

Eva Krick, Cathrine Holst, Åse Gornitzka: **The negotiated expertise of policy advisory committees. Committee regimes in Norway, Germany and the EU**

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## **Introduction**

Our study focuses on governmental policy advisory committees as boundary institutions that generate consensually negotiated expertise at the knowledge-policy nexus.<sup>1</sup> For all kinds of contexts, the ability of this advisory institution to shape public policies and to bridge the epistemic-democratic divide have been pointed out.<sup>2</sup> Despite its both epistemic and democratic authority and its prevalence around the world, this institution has so far almost exclusively been analysed regime-internally (a rare exceptions is Christiansen et al. (2010)). We respond to this by taking an empirically grounded, comparative look at this institution in different knowledge regimes (Germany, Norway and the EU).<sup>3</sup> We ask what the similarities and differences of the committee regimes' institutional setups and outcomes are and what this tells us about their role in the respective democratic political systems and national civic epistemologies.<sup>4</sup> In the following, we will first sketch our theoretical perspective (1) and analytical approach (2), before turning to the descriptions of the committee regimes (3) and concluding our findings (4).

### **1. Theoretical perspective and state of the art**

Our analytical perspective takes three strands of the literature that deal with the policy-science-nexus (with expertise, with policy advice, with knowledge in the policy context)

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<sup>1</sup> We define *negotiated expertise* as that kind of advisory knowledge that differs from the policy-related expertise of other institutions (such as research institutes or state agencies) in that it is the outcome of collective deliberations within often diverse groups, usually bound together through consensual procedures.

<sup>2</sup> Cf. for the US, the German and the EU context, for instance, Brown (2008), Jasanoff (2005a/b) and Metz (2015).

<sup>3</sup> *Knowledge regime* refers to “the organizational and institutional machinery that generates data, research, policy recommendations, and other ideas that influence public debate and policymaking” (Campbell/Pedersen 2014, 3), sometimes also described as ‘policy advisory system’.

<sup>4</sup> By *national civic epistemology*, we mean, with Jasanoff (2005a/b), norms of public sense-making and knowing that can explain preferred forms of policy advice production within a given knowledge regime.

and applies these perspectives to the phenomenon of policy advisory committees. The three fields of study are a) expertise studies within Science and Technology Studies (STS) and the sociology of scientific knowledge (SSK), b) policy advisory systems and knowledge utilisation studies as well as normative political theory within political science and c) studies on the role of science in democracies within philosophy of science. We use these fields' perspectives and understandings as a lens to look at and describe advisory committees as institutions of expertise production and their role in policy- and knowledge-making. We expect to benefit from these perspectives' particular angles and insights and contribute to elucidating their respective blind spots. We expect insights about advisory committees that go beyond individual committee governance regimes. We also hope to understand better the phenomenon of 'negotiated expertise' that these institutions provide. We expect to connect relatively unconnected strands of research from different disciplines that each have their very particular merits and perspectives as well as their shortcoming when it comes to the role of expertise in policy-making.

STS and SSK, to start with, developed concepts that help describe the relationship of science and society and have pointed out the multiple sources and social constitution of all knowledge. Research within the field has developed sophisticated accounts of the relationship of knowledge and governance and the particularities of policy advice or expertise (cf. e.g. Beck/Forsyth 2015; Collins/Weinel/Evans 2010; Haas 2004; Jasanoff 2005a, Jasanoff and Wynne 1998; Jung/Korinek/Straßheim 2014; Maasen/Weingart 2005; Nowotny/Scott/Gibbons 2001). This research has challenged the validity of the '2-worlds'- or the 'linear model' of science-policy-relations, according to which a politically neutral science is apt to 'speak truth to power', while the public needs to be educated to understand and accept scientific advice (see for this critique e.g. Jasanoff 2005a). Instead it demanded a democratised, accountable 'mode 2' (Nowotny/Scott/Gibbons 2001) of using and producing expertise and pointed out the differences between the socially embedded, robust 'regulatory science' of the policy realm and knowledge that is generated for and within the scientific realm. Yet, "STS research usually pays less attention to the larger institutional context and dynamics of contemporary democracies" (Biegelbauer/Hansen 2011, 590), to the logics and constraints of collective decision-making and the inherent dilemmas of democracy. The latter is also connected to an often limited engagement with more fine-grained typologies of democratic institutions and legitimacy and a certain idealisation of 'the citizen' or 'the public' as neglected bearers of

the public will. Besides, there has naturally, on the one hand, been an emphasis on *science* as society's main knowledge provider. On the other hand, discussions of challenges of the science-policy-nexus have often centered much more on the question of how to democratise science advice than on how to ensure epistemic quality and performance, including the appropriate adoption of scientific standards in contexts of political negotiations and policy-making (Collins/Evans 2009, Holst and Molander 2017, Kusch 2007).

Policy advice studies within political science direct our view to the organisational dimension of the policy realm and of policy advice institutions in particular, i.e. their participation structures, their rules of procedure etc. (e.g. Balla/Wright 2001; Binderkrantz/Christiansen 2015; Gornitzka/Sverdrup 2011, 2015a/b; Krick 2015, 2017; Schrefler 2010; Veit et al. 2017; Weiss 1989). Political science studies of expertise usually embed advisory institutions into the policy process, reflect on their links to the government and their democratic legitimacy and consider the dynamics and logics of collective decision-making that condition the production of expertise within advisory committees. How policy advisory systems are structured organizationally (organizational capacity, specialisation, demography etc.) is of relevance for the use of knowledge in decision-making and for the knowledge basis of public governance (see e.g. Mayntz 1977; Veit et al. 2017). Policy advisory systems are closely coupled to the organisation, operation and change of administrative and political institutions. Central to a political science perspective is the assumption that there are variable degrees of political control over policy advice in different political systems. For instance, we can expect that the greater the distance between an advisory institution and the political administration (arm's length institutions), the lesser political control over expertise production there is (Prince 2007). The more knowledge production is externalised, the less political-administrative control there is, unless the distance is covered by resources attached to advice brokerage and translators.

Normative political theory and political science democracy research contribute to the knowledge-policy nexus in particular with sophisticated approaches to democracy criteria and legitimacy standards that build on a deep understanding of the functionality of the policy process and limits of realising conflicting democratic goals. Yet, „mainstream analyses of democracy tend to have a textbook-like image of science as a source of relatively uncontested knowledge and expertise (Biegelbauer/Hansen 2011, 590) and do

not consider the role of knowledge and experts in policy-making in any systematic way, as Frank Fischer (2009) points out. In fact, the notion of knowledge is sometimes not even critically dealt with when it is used as a central term in political science (cf. Campbell/Petersen 2014; Schrefler 2010).<sup>5</sup>

Finally, philosophy of science literature has inquired into the detailed qualities of scientific procedures and scientific knowledge, which is both a central type of knowledge relied on in advisory settings, and the (often implicit) standard of comparison in accounts that (aptly) highlight that knowledge and expertise in such settings ‘amount to more than’ or ‘cannot be reduced to’ science. Moreover, recent contributions have highlighted how science advice under modern conditions must adapt to democratic requirements and take the social and value-laden character of knowledge production into account, while at the same time performing according to high epistemic standards so as to be recognizable as ‘science’ (Longino 2002; Douglas 2009; Kitcher 2011, Keohane, Lane, and Oppenheimer 2014, Lane 2014). However, this branch of scholarship’s treatment of institutional questions and social mechanisms, be it in science or in politics, is limited, at best. Along with philosophical scholarship in general, it has a sociological deficit, and relies on very sweeping, even anecdotic, ideas of democratic politics and policy-making. Furthermore, the stress is more or less fully on the role of science. This leaves a wide range of contemporary advice and expert arrangements outside its scope.

## 2. Analytical approach

The empirical phenomenon we are looking at are *external policy advisory committees*, i.e. state-sponsored, usually government-appointed arenas that consist of external, i.e. non-public employees predominantly and develop joint assessments and proposals on public policy issues to feed into the early stages of the policy process.<sup>6</sup> Policy advisory committees are collectives that aim at developing consensual analyses and recommendation through arguing and often also bargaining. When advisory committees

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<sup>5</sup> Yet, ‘knowledge’ is of course a contested concept, and it makes a difference whether we mean ‘information’, ‘facts’, ‘evidence’, ‘claims’, ‘interpretations’, ‘construals’ or ‘beliefs’ when we refer to it. What kind of expertise is being generated by advisory institutions, from which perspectives it qualifies as valid knowledge and who the status of an expert is attributed to, are questions this study deals with explicitly in the context of specific political and epistemological systems.

<sup>6</sup> We use the term *committee* in a general sense, referring to small collectives of not more than ca. 30 participants, that stand for a larger entity, meet face-to-face and more than once, and take decisions for a larger entity (see also Sartori 1984, Nullmeier et al. 2008, Krick 2017).

include societal representatives, compromise and consensus-building gets both more complicated and more essential. But even if academics deliberate amongst themselves, 'rational consensus' is an ideal that is very hard to achieve under conditions of limited time and political contestation. Successfully negotiated consensus lends collective decisions a higher authority and binding force. Committees are, however, not the only existing site of negotiated expertise production. There is a range of (formal and informal) institutions that support and facilitate consensus- and compromise-building on policy-relevant knowledge and they vary with context.<sup>7</sup> Advisory committees are a feature of all political systems, where public debate and/or external input plays a role within policy-making, but they differ in terms of a large range of variables both between and within systems, such as their membership structure, their primary governance functions or their degree of formalisation (see Glynn, Cunningham, Flanagan 2003). Committee regimes also change over time and reflect larger societal shifts such as 'expertisation pressures' or 'economisation'.

We aim at analysing three different advisory committee regimes, that of Germany, Norway and the EU. This gives us the opportunity to look at both national and supranational knowledge regimes and their committee systems, at federal and unitary systems and at a large and internationally interconnected economy with a strong industrial base and a relatively small, more insulated non-member with a 'strong state' and 'knowledge society'-emphasis. These variations may account for differences in the three systems' institutional and cultural features. For instance, advisory committees of federal systems can be expected to include representatives of constituent states, in contrast to unitary regimes. At the same time, the three political systems have been described as particularly cooperative and consensus-oriented (Lijphart 2012), and all three have strong but withering corporatist legacies. We expect these traits to be reflected in the respective knowledge systems and civic epistemologies. For instance, a pronounced need for coordinated political decision-making and negotiated knowledge is likely and could be reflected by an emphasis on the reconciliation of affected interests and close links with state administrations in all three systems.

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<sup>7</sup> In the German knowledge regime, for instance, which has repeatedly been described as particularly consensus- and compromise-oriented (Cambell/Pedersen 2014; Heinrich 2005; Jasanoff 2005), you find the joint economic reports of economic research institutes that are commissioned by the government to reach agreement on their economic advice of the year (Campbell/Pedersen, 148) and constant informal communication channels between applied research institutes and ministries (ibid, 154f.) that add to the production of negotiated policy-related knowledge.

From a political science and political theory perspective and mainly based on existing research, not original data, we will 1. describe the typical institutional form(s) of advisory committee in the respective knowledge regimes in terms of their independence from the appointing authority, their procedures of decision-making, degree of formalisation, permanence and regulation and their participation patterns and demographics and 2. point out their role in the respective democratic political system by describing the respective dominant governance function, potential influence on public policies and agendas and the key issues in the public debate on their democratic legitimacy. Based on STS, SSK and Philosophy of Science research, the committee regimes will be analysed further in terms of the authority of the generated expertise and their embeddedness within the respective national civic epistemology. It will be asked 3. who the experts are and on what grounds they are considered trustworthy and qualified for this role and 4. what kind of knowledge is being generated and which validity standards apply in the respective contexts.

### **3. Case studies**

#### **3.1. The German advisory committee system**

The German knowledge regime is mainly made up of three kinds of institutions: research institutions, advocacy think tanks and external advisory committees.

Research institutions span the ca. 400 publicly-financed universities and institutions of higher education and the mainly publicly-funded, non-university research centres with an emphasis on basic research, as well as industry-funded and sectoral research institutes and agencies, which both mainly provide applied policy advice (see DAAD 2012; Hustedt et al 2013; Murswieck 1994; Veit et al. 2017). Remarkable amongst the research centres are the ca. 30 state-sponsored research institutes that provide independent, academic research on economic issues and predominantly lean towards conservative and supply-side viewpoints (Campbell/Pedersen 2014, 138). The almost 50 sectoral research agencies ('Ressortforschungseinrichtungen') are hierarchically integrated into a ministerial portfolio and have tasks of policy-related research and advice as well as regulatory functions. They represent a distinct model of integrating scientific expertise into the government apparatus and are expected to respond to political demands (Veit et al. 2017). According to Weingart and Lentsch (2008, 165), they are the most important

source of knowledge for state decisions, as measured by the relevance of the information they provide and the amount of funding they receive.

The most traditional advocacy think tanks in Germany are party foundations, where funding is a function of the distribution of seats among political parties in Bundestag. These foundations are ideologically linked to a particular political party; they provide advice, training and argumentative support for them, while at the same time maintaining a certain degree of independence, which has also been backed by a constitutional court ruling (Braml 2004; Campbell/Pedersen 2014; Thunert 2001). Privately-funded foundations that provide policy advice with a clear ideological focus and a media- and lobbying-orientation are a relatively new but growing phenomenon in Germany that has been privileged by a reform of the law on foundations in 2000 (Braml 2004; Speth 2006). External policy advisory committees can be parliament- and government-sponsored. The most prestigious parliamentary advisory committee that includes external agents is the Enquete Commission, which gathers members of parliament and external experts to consult over several years on relatively broad issues of societal change such as the energy system or digitalisation. The bulk of policy advisory committees however addresses the government and we therefore focus on these institutions on the federal level in Germany. The available quantitative data on German policy advisory committees is limited. There is no official, public register of advisory bodies like in Norway, the EU, Sweden, UK, USA and many other democracies.<sup>8</sup> The most extensive data base, the reports necessitated by the Federal Act on the Appointment to Bodies (FAAB), publishes only the gender composition of a department's "essential" advisory units. This is open to a department's interpretation and has led to ad hoc committees not being listed as a general rule and to a lack of information on such fundamental variables as the professional background or names of committee members or their setup time and duration.<sup>9</sup> Further scattered information can be found in a handful of responses to parliamentary inquiries over the

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<sup>8</sup> Data collection is further complicated by the political practice of attributing a variety of imaginative labels and names, particularly to ad hoc advisory bodies, names that do not indicate the body's institutional form or purpose but mainly seem to follow fashions. This creates problems for systematic searches and for drawing a line between empirical phenomena.

<sup>9</sup> Interestingly, this even applies to the most relevant committees of German modern history, such as the 'Hartz-Commission', which recommended a labour market policy reform in 2002 and is arguably the most debated and contested German (ad hoc) advisory committee, or the 'Technology Transfer Union', which in 2007 was repeatedly described as the first Merkel government's most influential governmental advisory committees in interviews.

last decades. Linked to this limited official data is the comparatively low degree of horizontal regulation of committee governance in Germany (see below).

The following analysis focuses on the two most (arche)typical types of advisory committees on the federal level of the German committee system and their empirical variations (subtypes): permanent academic councils that are predominantly made up of academics (a) and mixed ad hoc committees (b). This focus is not encompassing, but covers two emblematic poles of the German committee spectrum. To be sure, there are also some mixed committees that are set up on a more permanent basis as well as very few 'purely academic' ad hoc committees.

a) Based on slightly different data collections, two recent studies show a clear increase in the number of permanent advisory committees (Fleischer 2015; Veit et al. 2017). The majority of members of such permanent advisory units in Germany are academics (Fleischer 2015; Weingart/Lentsch 2008) and although permanent advisory units do not typically consist *exclusively* of academics, *purely* academic compositions also make up a considerable portion, with significant fluctuations over time (Fleischer 2015, 318; BT-Drs. 5/4585, 12/8378, 16/3550, 16/3559, 16/3968). Such permanent boards or councils of advisors that are made up mainly of academics are usually called 'board of experts' or 'academic council' ('wissenschaftlicher Beirat' or 'Sachverständigenrat') and they are usually set up with a mandate that spans analysis and recommendations in a relatively broad policy field. They are characterised by a relatively high level of independence from the appointing authority, since they usually have their own secretariat with academic staff, their own by-laws, members that are not bound by instructions, and a chair that is elected from within the committee's own ranks. Although minority votes are allowed, they strive for, and usually achieve, consensus on the recommendations as a whole and thus speak with one unified voice (Weingart/Lentsch 2008). There are few access points for state agents to the deliberations of these committees, and most influence is exerted during the setup of a committee through the selection of members and staffing of secretariats (Färber 2005; Weingart/Lentsch 2008). Despite their formal independence, informal contacts between the committees and the ministries facilitate implementation and help elicit advisory demands (Weingart/Lentsch 2008, 63, 115). Academic councils are set up on a variety of legal grounds, such as ministerial orders, cabinet decisions or laws. The more formal the statutory basis, the more detailed the instructions for the setup and operation of the individual committee can be, with laws and decrees often specifying



the composition, recruitment and status of members, decision-making procedures, mandate, reimbursement rules or the relationship with the public and the appointing authority. Some academic boards of advisors address departments or their agencies, others advise the government as a whole and even address the public. Their degrees of independence and political impact varies slightly amongst the sub-types of academic councils: Departmental as well as inter-departmental academic boards usually consist of academics only, have broad mandates and a comparatively large degree of autonomy, that they defend fiercely against political influence.<sup>10</sup> These committees' expertise enjoys a high public status but has been described as having relatively low political influence (Döhler 2012, 188; Fleischer 2015, 317; Grosseckttler 2005; Nützenadel 2002; Pielke 2007, 17, Thoroe 2007; Weingart/Lentsch, 2008, 66ff., 109).<sup>11</sup> The regulatory and risk-assessing academic boards differs in some respect from this type. Their advice often has de facto norm-setting impact and a government can be in need of explaining why it deviates from the advice (Di Fabio 1994, 159; Weingart/Lentsch 2008, 78). They often include some representatives of interest groups and public criticism has been directed at the status of those agents' expertise and at the committees' abilities to respond to growing societal security demands (Schulze-Fielitz 2005, 71; Weingart/Lentsch 2008, 96).

Building on their overall high institutional independence, the academic merits of their members as well as their independence from political interference or special interests, academic boards of advisors are generally seen as delivering a reliable and objective kind of 'academic' knowledge. Reflecting a comparably high societal authority of academics, as uninterested, neutral agents, they have the status of an honest broker, of a counterweight to organized interests, a bridge between the political and the academic realm, and sometimes even a political conscience (Fleischer 2015, 318; Grosseckttler 2005; Weingart/Lentsch 2008). They add to the legitimacy of administrative behaviour by warranting the rationality of policy-making (Fleischer 2015; Vosskuhle 2008), but governments cannot steer such committees and use them strategically. The claim that policy-makers should listen to their advice is heard more often, however. Technocracy concerns, on the other hand, are not prevalent in public debate on these committees,

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<sup>10</sup> In the most institutionally autonomous cases a co-optation procedure is used for member selection, their existence is 'protected by law' and the government is obliged to respond to recommendations (Grosseckttler 2005; Weingart/Lentsch 2008, 107).

<sup>11</sup> An institutional indication of their sinking impact is that their involvement into the legislative process is no longer mandatory, following revisions of the joint rules of procedure of the federal ministries (Döhler 2012, 201; Fleischer 2015, 317).

which may also have to do partly with their relative powerlessness. The academic independence and high status of the most prestigious boards stands in contrast to their limited influence, which may in fact be two sides of the same coin: When the appointing authority has few access points and academic councils do not respond to advisory needs of a department,<sup>12</sup> this can make a committee's advice less usable and relevant for policy-makers. That said, it also has to be pointed out that academic councils do not figure high on the public agenda and that their role is not contested or even discussed. In the public and political realm, the 'two worlds'-perspective on the relationship of science and policy-making still seems to be dominant (Falk et al. 2007).

b) On committees that are established on a more ad hoc basis, no systematic data exists and the degree of formalisation and regulation of their use and setup is low. There are no rules directed at ad hoc advisory committees for setup and operation, nor general codes of conduct for the members and many committees lack rules of procedure that could specify this for the individual cases. Due to their pronounced use within a 'governance in dialogue'-strategy (Steinmeier 2001) at the turn of the millennium, the impression of a proliferation or even 'inflation' (Heinze 2009, 9; see also Tils/Bornemann 2004) of ad hoc committees developed in the media, and this diagnosis was repeated by many observers. Yet, this was never confirmed in comparative studies and it seems more likely that ad hoc advisory committees were particularly visible during that time (Krick 2013; Kropp 2002, 2003, Siefken 2007).

For ad hoc committees, a broad composition of interest representatives and academics, civil servants and sometimes MPs is the general rule (BT Drs. 12/8378; Krick 2017; Murswieck 1994; Siefken 2007; Weingart/Lentsch 2008). Tentative evidence of two medium-n comparative studies of different periods and policy fields shows that, on average, the biggest group (ca. 30%) is made up of societal stakeholders, while each ca. 25% of members are civil servants and academics (Siefken 2006, 2009; Krick 2017). There is no indication so far that interest group involvement has been scaled back in Germany and the widespread diagnosis of a demise of European corporatism is not reflected in ad hoc committees.<sup>13</sup> Academics are typically, but not always among the

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<sup>12</sup> For instance, when the BMVEL in 2001 attempted to gain more influence on the recruitment procedures, the academic council on agricultural issues ('Wissenschaftlicher Beirat beim Bundesministerium für Ernährung und Landwirtschaft') resigned jointly and very visibly out of protest.

<sup>13</sup> Yet, more fine-grained analyses of the compositions of advisory committees over time are needed to confirm this and to trace possible shifts of the weight of different actor groups within the committees. It

members, while they neither numerically, nor culturally dominate these settings (BT Drs. 12/8378; Krick 2017; Weingart/Lentsch 2008). Apart from providing information, their broad composition qualifies them particularly for interest mediation and consensus-building (Blumenthal 2002/2003; Brohm 1987; Czada 2014; Döhler 2012, 186; Färber 2007, 137ff.; Heinze 2012; Hustedt et al. 2013, 16; Lamping 2006; Murswieck 2003, 124; Siefken 2007; Weingart/Lentsch 2008, 119ff.). Individual cases have also been used for strategic political purposes, i.e. to restrain political competitors, to (re)gain the capacity to act, to shift responsibility or postpone decision-making (BT Drs. 14/7722, 1; Blumenthal 2002/2003; Brohm 1987; Döhler 2012, 186; Färber 2007, 137ff.; Hustedt et al. 2013, 16; Lamping 2006; Murswieck 2003, 124; Siefken 2007; Weingart/Lentsch 2008, 119ff.). Many ad hoc committees also address the public and are publicly promoted by the appointing authority, which opens them up to symbolic, legitimising purposes (Krick 2010, 2013; Weingart/Lentsch 2008, 119).<sup>14</sup> When the committee-internal reconciliation of interests is taken up by the media, this binds and commits its members' organisations and facilitates compliance and implementation.

Many members of ad hoc committees fulfil the double role of an (independent) expert and of a societal representative (cf. BT Drs. 14/7722, 1; Krick 2015; Weingart/Lentsch 2008, 123). The policy-experienced, pragmatic academic with cross-cutting knowledge is given preference over the 'pure professor' and stakeholders are often addressed 'in a personal capacity' (Färber 2007, 140, 152ff.; Franz 2000; Weingart/Lentsch 2008, 124). The 'neutral voice of science' (Grossekettler 2005) is used to help solve societal conflicts and to create the impression of academically approved, trustworthy solutions (Weingart/Lentsch 2008, 131), but academic practices and analyses carry little weight in hybrid committees. The expertise produced is therefore not 'scientific' or 'academic' first and foremost. Its validity and reliability rather rests on the integration and reconciliation of a variety of different societal perspectives and it is thus – in the ideal case – particularly 'socially embedded', policy-relevant and useful advice (Beck 2012; Färber 2005; Haas 2004; Jasanoff 2005a; Jung et al. 2014; Weingart/Lentsch 2008, 120, 131).

Ad hoc committees are usually set up for a fixed period of time of 1-5 years with the specific task of policy formulation on a relatively narrow issue, typically in response to

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may be, for instance, that trade unions have lost rights for participation, while business interests and environmental groups have grown stronger.

<sup>14</sup> However, the 'purely symbolic' use of expert commissions, i.e. for substantiating decisions that have already been made, is not common in Germany, as Färber (2005) and Siefken (2007) argue.

public or political debate about a specific event or scandal, of a regulative loophole or reform necessities. They are usually based on a simple ministerial decision and typically present one joint report at the end, on which the group is expected to agree consensually (possibly covering dissenting opinions on individual points) (Färber 2007, 141; Weingart/Lentsch 2008). They are usually less formally institutionalised, less independent and more influential than the academic councils described above, yet, with some variations amongst subtypes. In terms of their degree of independence from the appointing authority, two subtypes can be distinguished (that also vary on a handful of further variables): There are, first, ad hoc committees that are often called (Experten)kommission ('expert commission'), which almost resemble permanent academic councils in terms of their institutional autonomy.<sup>15</sup> They tend to develop a life of their own and can ultimately not be steered by the responsible ministry (Döhler 2012, 187; Färber 2007, 151f.; Hustedt et al. 2013, 17; Murswieck 2003, 111; Weingart/Lentsch 2008), which prevents a purely symbolic, substantiating use of these committees (Färber 2005; Krick 2010; Siefken 2007). During the heydays of 'government by commission' (Dyson 2005) in the early 2000s, a possible predetermination of legislation and a loss of parliamentary sovereignty through the use of these influential committees was heatedly debated in public (see e.g. Grimm 2001; Kirchhof 2004; Tils/Bornemann 2004). Yet, research showed that commission recommendations do usually not develop the often assumed de facto binding force and that a 1:1-implementation is actually not common in Germany (von Blumenthal 2003; Färber 2005; Kropp 2003), while it seems to be more common in Sweden, for instance (Hustedt et al. 2013, 17).<sup>16</sup> From a political science perspective, ad hoc commissions have been interpreted as legitimate arenas of will-formation and policy development, that can surely influence political agenda-setting but do not replace party-political and parliamentarian arenas; rather they have the potential

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<sup>15</sup> They have their own by-laws and a secretariat that is part of the responsible ministry. Members of these expert commissions are appointed, and commissions are chaired by independent personalities (or co-chaired by representatives of different political parties). Members cannot be recalled arbitrarily and a committee cannot be terminated without causing considerable political costs for governments (Färber 2007, 140). Although civil servants often take part as observers they are usually not members and the appointing authority will not directly influence the negotiations or co-decide (cf. also Döhler 2012, 187; Färber 2007, 149).

<sup>16</sup> A '1:1 implementation' of the Hartz-Commission's recommendations was (in)famously announced in 2002 by the then chancellor Gerhard Schröder, months before the committee had even finished its work and this fuelled the public controversy about the power of these external advisory committees even further. Yet, even there, the rule applied that nothing leaves parliament the way it enters it, and the labour market reforms in substantial parts differed from the commission's advice (on this issue see Dyson (2005), Krick (2013), Weingart/Lentsch (2008, 134)).

to rehabilitate the supremacy of politics on the grounds of their clear mandates and tasks, their visibility and transparency and the subsequently enhanced public debate (see Döhler 2012, 186; Fleischer 2015; Murswieck 2003, 125; Krick 2013; Kropp 2002, 2003).<sup>17</sup> Distinct from expert commissions is, second, the bulk of less formally institutionalised, looser arenas of ad hoc policy advice and consultation.<sup>18</sup> While expert commissions stepped into the vacuum that was left by the demise of tripartite corporatist structures (Czada 2014, 116; Heinze 2013, 135), informal rounds partly take over the functions of expert commissions, which were thoroughly discredited under the red-green government. Within research they have been termed ‘informal public consultation platforms’ (Czada 2014, 115), ‘round tables’ (Heinze 2013, 136) or ‘(organised) dialogues’ (Brown/Lentsch/Weingart 2006; Gohl 2004; Murswieck 2003, 119). In political practice they operate under a variety of names such as summits, high level talks, co-operations, round tables, working groups, forums, circles, dialogues, platforms and many more.

Although informal dialogues, round tables and networks are not an entirely new phenomenon (cf. BT Drs. 14/7722; Murswieck 2003), indications of a recently increasing relevance of such policy advice structures abound (Brown/Lentsch/Weingart 2006; Czada 2014, Gohl 2004; Heinze 2002, 2013; Krick 2010; 2017; Murswieck 2003; Musch 2012; Schneider 2006; Siefken 2009; Thunert 2001). Just as commissions, these more informal dialogues lend themselves to interest mediation, cooperative bargaining and consensus-building, first and foremost. Yet, they do not so much provide advice and information to government in a unidirectional relationship. Rather, some of them function as bilateral bargaining rounds, where powerful societal actors agree with state agents on societal self-organisation, the exchange of resources and cooperative law-making (Czada 2014, 117; Gohl 2004; Krick 2010, 2013), and they have been criticised for their lack of including public interests sufficiently. Others are very inclusive arenas that lean towards participatory governance, are open to ‘ordinary citizens’ and thus relate to the increasing public demand for more direct citizen involvement. Furthermore, a pronounced

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<sup>17</sup> Kropp (2002, 438) very rightly asked whether the harsh criticism of expert commissions was not an expression of a simplified understanding of parliamentary systems that fails to acknowledge the need for negotiations and consensus-building and the de facto unity of parliamentary majority and government.

<sup>18</sup> They typically lack by-laws, are chaired by a civil servant and their participants are often not appointed, but invited to committee meetings (fluid membership structures). They do not necessarily work on one joint report but publish interim results and statements on single issues, the author of which is often the ministry. Their agenda will be (at least co-)determined by the responsible ministry and respond to its advisory needs. They can be terminated at any time by the responsible ministry. These discursive arenas are particularly closely entangled with the appointing authority and enjoy a low degree of autonomy.

incorporation of the public administration into such dialogues is conducive to a smoother transmission of recommendations it can facilitate implementation (Färber 2007, 157; Krick 2013). It can also make the dialogues more susceptible to executive control and – especially when they are publicly promoted – they can be more easily used for legitimising, strategic purposes. When these processes are however fully orchestrated by the government, as has been shown for individual cases, this raises concerns about the epistemic quality of the developed policy solutions and about the legitimacy of expensive show events and ‘token-participation’ (Czada 2014; Krick 2010; 2015).

### **3.2. The Norwegian advisory committee system**

The Nordic knowledge regimes have been characterized as public, state-centered and relatively inclusive (Christensen/Gornitzka/Holst 2017). All the Nordic countries are above the OECD average when it comes to the share of the younger population with at least three years of higher education, but Norway ranks highest and this has been the case all through the 2000s. There is also extensive public funding of research in universities and research institutes. The Nordic region has a comparatively large share of researchers in relation to the total population, but Norway differs from the rest of the region in that it spends a lower share of GNP on R&D. The structure of Norway’s R&D policies also differs. Whereas Sweden and Finland belong to the group of countries where the majority (around 70 per cent) of R&D activities are performed within the business enterprise sector, in Norway the business share of R&D is just over half of total R&D expenditure. In the Norwegian knowledge regime a relatively large proportion of R&D (about 12–15 percent) is furthermore undertaken in government research institutes. Considerable resources are channeled to research with an applied orientation, including the social sciences, to feed public policy and state governance of key societal sectors, such as health and social policy, education, environment or foreign policy, with relevant research and expert advice. Specialized applied research institutes have long traditions for establishing an organized link between research and policy. In core areas, for instance labor market policy and social policy, social science institutes seem to have held the niche that in other knowledge regimes has been filled by think-tanks and for-profit consultancy firms.

Furthermore, the Nordic countries are often described as ‘strong states’, and an important aspect of this is the strength of professional expertise within state bureaucracies. Civil servants in ministries and agencies are important providers of information and analysis

in the formulation and implementation of public policies. By contrast, parliaments have little independent capacity to carry out research and analyses, and thus limited ability to challenge the premises of government policy.

Finally, both in Norway and the other Nordic countries, *ad hoc* advisory commissions have played an important bridging role between research and policy. Particular attention in research has been given to the Norwegian Official Commissions (*Norges offentlige utredninger* – *NOU*), because they represent a significant majority of temporary commissions, but also because information about mandates, composition etc. are easily available on official websites.<sup>19</sup> In connection with an ongoing research project, a NOU data base (1972-2016) is under construction, including among other things detailed information about commission members' affiliation, the commission reports' sources of references etc.<sup>20</sup> Routinely being called upon to examine major policy issues and provide advice about policy solutions, the NOUs, and similar commissions in the other Nordic countries, have been considered a core element of the Nordic knowledge regimes and, indeed, of the whole 'Nordic model of government' (Arter 2008).

Traditionally, temporary advisory commissions have been studied from two main perspectives (Christensen/Holst 2017). First, these commissions have been seen as “the foremost institutional expression” of corporatism, that is, the institutionalized participation of interest groups in policy-making (Christiansen et al. 2010, 29; Rommetvedt et al. 2012). From a corporatist perspective, they are arenas for resource exchange between government and organized interests: interest groups are given access to the policy formulation process in exchange for providing government with policy-relevant information and political support. The consultation of interest groups is a routine step in the preparation of new policies. This perspective was dominant in the literature from the 1970s and 80s about the sprawling network of commissions and advisory bodies in Scandinavia (Buksti/Johansen 1979; Egeberg 1981; Kvavik 1976; Moren 1974). Key expressions of the corporatist nature of the Nordic commission systems were the great number of commissions with interest group representation and the prevalence of bargaining and compromising within these bodies.

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<sup>19</sup> The National Library of Norway ([www.nb.no](http://www.nb.no)) and the Norwegian government ([www.regjeringen.no](http://www.regjeringen.no))

<sup>20</sup> *Expertization of Public Inquiry Commissions in a Europeanized Administrative Order* (2016-2020), see <http://www.sv.uio.no/arena/english/research/projects/eurex/>

Second, *ad hoc* advisory commissions have been studied from a state-centered perspective emphasizing the control of the bureaucracy over the organization and operation of commissions (Lindvall/Rothstein 2006; Meijer 1969; Nordby 1999). From this perspective, commissions of this kind have been seen essentially as an extension of public administration. This view has been closely linked to the 'strong states' notion and the long Nordic traditions of professional civil servants making and administering policies – often with the help of commissions (Hecló 1974).

However, societal and political changes from about 1980 onwards challenged these traditional images of commissions. Most importantly, the decline of corporatism in the Nordic political systems implied that the institutionalized participation of interest groups in policy preparation and implementation was scaled back (Öberg et al. 2011). A development that is the topic of recent and ongoing research is the role of knowledge within these commissions (see also Innvær 2009). This can form the basis of a third knowledge-centered perspective on Nordic advisory commissions (see also Johansson 1992; Tellmann 2016), where advisory commissions are studied as institutions for the production and utilization of knowledge in policy-making.

Norwegian NOUs typically work for a year or longer, synthesizing existing knowledge and sometimes also carrying out or commissioning new research. Commissions are generally composed of members from the civil service, political parties, interest groups, academia or the private sector (with civil servants as the biggest category, academics as the second biggest, and interest group representatives coming third). They are led by a chair and supported by a secretariat.

Several features seem to distinguish Norwegian commissions. The first is their routinized character: For most major policy issues, appointing an advisory commission has been a necessary and taken-for-granted step in the policy formulation process (Mejer 1969). A reflection of this is the large number of commission reports produced every year. In Norway, an average of 35 NOUs was produced annually by advisory commissions in the period 1972-2015.

Second, the political influence of commissions varies, but they often develop considerable impact on problem definitions and on what policy solutions are considered viable. There are examples of commissions that – at least in the short run – scarcely affect the political agenda, due to changes of government, political priorities in the current government or public resistance (Skjeie/Holst/Teigen 2017), but several case study give evidence to the



large agenda-setting power of NOUs (for example Krick/Holst 2018; Ryymin 2017; Tellmann 2016).

A third defining feature of Nordic commissions is often said to be their relatively close links to the government bureaucracy (Christensen/Gornitzka/Holst 2017). Government appoints commissions, formulates detailed tasks and parameters and picks the chair and members. 'The Instruction for Official Studies and Reports', the main regulatory document and its supplementary guidelines, give the responsible Ministry a large discretionary space when it comes to composition and mandate, as long as gender balance and multiple geographical backgrounds are ensured. Codes of conduct and some prescriptions for internal commission proceedings are formulated, but are similarly brief and vague. There is for example a general expectation expressed that commissions are to reach consensus, but no specific requirements are given as to the decision procedure. The largest part of the 'Instruction' document consists of detailed prescriptions for internal public administration hearing procedures before a commission is set up and after a commission report has been delivered. In addition, civil servants also frequently participate as commission members and usually make up the commission secretariat. However, even if there are examples of secretariats receiving instructions by ministries under proceedings, most secretariats seem to function independently and report to the commission chair which is most often an independent academic expert from a relevant field (Christensen/Holst 2017; Tellmann 2016). During the 1970s and 80s chairs used to be civil servants, and the academization of commission chairs may indicate somewhat weaker links between NOUs and government.

Fourthly, NOU committees are typically consensus committees: As indicated, they are expected to produce consensus reports, as reflected by the 'Instructions' document. Minority statements are, however, allowed for and an established internal norm is that voting serves as a last resort. Interest group representatives write minority statements more often than civil servants and academics, while academics are the category most oriented towards consensus (Tellmann 2016). When the composition of the committees change, there is thus reason to expect change in dissensus frequencies.

Finally, at least up until recently, Norwegian commissions have been so-called "hybrid" committees, including scientists and civil servants, but also stakeholders and interest group representatives (Christensen 2017; Krick 2014). This has given these committees certain democratic credentials and they could be regarded as a cornerstone in the Nordic

approach to the ‘democratization’ of expertise. Whereas international literature emphasizes how the dominance of expert knowledge more recently has been challenged by more ‘pluralist’ and ‘hybrid’ forms (Gibbons 1999; Scott and Gibbons 2001), this has arguably been a characteristic of the Nordic commission system with a longer tradition. Advisory commissions in the Nordic countries have, however, undergone significant changes over recent decades. Most importantly, the broad de-corporatization of the Nordic political systems has led to reduction in the number of advisory commissions and other bodies where interest groups were represented, at least in Denmark clearly and Norway, but interest groups representatives are still the third biggest category in Norwegian committees, and the inclusion of social partners seems to be decisive in some areas, such as labour policy.<sup>21</sup> Furthermore, in Norway, the number of NOUs per year has dropped from around 60 in the 1970s to between 15 and 20 in the 2010s.<sup>22</sup> Lastly, and importantly, recent research points to an ‘expertization’ of *ad hoc* commissions in Norway, that is, a growing reliance on academics as commission members and chairs and an increasing use of academic knowledge and forms of argumentation on commissions (Christensen/Holst 2017; Tellmann 2016).

The implications of these changes are varied. The hybrid commission had the combined functions of interest mediation, ensuring government control over policy-making, and knowledge providence. The increased role of academics and academic knowledge may imply a strengthening of commissions’ deliberative and epistemic qualities and so of their instrumental or problem-solving functions (Christensen/Holst 2017; Tellmann 2016). Yet, several factors also contribute to doubts about epistemic and deliberative merits. First, the dominance of some disciplines and professions’ in certain policy fields contributes to “bounded rationality” and an increased risk of epistemic mono cultures to consolidate, for example among economists in economic or environmental policy (Christensen 2013; Christensen/Holst 2017; Renå 2016; Tellmann 2016), Second, technocratic reasoning prevails when complex political issues are reduced to and conceived as purely “technical issues” (Krick/Holst 2018; Skjeie/Holst/Teigen 2017). Third, a study of commission reports in health policy finds them to hold low scientific quality, despite expertisation trends (Innvaer 2009). Finally, even if our knowledge of this

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<sup>21</sup> See Christensen/Nørgaard 2003; Christiansen et al. 2010; Hesstvedt/Christensen unpublished; Nordby 1994; see also Hermansson/Svensson/Öberg (1997) for a discussion of the Swedish case.

<sup>22</sup> On a similar contraction in Denmark, see Christiansen et al. (2010).

is scattered, and more research is needed, there are examples both of NOUs dominated by academics with a selective composition and of NOUs that were set up or published their report very close to elections as a political attempt to “show off” initiative and willingness to “knowledge base” policy making vis-à-vis voters. Thus there is evidence of commissions having substantiating and symbolic functions in addition to information functions. Moreover, the function of interest mediation still seems to be relevant in commissions with significant stakeholder participation and impact, and generally, bureaucrats and responsible ministries still have considerable control and influence, despite the increased scope for academics and academic knowledge.

The growing influence of academics in and over commissions is also democratically challenging, even if the scope and kind of the normative problem that occurs depend on the underlying conception of democracy (Christensen/Holst 2017). In public debate ‘expertization’ of commission has been highlighted both as a problem for democratic legitimacy and as a challenge to Nordic corporative model of decision-making (Skjeie/Holst/Teigen 2017). Some criticize generally the replacement of interest group representatives by professors; others have accused the current conservative government of favouring business interests in their selection of societal stakeholders. A fuller assessment of democratic implications and credentials must, however, take into account the broader institutional context and relevant mechanisms of stakeholder inclusion, for example how civil society and interest groups influence reports and the resulting policy-making process through the available hearing and consultation procedures. Notably, due to the relatively formalized character of the NOU system and an easily accessible committee register, it is publicly recognized as a relatively transparent system. Recently, in connection with some commissions where the composition of members have been controversial, the limited transparency of appointment and selection procedures has however been questioned.

Finally, even if there is an annual drop in the number of NOUs, some temporary advisory committees are not NOUs, and their role may be increasing. The features of these committees vary, from inter-ministerial working groups with technical mandates to expert groups of varying size working within tight schedules and mandates. A hypothesis may be that such groups are about to outcompete NOUs in some areas, but this remains to be investigated. The picture is also made more complex by a sub-category of NOUs, so-called *lovutvalg* (legal committees) that distinguish themselves from the majority of NOUs

in that they draft legal texts rather than formulate policy analyses and recommendations. The changing role of this type of NOU is less investigated, but historically *lovutvalg* reports have been central public law sources (Backer 2015, Sunde 2017). Lastly, the committee system includes also some permanent or quasi-permanent advisory boards. Some bring together academics and stakeholders in particular areas such as nutrition policy or technology policy; others are primarily sites for civil society consultation on different equity issues (Andreassen 2016). Yet, compared to other countries, these more permanent structures seem to play a relatively limited role.

### **3.3. The advisory committee system of the EU**

Having been added to the established political administrative system of the European nation state, the European governance level does not draw on its 'own' set of knowledge producing institutions but has to build on the diverse set of nationally based knowledge systems. From the start of post-war European integration, attempts were made to establish something approaching a common European knowledge regime. Yet, the build-up of European level institutions was met with resistance. The story of what eventually became not a European University but European University Institute is a case in point (Corbett 2005). The enormous expansion of research and higher education institutions in most of European countries was in no way paralleled at the European level. Knowledge-producing scientific and academic institutions stayed within the remit of national education – and to some extent research – systems. The building of a pan-European area that occurred through the so-called Bologna process was not particularly concerned with matching knowledge institutions to the needs of the political-administrative system at the supranational level. Yet, the motive of stimulating scientific knowledge generation for policy advisory purposes guided the EU's various research policy instruments (especially the EU's Framework Programme for Research and Development) that culminated in the establishment of the European Research Area (ERA) (Chou/Gornitzka 2014). Moreover, the architecture of the EU supranational knowledge regime is built primarily around the emerging European executive, the European Commission, while little professional advisory expertise is attached to the co-legislators – the Council and the European Parliament (see Egeberg/Gornitzka/Trondal 2014). As an institution at the level beyond the nation state, the European Commission is unique in its capacity, delegated authority and with respect to its relative autonomy from the member states (Egeberg 2006). The

primary organisational principle is based on establishing administrative and professional expertise in sectors of society that are addressed by EU law – be it internal market, trade, energy, agriculture, food safety. With the expansion of the EU’s policy competences, most policy areas are covered by the sectorally specialised administrative structure of the EU. More specialised policy advisory units have been established at the supranational level both within and outside the organisational boundaries of the Commission as a response. *Joint Research Centres* are the Commission's science and knowledge service with the mission to provide ‘independent evidence’ to support EU policies.<sup>23</sup> In addition, the Commission has experimented with the establishment of an organisational position for scientific advice; a chief scientific officer was established Barroso, but scrapped again by the Juncker Commission.

With no research institutes and universities to draw on directly at the European level – the Commission cannot seek advice and relevant information in the way that national political-administrative systems can. However, in line with what has also occurred at the national level, specialized think tanks have become a common feature of the EU knowledge regime. New think tanks have been coupled to the EU’s growing legislative power in an expanding number of policy areas (Boucher et al. 2004, 20). However, among the organizations registered as interacting with EU institutions, think tanks, along with research institutes and academic institutions, are only a small fraction (7.1%) of the over 9000 registered organisations in 2016 (Gornitzka/Krick 2017).

One of the most pronounced organisational feature of the EU knowledge regime is the system of expert groups and committees in the EU. Quite early in the history of European integration it became evident that advisory committees as an organisational form were central to the policy process at the EU level.<sup>24</sup> An assorted menagerie of committees developed, some of which are far from the type of advisory committees we know from national political systems. The bulk of the system of external advisory committees is anchored in the supranational executive. This system is predominantly organised and administered by the Commission – the use of external advisory committees in the European Parliament (EP) is, for instance, very limited. The policy advisory committees that the Commission uses for policy preparation are called ‘expert groups’. The expert

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<sup>23</sup> <https://ec.europa.eu/jrc/en/about/organisation>, accessed 24.08.2017.

<sup>24</sup> Already in 1997 Ellen Vos argued for instance that committees had increasing importance, especially in regulatory fields when post-Maastricht European integration moved into new policy territory (Vos 1997).

group system has to be distinguished from comitology committees, i.e. advisory committees that consist of member state representatives only, are active in the phase of implementation, set up by the legislator and unique to the EU in their extensive scope (Blom-Hansen 2011).

The system of expert groups has been used as a flexible part of the supranational advisory system. Most groups are set up on a temporary basis and informally, i.e. they do not require a formal 'Commission decision'. Yet, most recent overviews suggests that, as a response to external pressures on the committee systems practices (see below) and an apparent recent drop in the number of expert groups overall, a higher share of expert groups have formal status and are part of the advisory system on a permanent basis. Besides, the degree of regulation of the system is relatively high and growing (though not governed by law like in the US, for instance), with governing rules for committee operation and setup, a public register of expert groups with ever more information, organisational by-laws for most committees and codes of conduct for committee members that detail in particular the amount of disclosure expected of them. Expert groups are, like all the advisory committees we look at, *external* advisory committees, organised outside the internal hierarchical structure of the Commission departments. By-laws and the participant status of their members provide for a certain organisational autonomy. Yet, these institutions are also closely linked to the administration, since Directorates-General (DGs) of the Commission are responsible for appointing members and detailing their mandates and they usually provide personnel for the chair position and secretariat work. Collective decision-making within expert groups follows consensus procedures, with a majority voting fall-back option that is codified in the standard by-laws (European Commission 2016a, 11) and they usually reach the goal of consensus (European Commission 2016c).

The quantitative development of the EU committee system indicates a rise of the number of expert groups during the last 20 years, with a peak in 2006 and then a moderate decrease afterwards. Currently there are about 750 committees in operation.<sup>25</sup> Particularly the early data from the register and other official EU sources is however not very reliable. It contains an accumulation of organisational slack, such as double entries

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<sup>25</sup> A search in the register shows 766 records of active groups, yet these entries have not been checked for data impurities (<http://ec.europa.eu/transparency/regexpert/index.cfm?do=search.result>).

and non-active committees and the underlying definition of an expert group has changed over time, as Metz (2013a, 2013b) points out.<sup>26</sup>

The Commission's expert groups consist of agents in three different roles: independent experts, advocates of societal interests and member state representatives. These roles overlap and one individual can inhabit more than one role, depending on context and viewpoint. Studies examining participation in this part of the EU policy advisory system have revealed the following patterns: The composition of EU Commission expert groups varies considerably across cases, ranging from mixed groups, to groups exclusively composed of member state representatives, to groups exclusively composed of scientists (Metz 2013b). Recent research indicates that the two most prevalent types are groups dominated by member states, followed by the hybrid type (Krick/Gornitzka unpublished). Although scientists, industry and NGOs are prevalent advice providers for the Commission, informational foundation is strongly biased towards officials from national administrations (Gornitzka/Sverdrup 2015b, 413; Gornitzka/Krick 2017). This clearly demonstrates first of all how national administrations represent the main girdle of specialized expertise for EU policy making. The second largest group of expert group members are interest organisations (Gornitzka/Krick 2017). As pointed to by Sonia Mazey and Jeremy Richardson (2001, 78), DGs maintain links to a wide range of interest organisations and the Commission has become a type of administration that keeps an open door to stakeholders. The dominance of business interests and the marginalisation of public interest groups (or NGOs) is acknowledged by the EU Commission, which provides some organisational support for such 'weaker interests' to participate (Kohler-Koch 2012; Mahoney and Beckstrand 2011). Yet, in general, it stresses its interest in the 'technical information' provided by resourceful groups for developing efficient policy solutions and points to the frequent failure of NGOs to accept direct invitations and to respond to public calls with sufficiently competitive applications (European Commission 2016c; see also Holst/Moodie 2015).

Within the EU's committee system, all members are attributed the status of an expert, a bearer of specialised knowledge, irrespective of their organisational affiliation. An 'expert' does not have to be devoid of interests, possess academic credentials or work in research. This encompassing expert status that is by no means confined to the academic,

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<sup>26</sup> In the last years, the Commission has continuously stressed its intention to reduce the number of expert groups in response to efficiency and transparency demands.

is reflected by the official name of these committees ('expert group'), the horizontal rules governing expert groups and the Commission's descriptions of its committee system.<sup>27</sup> To this extent, this is unique to the EU. Many other policy advisory systems try to distinguish between the status of an expert on the one hand and of an interest representatives on the other.<sup>28</sup> On the EU level, the two roles blur completely and this is constitutive to the Commission's embracing approach to external input. It is linked to the Commission's limited in-house capacities that makes it extraordinarily dependent on external input and the exceptional need for intra-national coordination that stems from a unique necessity to adapt regulations to varying national legal, administrative and economic conditions (Metz 2013b; Moodie 2016). Following the Commission's logic, EU level business pressure groups and NGOs have more and more built their legitimacy on cognitive authority and 'scientific correctness' (Eden et al. 2006, 1066; Jamison 2003 706; Yearley 1992 436). They rely on a 'logic of influence', presenting themselves as knowledgeable, reliable partners in EU governance (Kohler-Koch 2012, 819; see also Seibicke/Holst 2018) and using information as 'access goods' to the EU policy process (Bouwen 2004, 340; see also Bernhagen/Dür/Marshall 2015). This is a very rational lobbying approach, given that information is a key currency in European policy-making that decides over influence in EU lobbying (Bernhagen, Dür and Marshall 2015; Bouwen 2004; Broscheid and Coen 2007; Eising 2007). The notion of reliable expertise that this approach radiates is a very broad one that spans all kinds of knowledge and information as legitimate sources. Such expertise is likely to be very policy-relevant and usable but it can hardly claim 'neutrality', given the lack of emphasis by the Commission on either independence of the individual experts, nor balance of viewpoints between them.

When the member-type-categories from the Commission's register are taken as a basis, the numbers at first sight seem to point into the direction of a 'scientification' of the participation structures, because the share of members in the categories that indicate an independent, academic background<sup>29</sup> have been rising slightly in the last 10 years (Gornitzka/Krick 2017; Krick/Gornitzka unpublished). Yet, when one digs deeper, it

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<sup>27</sup> See European Commission (2016a) as well as the Commission's definition of an expert group and of the purpose of the register: <http://ec.europa.eu/transparency/regexpert/index.cfm?do=faq.faq&aide=2>.

<sup>28</sup> Cf. for instance the US system, codified in the Federal Advisory Committee Act, or the German practice of differentiating scientific committees from non-scientific ones by adding the connotation 'expert' or 'academic' to the committees' official names.

<sup>29</sup> These are category A 'Individuals appointed in a personal capacity' and those within category C (organisations) that identify as 'research, think tanks and universities'.



becomes apparent that these categories include all kinds of private business agents and that the share of independent, academic expert group members has actually remained more or less stable. At the same time, there is tentative evidence that key positions are increasingly being given to academics and that expert groups' mandates tend to be framed in a more 'scientific' manner, which possibly underlines a growing authority of science-based claims-making and reasoning in modern governance (Holst/Molander 2017; Krick/Gornitzka unpublished).

As in other advisory systems, the EU's expert groups are used for political, strategic purposes as well as for instrumental, problem-solving purposes, and this often concurrently. In the Commission's communication, the main function of the expert group system is the provision of expertise on 'technical issues' (see European Commission 2016a/b/c). This corresponds to the perception of scientists involved in these committees, according to Rimkute and Haverland (2015). Within immigration policy however, Boswell (2008) finds evidence of mainly strategic functions of expert groups, with information being chiefly used as a source of legitimation and for substantiating purposes. In an extensive qualitative study that covers different policy fields and focuses on the actual functions of committees, Metz shows that on the instrumental dimension, 72% of cases were used for gathering expertise and 25% for consensus-building and coordination, while about half were (additionally) used for substantiating the Commission's position – particularly when pushing for budgetary gains of a certain portfolio vis-à-vis other institutions (Metz 2013a, 21; 2013b, 257).<sup>30</sup> Tørnblad highlights the central function of policy negotiation and coordination, and the more limited role of knowledge providence, in a recent large-n-study of expert groups' meeting minutes (Tørnblad 2018).

A difficult question to investigate empirically has not been studied in depth: how is expert group output used in the subsequent stages of the policy process and what kind of influence does the work of committees have? In Metz's (2013b) population of expert groups, 32 of the 48 cases were involved in legislative drafting. Van Ballaert (2015) shows that the Commission uses reference to expert groups in 1/3 of their proposal and in this

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<sup>30</sup> In Metz's study, the problem-solving, information-gathering use was dominant in cases when a DG had to elaborate technical details of a proposal and did not have sufficient in-house expertise (Metz 2013b, 257). A substantiating use occurred across policy areas, but was most prominent in the predominantly distributive research and innovation policy (Metz 2013b, 257). The consensus-building and coordination function prevailed in distributive policy fields such as internal market and social policies, where national structures differed strongly (Metz 2013a, 21).

respect, expert groups thus seem to leave a footprint in the EU policy process. Besides, expert groups are fora of resource-exchange that reflect mutual dependencies of the involved actor groups. Receiving input by external experts increases the ability of the Commission to anticipate reactions to its proposals and initiatives (Gornitzka and Sverdrup 2011). Given the dependency of the Commission on this information, it is likely to proffer its experts the possibility to impact policy content in exchange for information (Metz 2013b). After all, affecting EU policy-making is the main incentive for participation for external political, economic and societal actors who use expert groups as 'lobbying fora' where they influence policies – and network with other participants (Broscheid/Coen, 2007; Robert 2010).

With the sheer volume of expert groups at the EU level it is somewhat surprising that the question of democratic legitimacy of a system of committees did not come up in the public debate for a long time. Yet at the turn of the century, these issues have come to the fore with full force. The concerns voiced by NGOs have generally focused on an imbalance of interests in expert groups in the form of a corporate bias and industry domination, a subsequent marginalisation of public interest groups and the opacity of the structures and procedures of expert groups (see e.g. Corporate Europe Conservatory 2010; Friends of the Earth Europe 2009; European Ombudsman 2015, 2016; see also research by Coen 1998; Mazey and Richardson 1997, Rasmussen and Carroll 2014; Chalmers 2014; Moodie 2016). The EP used its budgetary power over the Commission in recent years in order to press for changes in practices and for formalising guidelines for the Commission's use of expert groups and their composition. It was supported in its efforts by the European Ombudsman who consulted rigorously with NGOs on this (CEO 2014, 2016; European Ombudsman 2016). The Commission has not been completely resistant to changing its approach to the use of expertise (Moodie 2016). It introduced some reforms that aimed at formalising and increasing the transparency of recruitment and disclosing the backgrounds of experts (European Commission 2016a). Yet, the Commission defends the inherent rights of its traditional advisors and shows little inclination to substantially change the balance of interests in the committees. While it has shown some willingness for 'positive discrimination' through organisational and financial support for 'weaker interests' (Kohler-Koch 2012; Mahoney/Beckstrand 2011), it has not given in to further demands by pressure groups to give special allowances to NGOs, to reduce the overall numbers of expert group members or to introduce inner steering circles of each expert

group to compensate for the different endowment structures and allow NGOs to participate on a par with economic interests (CEO 2014, 2016). Rather, in its answer to the European Ombudsman's calls for change, the Commission insists on its closed doors policy and on its need for expertise from resourceful interest groups, points to limitations on the side of NGOs and underlines that expert groups are not arenas of public debate and equal involvement and therefore do not need to be utterly balanced (European Commission 2016c).

#### **4. A comparative view on governmental advisory committee regimes**

The participation structures of the advisory committee regimes of Germany, Norway and the EU are typically characterised by academics, stakeholders of societal interests and civil servants – sometimes accompanied by political party representatives or 'ordinary citizens'. In both the EU and Norway, a trend towards an 'expertisation', i.e. a growing authority of evidence- and science-based claims, seems to be developing, which is indicated by the chair position being more and more given to academics, a growing relevance of academic reasoning practices and of information as 'access goods' and, at least in Norway, a rising share of academics amongst committee members (Bouwen 2004; Holst/Christensen 2017; Gornitzka/Krick 2017; Krick/Gornitzka unpublished; Tellmann 2016). Recent studies on the German policy advice system can be read as indicating a numerical increase of permanent academic boards (Fleischer 2015; Veit et al. 2017), which are a clearly, also terminologically, separate category to be distinguished from the usually ad hoc institutionalised, hybrid committees that show no evidence of a growing authority of academics or scientific practices reasoning.

These two distinct institutional forms of most relevant policy advisory committees in the German committee system can be interpreted as reflecting two different notions of trustworthy expertise, of objectivity and valid knowledge claims: a) the neutral, unbiased advice of academics who are 'subject to the transcendental norm of truth-telling' (Jasanoff 2005, 247), independent from private companies and state interference and without a political agenda and b) advice that is deemed balanced and unbiased on the grounds of integrating a plurality of legitimate interests and viewpoints, representing a 'microcosm of society' (Beck 2012, 5; Jasanoff 2005a, 267) and potentially being particularly useful, relevant and enforceable. The EU Commission's approach to advisory committees reflects a notion of expertise that is similarly encompassing as this latter, non-academic shading.

Because of its limited in-house capacities, the Commission is even more dependent on external expertise than the nation states, embraces 'technical information' from all kinds of resourceful agents and defends itself fiercely against restrictions of such input. Public observers of EU politics, by contrast, draw a clear line between business interests and other interests, while they (similarly to the Commission) do not show much concern about the academic track records of advisors. This is quite different from Norway, where a growing emphasis on epistemic authority through the involvement of researchers has been observed in the committee system, which may reflect a growing inclination to base public knowing on independence and academic credentials.

Across the three systems, interest groups, particularly business interests and the social partners, have traditionally had reserved rights to participate in advisory committees and they still make up a significant share of members of mixed committees. In Germany, societal stakeholders represent the largest group, before civil servants in the mixed committees, in the EU they rank second, behind civil servants representing the member states while in Norway this group now comes third, after civil servants and academics. Despite the often evoked demise of corporatist structures, advisory committees thus still represent prevalent arenas for resource exchange between the government and stakeholders, but this may be changing slowly, at least in Norway where interest group participation has been scaled back. Unique to the EU is the degree of member state representation in its expert groups that is related to the exceptional need for coordinating the different national economic and regulatory systems. In the federal system of Germany, where this need is comparable, this vertical coordination function is fulfilled by informal, but very routinised intergovernmental conferences of the federal government and the constituent states' governments. In line with these participation patterns, the main instrumental governance functions of advisory committees in all three systems is the provision of information and interest mediation, alongside the also prevalent and often concurrent substantiating and legitimising use of committees.

The advisory committees we have analysed are deeply embedded into the respective systems of governance and they are usually, informally or formally, strongly entangled with the state administration, which sets up and operates committees, chooses members, provides office work, observes and sometimes guides the processes, and usually delegates representatives of the bureaucracy as members, chairs or informal observers into the committees. Governments thus have a certain degree of control over these committees

and often use them as an extension of public administration. Yet, there are indications that bureaucratic control over committees is being challenged, with the share of civil servants as chairs being slightly regressive in in the EU, and significantly so in Norway, while close committee-civil service interaction seems to be a constitutive element of the expanding *informal* policy dialogues in Germany. These indications of an informalisation of committee governance have so far not been detected in the other two systems. However, this may also be due to a certain bias in research. Data availability steers research foci to a certain extent and it is possible that more informal arenas slip the attention of researchers because they do not exceed a certain threshold of formalisation that is usually covered by registers. In any case, all three political systems are characterised by distinct informal governance traditions, which can be traced back in particular to the needs of compromise-dependent political systems that depend on bargaining and coordinating behind closed doors and which are also reflected in the committee systems, for instance in a reluctance to regulate the committee systems or to reduce state entanglement. Yet, on the EU level, a certain tendency to formalise expert groups has recently been described. This may be understood as a response to public pressure for better scrutiny conditions of the EU committee system.

Legitimacy concerns about policy advisory committees have been raised in all three societies, yet with specific shadings, which possibly reflect varying statuses of expertise and of interest politics: In Germany and on the EU level, advisory committees have for some time been suspected to be imbalanced, allowing business lobbyists (in particular) privileged access to policy-making – and recently the issue has also been raised in Norway. Particularly EU advisory committees have also been criticised for their closed doors-policy that frustrates public scrutiny of the procedures. Linked to this are technocracy concerns that emphasise the power of non-accountable experts, audibly raised in Norway and on the EU level. Despite – and possibly precisely because of – the remarkably low degree of transparency of the German committee system, which lacks a public register of committees or an official and consistently used term for ad hoc committees that would allow systematic inspections, issues of transparency, accountability or technocracy have not figured high on the German agenda. On the contrary, informalisation tendencies and the relatively low degree of regulation have probably further obscured the actions of ad hoc committees and reconfirmed the opacity of the system. Public debate on committee governance at the turn of the millennium in

Germany focused on inter-institutional balances of power, i.e. a shift of power from parliament to the executive and a predetermination of policies through the use of these authoritative arm's length organisations. The EP has more and more raised similar concerns and generally backed public interest groups in their demand for transparency and a balance of interests in committees. In recent years, the German public's push for more direct citizen involvement has been reflected in policy advisory structures, blurring the line between 'expert advice' and 'citizen consultation', while few such initiatives have been made in the EU or Norway. The possible growth in non-NOUs may change the picture, but there are so far few examples of "other committees" in the Norwegian system that resemble the more unorthodox German committees.

From a comparative perspective, it becomes apparent that the hybrid or mixed policy advisory committee represents an essential coordination mechanism or 'boundary institution' in the three systems through the provision of collectively negotiated expertise that bridges the societal realms of the state, civil society, the economy and science. Consensus figures high in these committees and it is usually codified as the goal of deliberation, while majority voting represents the second best, the fall-back option. This procedure of voice integration is typical for consensus democracies and differs from majoritarian systems, like the UK, for instance, where codes of conduct for advisory committees tend to emphasise the role of open debate and discussion over consensus if they mention consensus at all (see Cabinet Office 2012; Government Office for Science 2011). This weight of consensually agreed policy advice is clearly in line with the institutional set up of the three political systems in focus here, which disperse power in many ways, have brought about compromise-oriented political cultures and call for constant coordination to ensure the effective functioning of the system. Hybrid committees comprise participants in two – and sometimes double – roles: the role of a representative of a certain interest (state, business, public interests) and the role of an expert in a particular domain of knowledge (Krick 2015). The negotiated knowledge these institutions generate radiates the double authority of technical knowledge and societal representation (Jasanoff 2005) and is thus both epistemically and politically authoritative. This dual authority can render these committees particularly visible, credible and influential (Kropp 2002). It adds to their input- and their output-legitimacy through broad inclusion on the one hand, and expertise on the other (Fleischer 2015, 319). Although the recommendations of advisory committees are almost never

implemented 1:1, they regularly develop more indirect forms of political impact, in that they contribute to legislative agenda-setting, resonate in the public sphere and have the participating societal stakeholders act as brokers of policy reforms.

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