4. NUMBER OF NATIONAL INDIVIDUAL EXPERTS PER EG

1.5 EU28 national individual expert per EG, on average.

1.6 'old' MS; **1.3** 'new' MS.

On average, a specific nationality (EU28 and other countries) counts 1.51 individual experts per EG (only EGs where this nationality is represented)¹⁴². If we break this down by type of nationality (EU28) we observe that the average for 'old' MS is higher than for 'new' MS, 1.6 and 1.3 respectively (1.54 for EU28). That means that if an EG counts with individual experts from, for example Germany and Bulgaria, on average there will be 1.6 German experts vs. 1.3 Bulgarian experts.



Source: Blomeyer & Sanz based on XML data (EC, 2015)

5. AVERAGE NUMBER OF SEATS PER EG BY NATIONALITY OF INDIVIDUAL EXPERTS

6 nationalities have an above average representation in EG where the nationality is present, namely, France, Germany, Italy, Romania, Slovakia, and the UK.

In the previous sub-section we explained that an average EU28 nationality has 1.54 individual experts participating in an EG. Now we will review the numbers for all nationalities (EU28) to verify whether EG are characterized by balanced representation of all nationalities (EU28 average of 1.54 experts per EG).

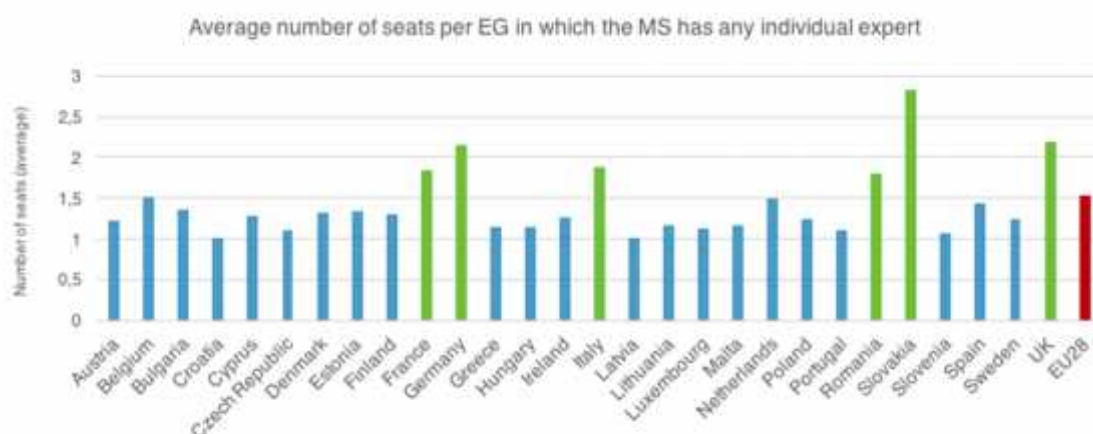
The figure below shows that six nationalities (EU28) have an above average representation. Those countries include France (1.84), Germany (2.16), Italy (1.87), Romania (1.8), Slovakia (2.8), and the UK (2.18). It is worth recalling that these figures refer to EGs in which the nationality (EU28) has representation, i.e. at least one individual expert. Furthermore, it is possible that a nationality (EU28) is usually over represented in EGs in which it has individual experts, but on the other hand the number of these EGs in which the nationality (EU28) is represented be very little –compared to EU28

¹⁴² To illustrate how this has been calculated, let us take the following example. There are 76 EGs in which there are Spanish individual experts. In a few EGs, the number of Spanish individual experts goes up to 4 people (e.g. EG E02730, E00520), in others 3 (e.g. EG E02265, E02518), and in most of the cases there will be either 1 or 2 Spanish individual experts. If we look at all the 76 EGs we will see that on average, there are 1.4 Spanish individual experts per EG in which they are members.

average. An example of this would be Slovakia that in those cases where it is represented in an EG, there is on average 2.8 individual experts from that nationality, however, Slovakia only participates – through individual experts– in 12 EGs (an average EU28 country participates in 45 EGs).

On the other hand, nationalities (EU28) that are more under represented –compared to EU28 average– include Croatia (1 individual expert on average), Czech Republic (1.1), Latvia (1), Portugal (1.1), and Slovenia (1.07).

Overall though, there is not much difference in terms of over or under representation of a nationality (EU28) compared to peers: as it is described earlier, the maximum and minima difference equals ± 0.5 expert. In this respect, nationalities such as FR, DE, IT, RO, SK, and the UK would have one more individual expert, in those EGs in which they participate, than nationalities such as HR, CZ, LV, PT, SI.



Source: Blomeyer & Sanz based on XML data (EC, 2015)

Legend: In green, nationalities (EU28) that are above EU28 average (in red).

6. SEATS PER EG VERSUS NUMBER OF EGS

4 MS nationalities (EU28) are that not only participate present in more EG than the average, but also when they do, they present more individual experts than the EU28 average, namely France, Germany, Italy, and the UK.

As it is mentioned earlier, a nationality (EU28) may have 'many' individual experts in those EGs where it is present, but on the other hand be present in very few EGs. Or the other way round. In this subsection we compare both variables, i.e. the number of seats (individual experts) per EG of a nationality (EU28) versus the number of EGs in which the nationality (EU28) is present (i.e. has one or more individual experts).

The main findings from the below table include:

- Four nationalities (EU28) are not only present in more EG than the EU28 average, but also when they do, they present more individual experts than the EU28 average. These nationalities include France, Germany, Italy, and the UK (highlighted in yellow in the table).
- A few nationalities (EU28) (Romania and Slovakia), when they are present in an EG, they include more individual experts than the EU28 average (1.8 and 2.83 respectively vs. 1.54). However, both nationalities participate in a fewer number of EGs than the EU28 average (35 and 12 respectively vs. 45).

On the other side, there are nationalities (EU28) present in an above- average number of Expert Groups but with a number of individual experts below the average, namely Belgium, Finland, The Netherlands, Poland, Portugal, Spain, and Sweden.

MS	Average number of seats per EG in which the nationality (EU28) has individual expert(s)	Number of EGs where the nationality (EU28) has individual expert(s)
Austria	1.21	42
Belgium	1.51	75
Bulgaria	1.36	28
Croatia	1.00	9
Cyprus	1.27	11
Czech Rep.	1.11	27
Denmark	1.33	43
Estonia	1.33	12
Finland	1.31	49
France	1.85	93
Germany	2.16	100
Greece	1.15	41
Hungary	1.14	28
Ireland	1.27	41
Italy	1.87	94
Latvia	1.00	12
Lithuania	1.16	19
Luxembourg	1.13	15
Malta	1.17	12
Netherlands	1.49	75
Poland	1.25	61
Portugal	1.10	49
Romania	1.80	35
Slovakia	2.83	12
Slovenia	1.07	27
Spain	1.43	76
Sweden	1.24	63
UK	2.19	97
EU28	1.54	45

Source: Blomeyer & Sanz based on XML data (EC, 2015)

Legend: In green nationalities (EU28) above EU28 for columns 1; in red for column 2. In yellow for both 1 and 2.

7. SEATS IN AN EG BY NATIONALITY (EU28)

The number of national individual experts per EG varies from one nationality to another, and across EGs.

This sub-section presents a breakdown of seats in an EG (number of individual experts) by nationality (EU28), and number of EGs in which that happens (occurrences)

The following table presents how each nationality (EU28) participates in the EGs, i.e. how many individual experts of that nationality participate in a given EG (e.g. 1 expert, 2, 3... 25) and in how many EG does this type of participation occurs. The results show very different scenarios, from nationalities (EU28) that are very 'uniformed' such as Croatia, i.e. Individual experts from Croatia participate in nine EGs, and in all cases with one expert per EG. On the other hand, other nationalities (EU28) such as France participate with fewer or greater number of experts, depending on the case, i.e. in one case there are 13 individual experts whose country of origin is France seating in an EG, in another case it has five experts; in five cases it has four experts; in 13 cases it has three; in 22 cases it has two; and in most of the times, 51, it participates with one expert.

Nationality (EU28)	Seats in an EG (number of individual experts)	Occurrences (number of EGs in which the nationality (EU28) has the number of seats shown in the previous column)
Austria	3	2
Austria	2	5
Austria	1	35
Belgium	5	1
Belgium	4	1
Belgium	3	4
Belgium	2	23
Belgium	1	46
Bulgaria	7	1
Bulgaria	2	4
Bulgaria	1	23
Croatia	1	9
Cyprus	2	3
Cyprus	1	8
Czech Rep	2	1
Czech Rep	1	25
Czech Rep	3	1
Denmark	3	3
Denmark	2	8
Denmark	1	32
Estonia	5	1
Estonia	1	11
Finland	5	1

Nationality (EU28)	Seats in an EG (number of individual experts)	Occurrences (number of EGs in which the nationality (EU28) has the number of seats shown in the previous column)
Finland	2	11
Finland	1	37
France	13	1
France	5	1
France	4	5
France	3	13
France	2	22
France	1	51
Germany	7	1
Germany	6	2
Germany	5	2
Germany	4	6
Germany	3	19
Germany	2	36
Germany	1	34
Greece	2	6
Greece	1	35
Hungary	3	1
Hungary	2	2
Hungary	1	25
Ireland	4	1
Ireland	3	1
Ireland	2	6
Ireland	1	33
Italy	25	1
Italy	5	1
Italy	4	2
Italy	3	9
Italy	2	30
Italy	1	51
Latvia	1	12
Lithuania	2	3
Lithuania	1	16
Luxembourg	2	2
Luxembourg	1	13
Malta	2	2
Malta	1	10
Netherlands	4	1
Netherlands	3	3
Netherlands	2	28

Nationality (EU28)	Seats in an EG (number of individual experts)	Occurrences (number of EGs in which the nationality (EU28) has the number of seats shown in the previous column)
Netherlands	1	43
Poland	3	3
Poland	2	9
Poland	1	49
Portugal	2	5
Portugal	1	44
Romania	25	1
Romania	2	4
Romania	1	30
Slovakia	22	1
Slovakia	2	1
Slovakia	1	10
Slovenia	2	2
Slovenia	1	25
Spain	4	2
Spain	3	3
Spain	2	21
Spain	1	50
Sweden	4	1
Sweden	3	2
Sweden	2	8
Sweden	1	52
UK	2	33
UK	1	37
UK	8	2
UK	7	1
UK	5	4
UK	4	6
UK	3	14

Source: Blomeyer & Sanz based on XML data (EC, 2015)

8. INDIVIDUAL EXPERT POLICY INTERESTS PER NATIONALITY

2,784 individual experts participate in **33** policy areas.

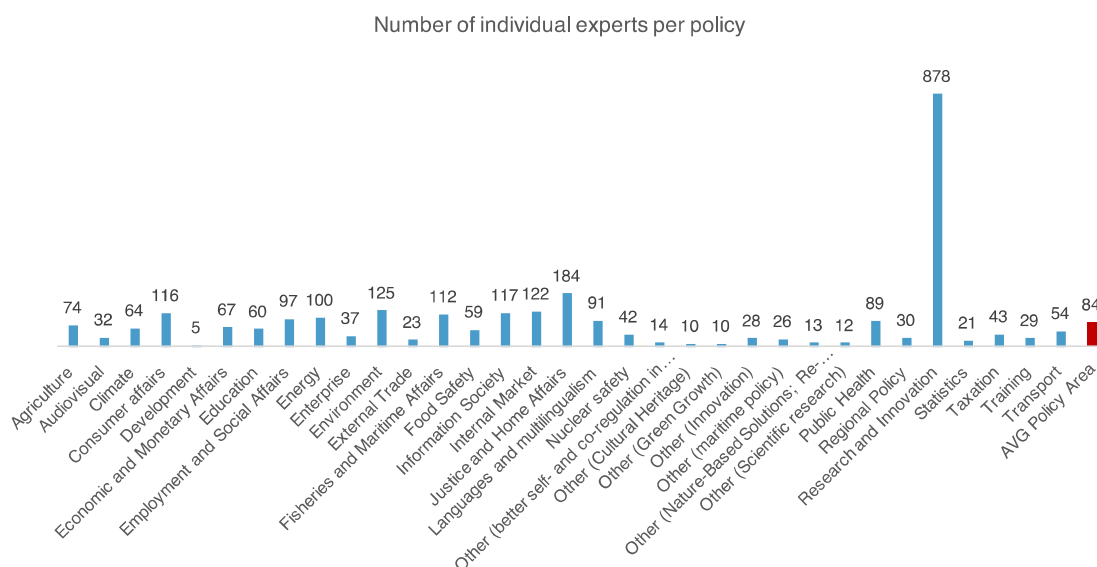
84 individual experts per policy area, on average.

Overview of individual experts per policy area

A total of 2,784 individual experts participate in 33 different policy areas through the corresponding EGs¹⁴³.

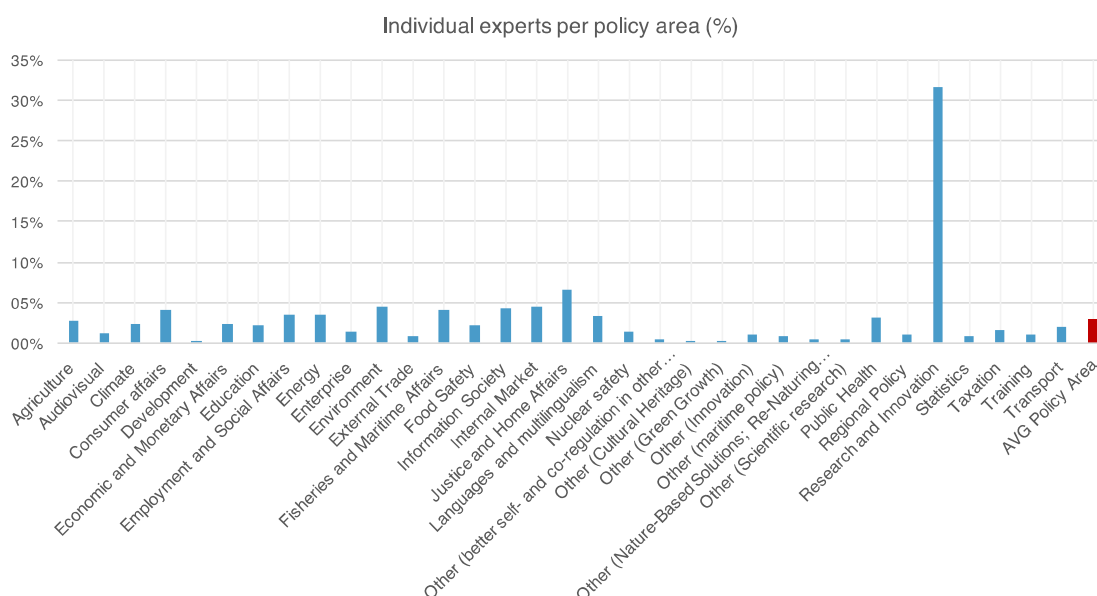
On average, there are 84 individual experts per policy area. Eleven policy areas count with an above-average number of experts, most notably the policy area 'Research and Innovation' (878 experts; 32% of all individual experts with a policy area affiliation). The other areas include 'Justice and Home Affairs' (184; 7%); 'Environment' (125; 5%); 'Internal Market' (122; 4%); 'Information Society' (117; 4%); 'Fisheries and Maritime Affairs' (112; 4%); 'Energy' (100; 4%); 'Employment and Social Affairs' (97; 4%); 'Languages and Multilingualism' (91; 3%); 'Public Health' (89; 3%); 'Customer affairs' (64; 2%).

On the other side, fifteen policy areas are characterized with an under-average number of individual experts, namely 'Audiovisual', 'Development', 'Enterprise', 'External Trade', 'Nuclear safety', 'Other (better self- and co-regulation in other policy areas)', 'Other (Cultural Heritage)', 'Other (Green Growth)', 'Other (Innovation)', 'Other (maritime policy)', 'Other (Nature-Based Solutions; Re-Naturing Cities; disaster resilience; socio-economic resilience)', 'Other (Scientific research)', 'Regional Policy', 'Statistics', and 'Training'.



Source: Blomeyer & Sanz based on XML data (EC, 2015)

¹⁴³ For 2015, the data sets include a total of 59 policy areas.



Source: Blomeyer & Sanz based on XML data (EC, 2015)

Analysis of the 'popular' policy areas and nationalities

Now we will look at the nationality (EU28) composition of the eleven policy areas with an above-average number of individual experts, as described in the previous sub-section. Moreover, in reaction to an interest expressed during the presentation of this study to the European Parliament on 21 September 2015, we will also show the composition of the 'Transport' policy area.

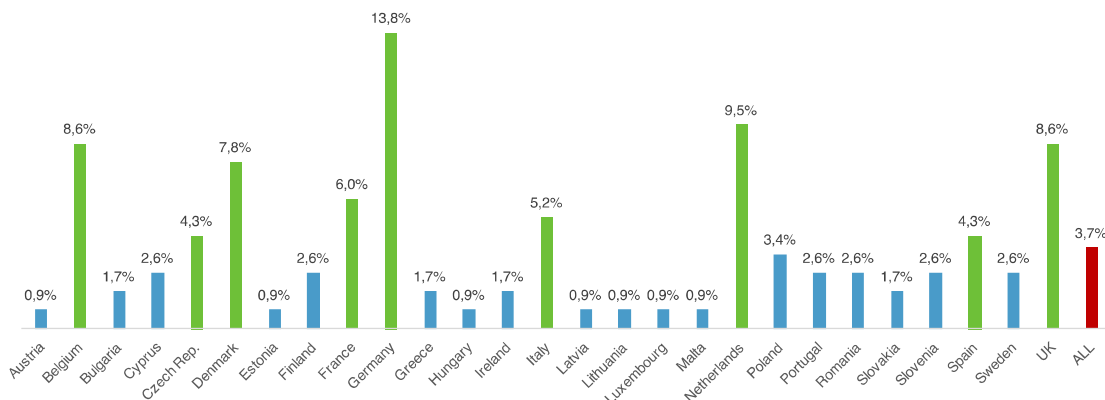
The analysis of the eleven policies shows:

- The only nationality (EU28) with an above-average number of individual experts in all the eleven policy areas is Italy;
- A second group includes France, Germany, The Netherlands, and the UK, with above-average representation in ten policy areas. Unlike Italy, these nationalities are not above the average within the 'Languages and multilingualism' policy;
- The third group is formed by nationalities (EU28) that are above the average in six to eight policy areas, namely, Belgium (8), Denmark (7), Spain (7), Poland (6), and Sweden (6);
- The fourth group, formed by nationalities (EU28) ranging between one to four policy areas, include Finland (4), Austria (2), Romania (2), Czech Republic (1), and Slovakia (1);
- The rest of nationalities (EU28) not included in any of the above groups, present a below the average participation in the eleven policy areas in which they may participate. These MS include Bulgaria, Croatia, Cyprus, Estonia, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Portugal, and Slovenia.

Finally, with regard to the 'Transport' policy area, the nationalities with an above-average number of individual experts include France (15%), UK (11%), Germany (11%), Italy (9%), The Netherlands (9%), and Austria, Denmark, Poland and Sweden with 6% each.

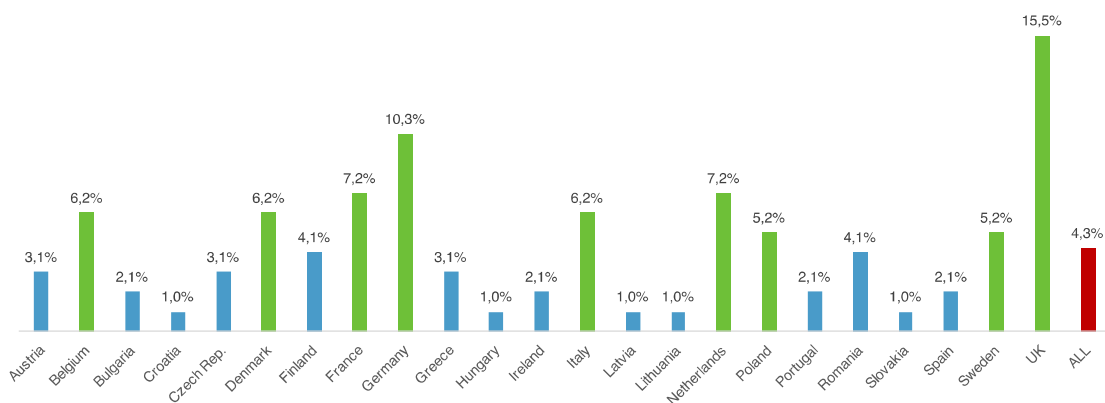
The following figures are shown in alphabetical order by policy area. The red colour represents the average of all nationalities (EU28) participating (through individual experts) in the policy area. The green colour is used for nationalities (EU28) having a number of individual experts above, or equal to, the average.

Consumer Affairs (116 individual experts from 27 MS)



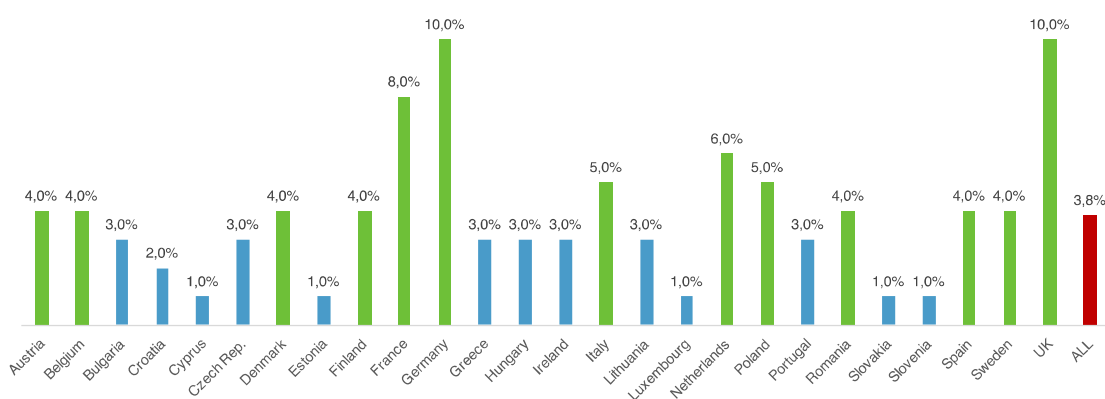
Source: Blomeyer & Sanz based on XML data (EC, 2015)

Employment and Social Affairs (97 individual experts from 23 MS)

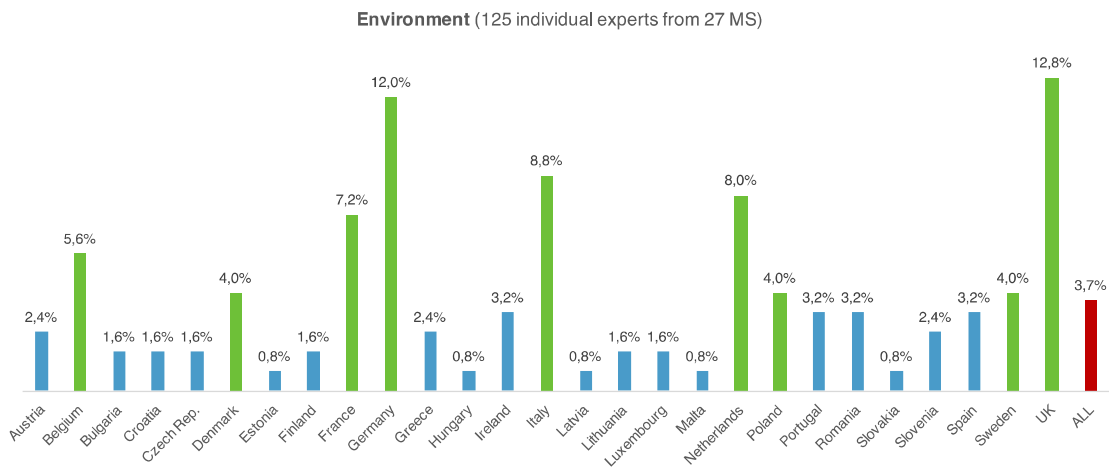


Source: Blomeyer & Sanz based on XML data (EC, 2015)

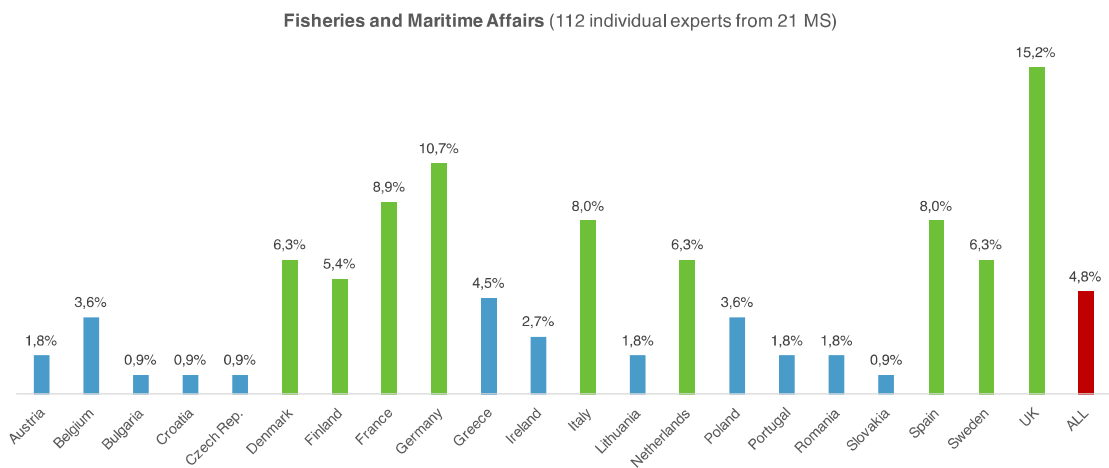
Energy (100 individual experts from 26 MS)



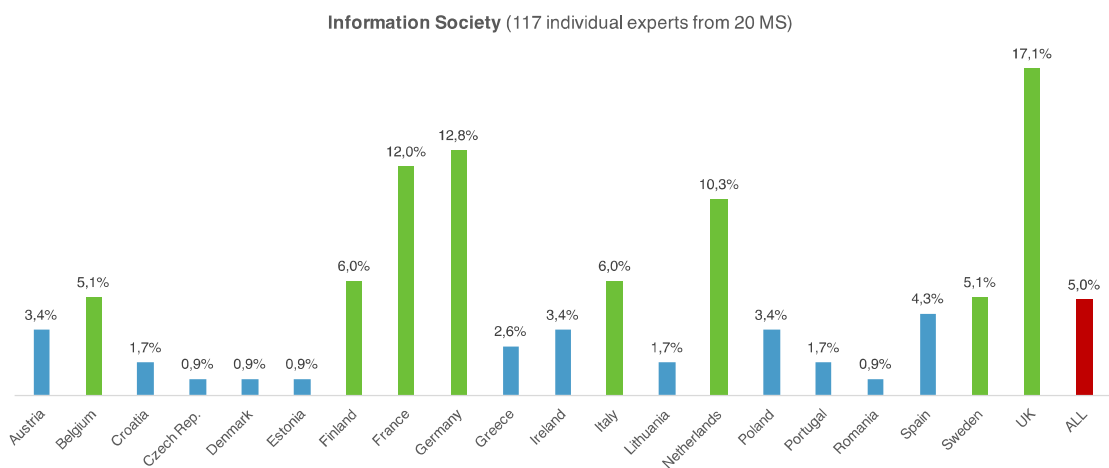
Source: Blomeyer & Sanz based on XML data (EC, 2015)



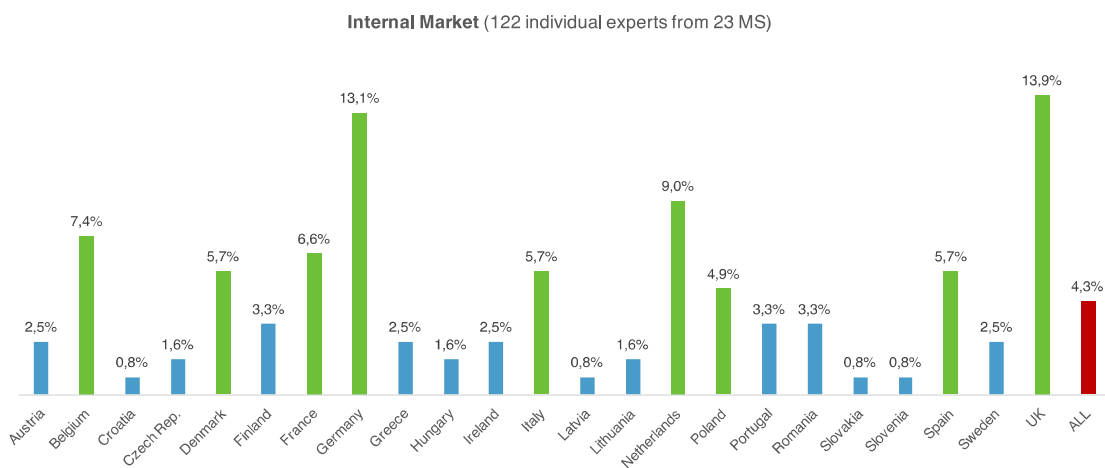
Source: Blomeyer & Sanz based on XML data (EC, 2015)



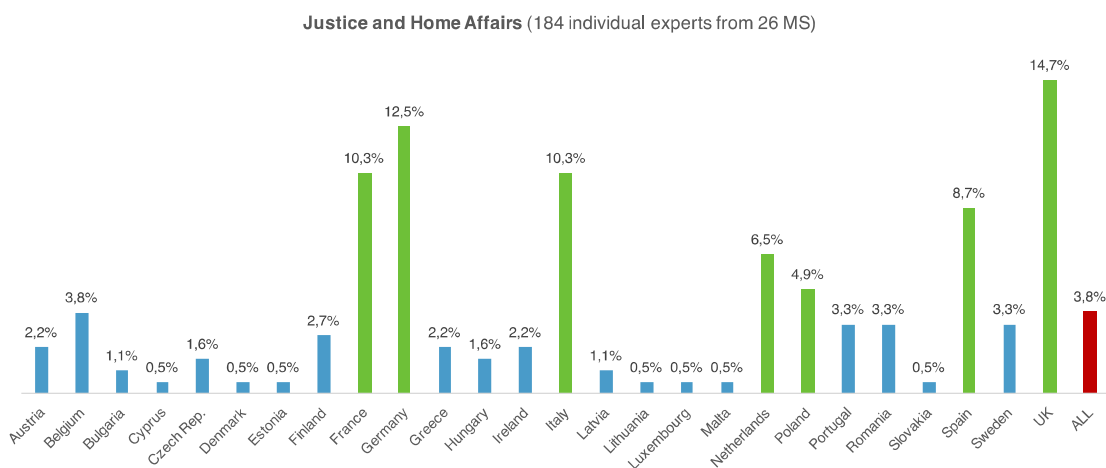
Source: Blomeyer & Sanz based on XML data (EC, 2015)



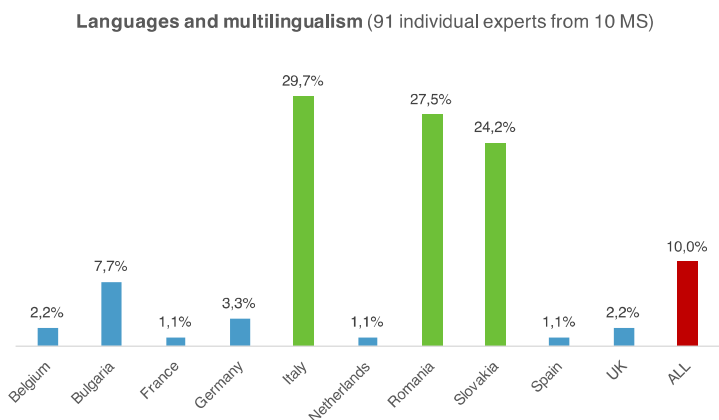
Source: Blomeyer & Sanz based on XML data (EC, 2015)



Source: Blomeyer & Sanz based on XML data (EC, 2015)

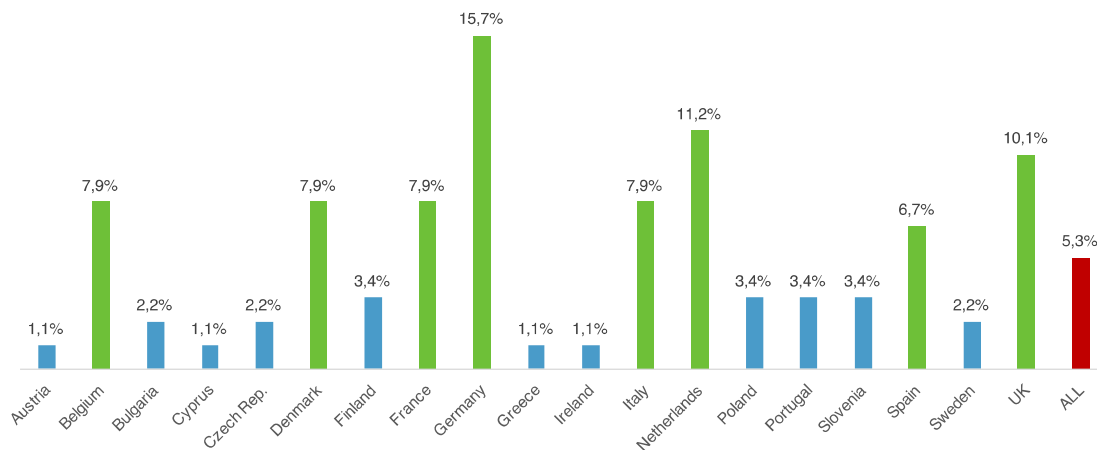


Source: Blomeyer & Sanz based on XML data (EC, 2015)



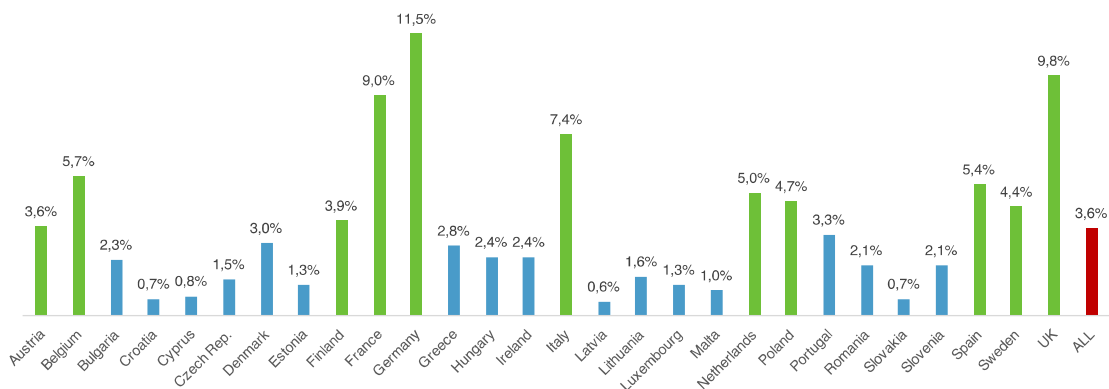
Source: Blomeyer & Sanz based on XML data (EC, 2015)

Public Health (89 individual experts from 19 MS)



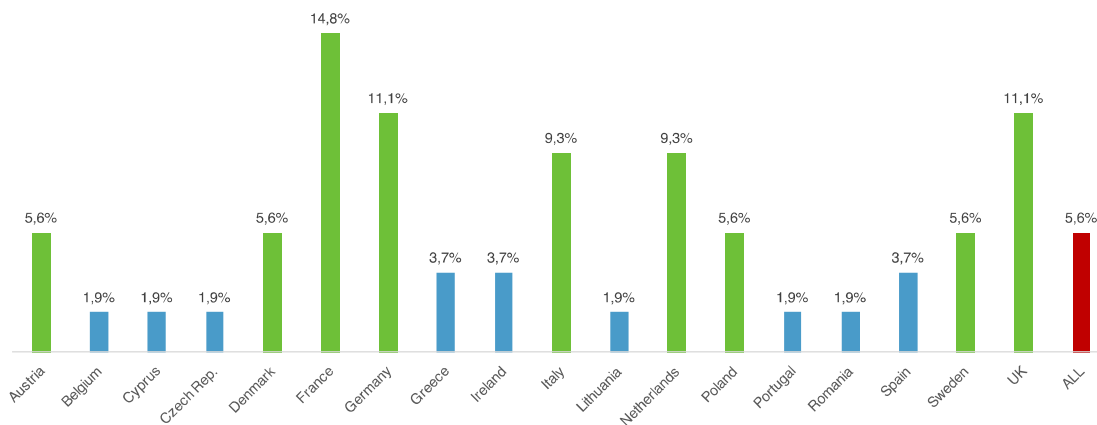
Source: Blomeyer & Sanz based on XML data (EC, 2015)

Research and Innovation (878 individual experts from 28 MS)



Source: Blomeyer & Sanz based on XML data (EC, 2015)

Transport (54 individual experts from 18 MS)



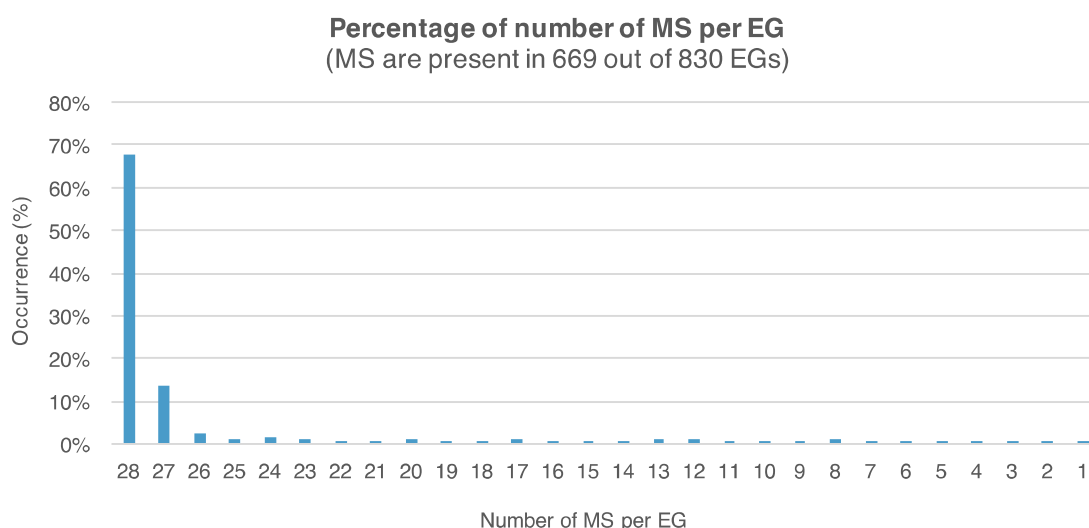
Source: Blomeyer & Sanz based on XML data (EC, 2015)

9. OVERVIEW OF THE REPRESENTATION OF NATIONAL ADMINISTRATIONS

27-28 EU national administrations per EG in 82% of the cases.
17,230 non-unique MS participate in EGs as national administrations.

MS (or EU National administrations) are present in 669 EGs out of the total of 830 EGs. In most cases (82% or 546 EGs) the number of MS participating per EG is 27 or 28 MS. In 8% of the cases, the participation is 20 to 26 MS per EG; In 7% the participation is 10 to 19 MS; and finally, 3% of the EGs count with the participation of one to nine MS.

In total, the number of non-unique MS participating as 'national administrations' in EGs amounts to 17,230.¹⁴⁴ However, it is worth noting that an EG may be linked to more than one policy area, and therefore, as will be shown later, the number of non-unique MS participating in policy areas amounts to 20,529.



Source: Blomeyer & Sanz based on XML data (EC, 2015)

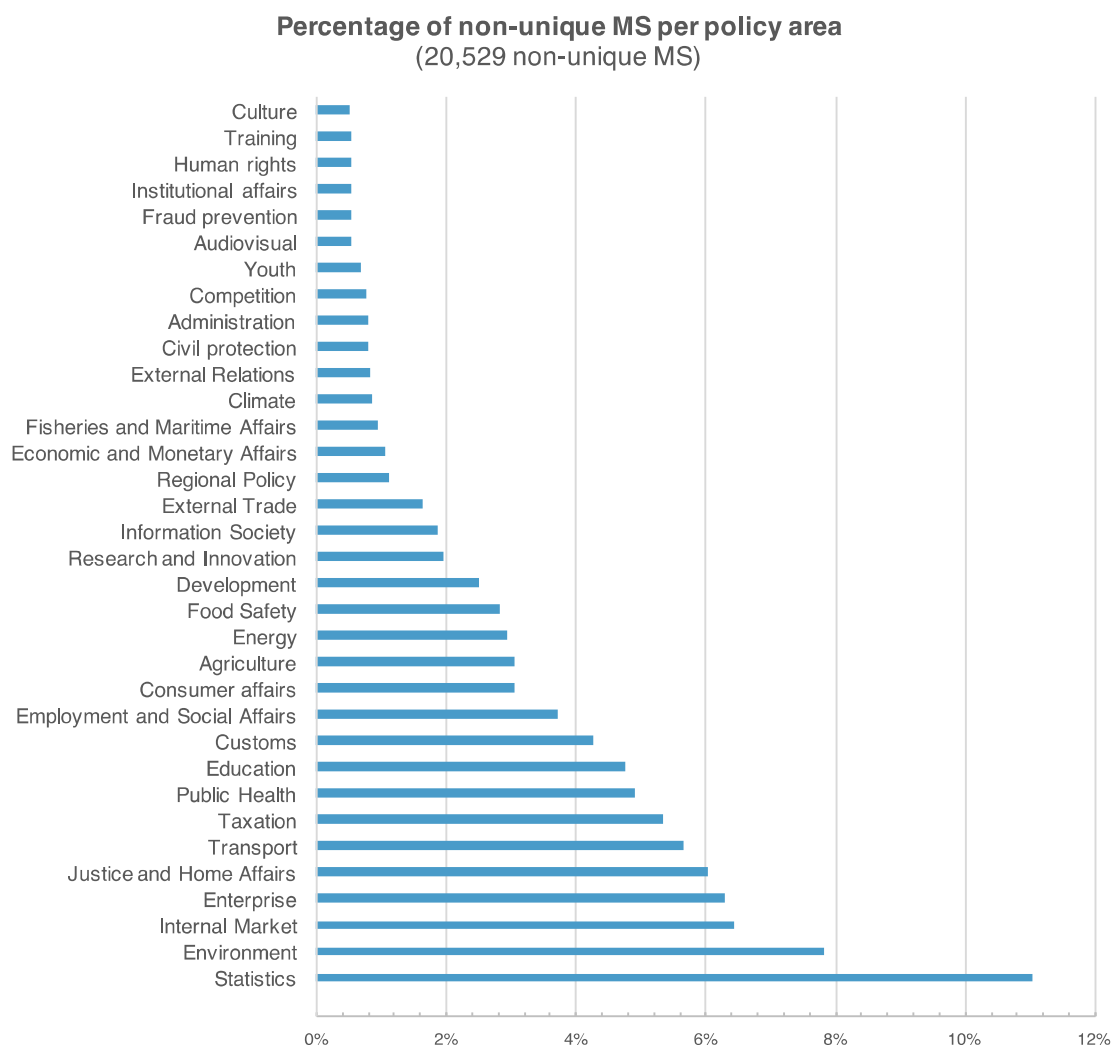
MS participation per policy area

Overall, MS participate (as 'National administrations') in 51 out of the 59 policy areas listed in the 2015 data set. This does not mean that all 28 MS participate in all the 51 policy areas but that at least one or more MS participate in each policy area. It is worth recalling that individual experts participate in just 33 policy areas (see sub-section 8).

¹⁴⁴ This figure is calculated as the sum of (number of MS per EG x occurrence). I.e. $17,230 = (28 \text{ MS} \times 454 \text{ EGs where this occurs} + 27 \text{ MS} \times 92 \text{ EGs where this occurs} + 26 \text{ MS} \times 17 \text{ EGs where this occurs} \dots + 1 \text{ MS} \times 1 \text{ EG where this occurs})$.

The following figure shows the percentage of non-unique MS (out of a total of 20,259) per policy area. From the figure it can be observed that:

- A group of some 16 of the total of 51 policy areas account for above 80% of non-unique MS participation. On the other hand, another group of some 17 policy areas hardly account for 3% of non-unique MS participation.
- Statistics and Environment are the policy areas with largest participation, with 11% and 8% of non-unique MS participation.
- These two are followed by seven policy areas with participation between 5% to 6%, namely, Internal Market; Enterprise; Justice and Home Affairs; Transport; Taxation; Public Health; and Education.
- The third group shows participation of 2% to 4%, including Customs; Employment and Social Affairs; Consumer affairs; Agriculture; Energy; Food Safety; Development; Research and Innovation; Information Society; and, External Trade.
- In 15 policy areas, the participation varies between 0.5% and 1%, including Regional Policy; Economic and Monetary Affairs; Fisheries and Maritime Affairs; Climate; External Relations; Civil protection; Administration; Competition; Youth; Audiovisual; Fraud prevention; Institutional affairs; Human rights; Training; and Culture.
- There is a final group of 17 policy areas showing participation below 0.5% as noted in the footnote below the figure.



Source: Blomeyer & Sanz based on XML data (EC, 2015)

Note: The figure only includes the 34 policy areas having a percentage $\geq 0.5\%$. The following 17 policy areas do have MS participation but $< 0.5\%$, namely: Budget
Other (SME Policy); Other (Space); Sport; Communication; Enlargement; Foreign and Security Policy; Other (Animal health); Other (European political parties and foundations)
Other (Rights of the Child); Other (Rural Development Policy; Common Maritime and Fisheries policy); Other (Rural Development, Innovation); Other (Rural Development, Innovation); Other (Space Policy and Research - Security Research); Languages and multilingualism; Other (Forestry); and, Other (Bio-economy, Public Procurement).

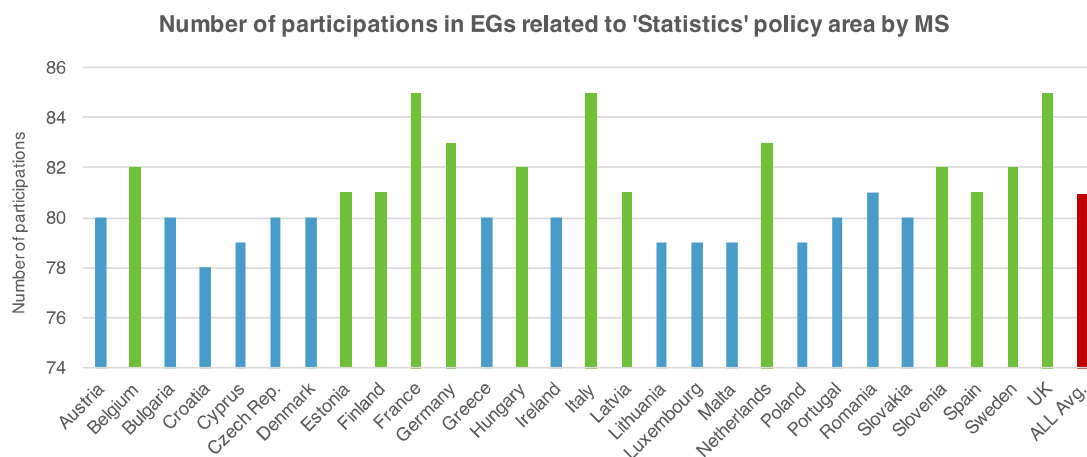
Breakdown of MS participation per policy area

For this analysis we will focus on the six policy areas showing a participation of above 5% of non-unique MS each, namely, Statistics, Environment, Internal Market, Enterprise, Justice and Home Affairs, and Transport.

The following figures show the number of participations in EGs related to a policy area, broken down by MS. The six policy areas are shown ordered by total number of participations, starting with Statistics (2,267 non-unique MS participation) and finishing with Transport (1,163).

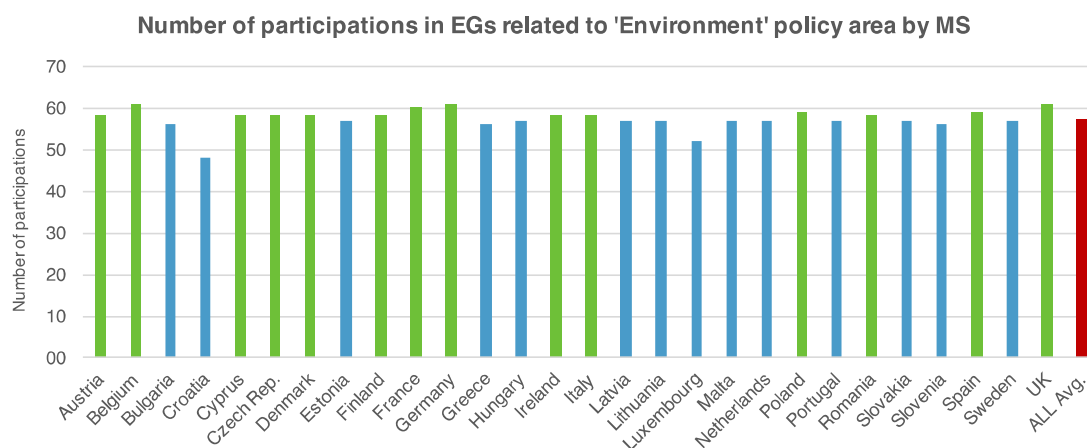
The average of all MS is shown in red color. The green color highlights those MS having a participation above the average. The main findings from the figures are:

- Statistics and Enterprise are the policy areas in which there is more difference (in terms of participation) among MS. This group is followed by Internal Market and Transport. And finally, Environment, and Justice and Home Affairs show a more balanced participation, despite some exceptions (e.g. Croatia's participation in Justice and Home Affairs is nearly half the average).
- The countries whose participation is above the average in these six policy areas are old MS, namely Finland, France, Germany, Italy, Spain, and the UK. These are followed by Belgium, Poland, and Sweden, above the average in five policies. On the other side, MS such as Bulgaria, Croatia, Greece and Malta are only above the average in one policy area, and Luxembourg is always below the average for the six policy areas analysed.
- Looking specifically at the policy area of 'Transport', 17 MS present participation above the average and 11 below. Within the first group of 17 MS above the average, Belgium, France, Germany and The Netherlands present the largest difference with respect to the average, followed by Croatia, Estonia, Finland, Hungary, Italy, Lithuania, Poland, Portugal, Romania, Slovakia, Spain, Sweden, and the UK. The group of 11 MS presenting under-average participation includes a sub-group of six MS quite close to the average, namely, Austria, Bulgaria, Czech Republic, Latvia, Luxembourg, and Slovenia; and another subgroup of five MS that shows a higher difference, namely, Cyprus, Denmark, Greece, Ireland, and Malta.

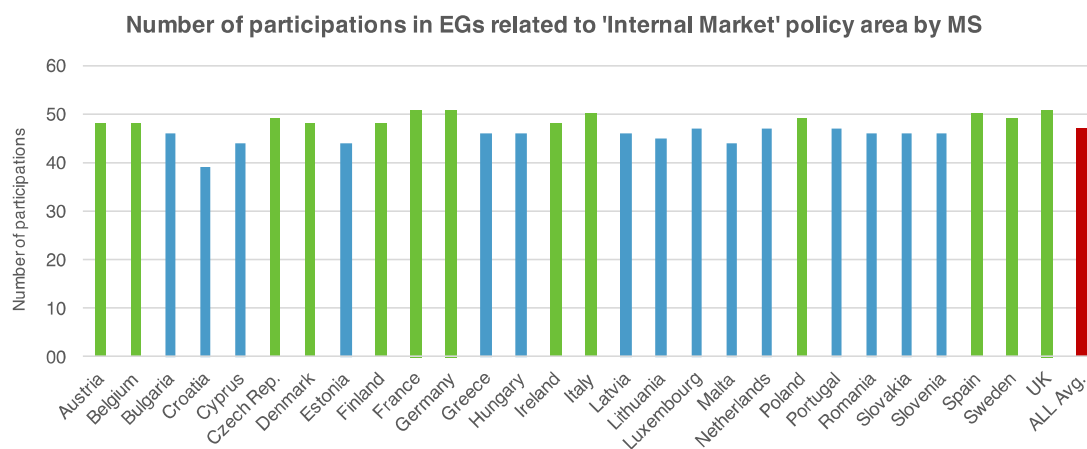


Source: Blomeyer & Sanz based on XML data (EC, 2015)

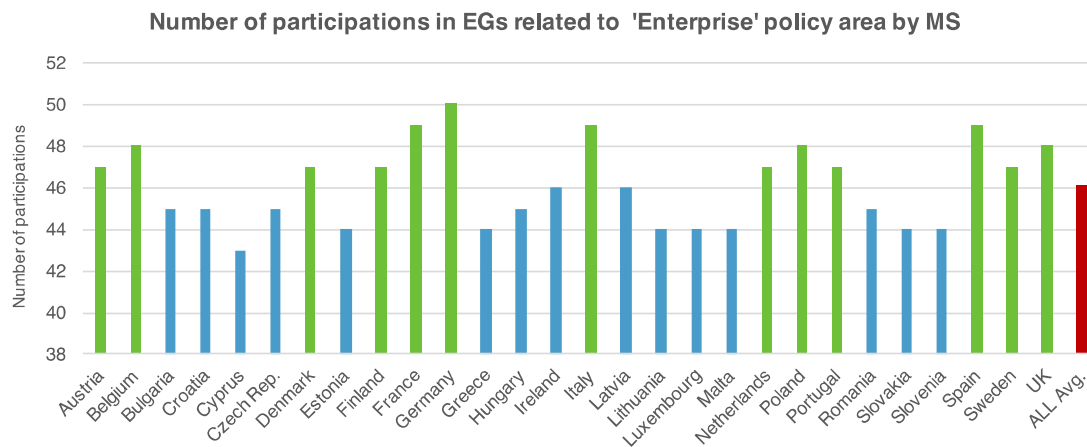
Note: The concept 'number of participations' refers to the number of EGs in which a MS participates that are linked to a particular policy area. E.g. in the figure, Austria participates as MS in 28 EGs that are linked to 'Statistics' policy area.



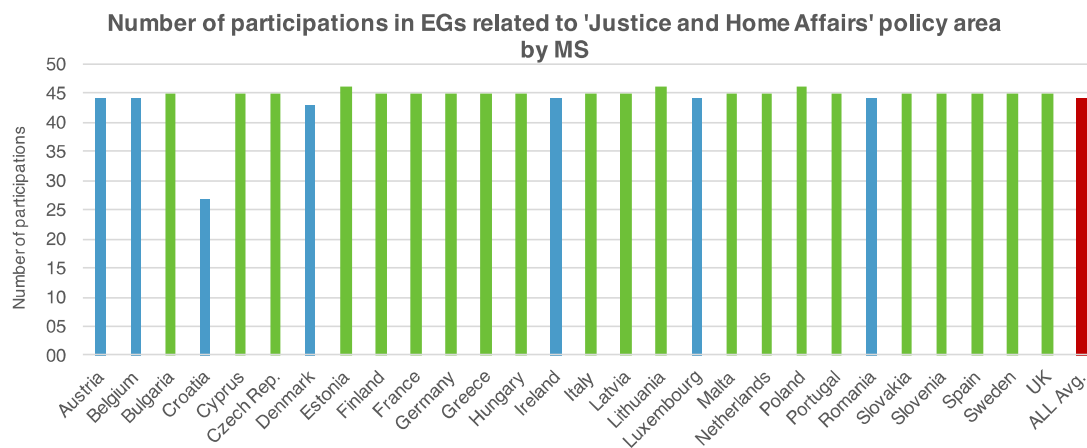
Source: Blomeyer & Sanz based on XML data (EC, 2015)



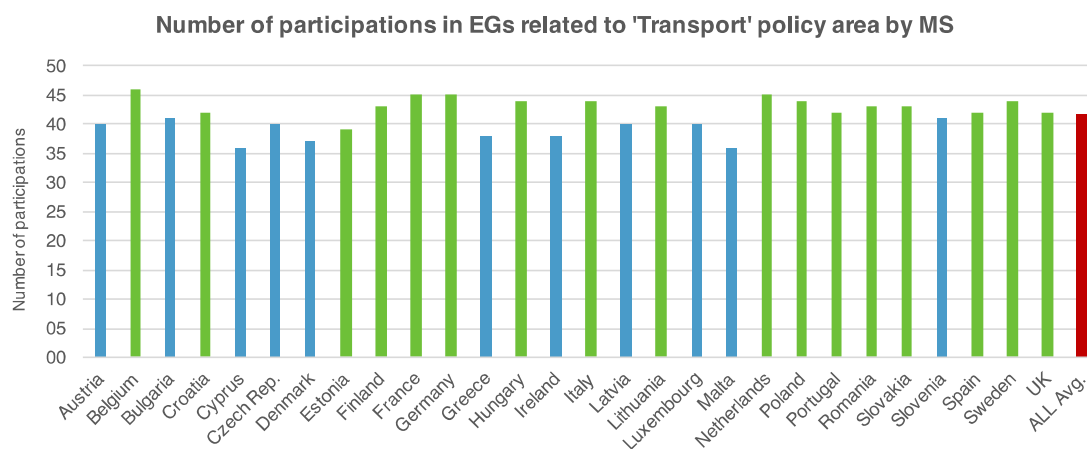
Source: Blomeyer & Sanz based on XML data (EC, 2015)



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