

Understanding patterns of stakeholder participation in public commenting on bureaucratic policymaking: Evidence from the European Union

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Abstract

What explains the levels and diversity of stakeholder participation in public commenting on bureaucratic policymaking? We examine a novel dataset on a stakeholder engagement mechanism recently introduced by the European Commission containing information about 1258 events organized between 2016 and 2019. We highlight the importance of administrative acts' characteristics and acknowledge the role of policy area type. Acts corresponding to early policy stages, broader in scope, less technical, and more explicit about feedback loop rules, that is, roadmaps, inception impact assessments and delegated acts, generate significantly more comments, from more diverse stakeholders, relative to legislative proposals, and draft implementing acts. Regulatory and distributive policies generate significantly more comments than interior and foreign policies. Diversity is significantly higher in distributive policies but only relative to foreign policies. We contribute by showing the power of administrative acts in influencing stakeholder participation and diversity across decision stages and policy areas and shaping bias in interest representation.

Keywords: bureaucratic policymaking, European Union, participatory governance, public comments, stakeholder engagement.

1. Introduction

Stakeholder participation in the design and formulation of public policies is a landmark of and a widespread practice in modern systems of governance (OECD, 2022). Using various consultation instruments, policymakers invite stakeholders' inputs early in the policy process to gather policy-relevant information, identify the aggregate distribution of stakeholders' preferences, and find policy solutions that enjoy wide public support and are informed by affected interests. For bureaucratic, non-elected institutions, stakeholders' engagement constitutes a valuable source of legitimacy and an opportunity to address key issues of interest representation in public policymaking, such as bias, inclusiveness, and (un)equal access to and influence over decision-making processes and outcomes (Braun & Busuioc, 2020).

A key institutional mechanism for facilitating public participation in bureaucratic policymaking is establishing formalized procedures allowing affected stakeholders and the general public to publicly comment on acts issued and policies formulated by bureaucratic actors, including regulatory agencies, national ministries, or international bureaucracies such as the European Commission (EC). This democratizing approach to bureaucratic and regulatory policymaking (Balla & Daniels, 2007) is an established procedure in the US system of federal rulemaking known as the "notice and comment" procedure (Balla, 1998, 2015; Balla et al., 2022; Moffitt, 2014; Potter, 2019; Yackee, 2019) and a recent development in one of the most institutionalized stakeholder consultation regimes, namely that operated by the European Commission (Bunea & Chrisp, 2023). In its systematic efforts to include stakeholder and public voices in the formulation of supranational policies, the EC introduced in 2016 a new stakeholder engagement mechanism known as "the feedback mechanism" through which citizens and interest organizations were invited to provide written comments and "express general views on a specific document" across different stages of supranational policymaking (European Commission, 2017: 437).

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Accepted for publication 19 August 2023.

This mechanism provides for the first time an opportunity for public participation in the EU supranational policymaking similar in both dynamics and substance to that of the United States “notice and comment” and presents several distinctive features setting it apart from previous EC public consultation mechanisms. *First*, this mechanism invites public views and opinions on documents corresponding to different stages in the policy design, formulation, and implementation of EU policies, such as roadmaps, inception impact assessments, draft legislative proposals, delegated and implementing acts.¹ It invites stakeholder inputs across the policy cycle and at decision points that go beyond and complement the traditional public consultation mechanisms that precede the immediate formulation of a policy proposal. *Second*, unlike existing open and targeted (online) public consultations, the new mechanism invites public comments on documents without formulating specific questions guiding stakeholders’ inputs. This indicates a considerably lower level of agenda-setting exercised by policymakers relative to the “classic” online public consultations that are conducted with online surveys employing multiple-choice questions and a few opportunities for word-limited, open-text inputs embedded in the consultation survey design. *Third*, the mechanism allows a significantly higher level of transparency and public scrutiny over the substantive content of comments and actors’ identity. This information is listed online on the EC “Have your say” webpage, which allows instantaneous public scrutiny of comments and the opportunity for synchronous stakeholder participation and commenting.

These distinctive features of instantaneous, full transparency about comments and actors, minimal EC agenda-setting, and formally unlimited and unconstrained public participation across policy stages previously excluded from the scope of the consultation regime, raise important questions about the patterns of stakeholder participation and motivate our inquiry into two research questions: *What are the patterns of participation in public commenting on supranational policymaking? More specifically, what explains the levels and diversity of stakeholder participation in this new stakeholder engagement mechanism?*

We answer by examining a new dataset that contains information on all policy events inviting public comments during the Juncker Commission between June 2016 (the mechanism is introduced) and the end of its mandate, November 2019. We analyze the entire universe of 1258 public commenting events for this period across all policy areas that generated 15,824 comments from 6758 organizations and 3946 citizens. Theoretically, we build on the literature on regulatory governance and stakeholder participation in policymaking to explain the observed variation in the levels and diversity of participation. By levels of participation, we mean the total number of public comments received on a policy act. By diversity of participation, we mean the heterogeneity of actors involved in commenting and the plurality of (*functional*) interests they represent by virtue of their stakeholder type. We elaborate an argument that recognizes the importance of administrative (policy) acts characteristics (i.e., placement in the policy sequence, scope, technicality, feedback loop rules) that create different institutional opportunities for comments to inform bureaucratic policymaking. This, in turn, shapes stakeholders’ incentives to comment. We also discuss an alternative and complementary explanation derived from the existing research on stakeholders’ participation in policymaking emphasizing the importance of policy area characteristics in understanding participation.

We find that policy acts corresponding to early policy stages, that are broader in scope, less technical, and more clear about how comments are included in the policy process (roadmaps on new policy initiatives, inception impact assessments, and delegated acts) generate significantly higher participation levels than those corresponding to later policy stages and offering more ambiguous and less impactful feedback loops (draft legislative proposals and implementing acts). Policy area type also plays a role in explaining levels of public commenting: regulatory and distributive policies attract more comments relative to foreign and interior policies. We find a strong and systematic pattern of association between act type and stakeholder diversity on the one hand, and policy area type and stakeholder diversity on the other. Roadmaps on evaluations, IIAs and delegated acts receive comments from a significantly more diverse pool of stakeholders relative to legislative proposals and implementing acts. Distributive policies also engage a significantly more diverse set of stakeholders, but the observed differences are statistically significant only relative to foreign policies.

The level and the diversity of stakeholder participation in public commenting are linked to key issues in the dynamics of public participation in bureaucratic governance and policymaking (Quick & Bryson, 2016). First, the density and diversity of participation are linked to representational bias. Understanding the levels of participation and the diversity of actors participating is fundamental for understanding and assessing the presence and

the extent of representational bias and unequal interest representation and influence over policymaking (Binderkrantz et al., 2021; Bunea, 2017; Pagliari & Young, 2016; Quittkat, 2011; Rasmussen & Carroll, 2014). Low levels of participation in the formulation of policies raise concerns about the extent to which the affected interests were heard and considered by policymakers, negatively impacting the input legitimacy of policymaking. Low actor (and by extension interest) diversity is usually an indicator of unequal participation and bias in interest representation which in turn questions the legitimacy of policies formulated with the help of stakeholder engagement mechanisms that might have been “captured” or dominated by the presence of one (or only a few) type(s) of actors. The introduction of participatory mechanisms in bureaucratic policymaking was aimed at diversifying the range of interests voiced and heard in the policy process, and at mitigating the potential representational biases and uneven influence favoring usually business interests and/or organizations enjoying policy insider status (Bunea, 2017). This was also the case with the introduction of the EC public commenting mechanism analyzed here which was aimed at broadening participation in supranational policymaking by increasing the number of stakeholders in general, and of those representing the public interest in particular, across policy stages (Bunea & Chrisp, 2023). The research examining the diversity of interest groups participation in the EC open public consultations across policy areas (Rasmussen & Carroll, 2014; Røed & Wøien Hansen, 2018) or by the EU executive agencies in one (Chalmers, 2015; Pagliari & Young, 2016) or several policy areas (Beyers & Arras, 2020) recognizes the close link between the levels of participation and the diversity of actors and interests represented. It indicates that a high(er) number of actors increases the likelihood that a more diverse pool of interests is represented. Rasmussen and Carroll (2014: 448) provide a compelling argument of why this might be the case by building on Truman’s idea about the “countervailing power” of interest group mobilization. The authors argue “that as one type of interest mobilizes to defend its views, other groups will mobilize to counterbalance those views.” This in turn reduces the risk of low stakeholder diversity and the dangers of bias. Similarly, citing Salisbury (1992: 339), Chalmers (2015: 485) remarks that the expression “more groups, less clout” summarizes well the relationship between levels of participation, diversity of actors and interests represented and, consequently, levels of representational bias and potential for undue influence.

By analyzing both levels and diversity of participation in public commenting, our study builds on the existing research and recognizes them as two “different dimensions of the same phenomenon” (Chalmers, 2015: 489). However, as Chalmers rightly explains “‘number’ and ‘diversity’ are not wholly commensurate” because “[w]hile fewer actors might diminish the likelihood of actor diversity and a greater number might enhance the likelihood of diversity, it is nevertheless possible to see just a few or, equally, a great number of the same type of actor mobilising and seeking influence” (Chalmers, 2015: 489). This indicates that participation and diversity are conceptually and theoretically linked but empirically they may be present in different constellations which justifies our analytical approach of studying them as two separate empirical dimensions of the phenomenon we are fundamentally interested in understanding, namely patterns of stakeholder participation in public commenting.

We use stakeholder diversity as a proxy for estimating the diversity of functional interests represented by them in public commenting. We recognize that measuring levels of interest diversity based on actor-level characteristics and not on stated policy preferences expressed in public comments represents an imperfect proxy measure of the diversity of interests represented (Young & Pagliari, 2017). We note however that this is a well-established approach in the literature studying patterns of interest group participation and mobilization bias in the EC open public consultations (Binderkrantz et al., 2021; Fraussen et al., 2020; Rasmussen & Carroll, 2014) or the public consultations organized by the EU regulatory agencies (Arras & Braun, 2018; Arras & Beyers, 2020; Beyers & Arras, 2020; Chalmers, 2015). We also acknowledge that by looking at the number and diversity of stakeholders participating in public commenting we can only examine which interests get voiced, but we cannot tell which comments inform policymaking, an aspect that goes beyond the analytical scope of our study.

While our aim is to understand patterns of participation in public commenting in light of issues of bias and unequal interest representation, we note two other important aspects for which studying the density and diversity of participation is important. First, participation levels are relevant insofar as they provide information about the levels of stakeholder attention to and interest in a policy event (Røed & Wøien Hansen, 2018). Studying participation levels contributes toward understanding which administrative acts and corresponding policy stages are

most interesting for stakeholders to engage with. This indicates the extent to which different acts and stages are perceived as important in shaping policymaking. For policymakers, participation levels matter because high participation allows them to make a credible claim that the proposed policies were formulated together with affected interests, while low participation may question the input legitimacy of their proposed policies and the extent to which the voices of affected stakeholders were heard. Second, participation levels and diversity also provide important cues about the levels of potential contestation or policy conflict over a policy act or initiative (Yackee, 2020). When both levels and diversity of participation are high, there is a somewhat higher likelihood that policy conflict amongst involved stakeholders might emerge and the contestation surrounding the event increases. Conversely, when both participation and diversity are low, the chances for policy conflict and contestation decrease. We note, however, that the study of participation and diversity as indicators of stakeholder attention to policy events or policy conflict goes beyond the analytical scope of our study. Our primary focus is to understand how participation patterns vary across policy acts and how this variation speaks to key issues of unequal participation and representational bias such as for example the dominance of business actors and/or the extent to which citizens and non-business organizations participation succeeds to counterbalance this at least partially.

Our study contributes to the scholarship on regulatory governance and interest group and citizen participation in bureaucratic policymaking. Theoretically, we develop an argument recognizing the importance of a key aspect of bureaucratic policymaking: the characteristics of administrative/policy acts used by bureaucracies in general, and the EC in particular, to conduct their everyday activities. This element remains largely unexamined by existing research despite the explicit recognition of institutional arrangements as critical factors shaping stakeholder participation in policymaking. Empirically, our contribution is twofold. First, we examine a new and original dataset that allows investigating the levels and diversity of public commenting on supranational policymaking across different policy stages and all EU policy areas. Our large-n empirical strategy addresses a significant gap in the research on stakeholder engagement in policymaking in general and the EU governance, in particular: the lack of systematic, comparative studies of stakeholder engagement across policy areas (Bunea & Baumgartner, 2014) and policy stages (Truijens & Hanegraaff, 2023). Second, we investigate a new stakeholder engagement mechanism that currently remains unexamined in the literature on stakeholder participation in supranational governance, which focuses mainly on explaining participation in the well-established EC online public consultations or those organized by the EU regulatory agencies.

2. Understanding the levels and diversity of stakeholders' participation in public commenting

2.1. The importance of institutional setting and policy acts

The research examining patterns of stakeholder participation in the well-established EC open public consultations proposes four sets of factors to explain the levels and diversity of stakeholder participation: *stakeholder-level* characteristics such as interest type represented, organizational form, resource-endowment, policy insider status (Bunea, 2014, 2017; Quittkat, 2011), and/or embeddedness into policy and organizational networks (Bunea, 2015); *policy area* characteristics (Rasmussen & Carroll, 2014; Van Ballaert, 2017); *policy issue* characteristics (Røed & Wøien Hansen, 2018); *consultation format* characteristics (Binderkrantz et al., 2021; Fraussen et al., 2020). The scholarship examining participation in public consultations organized by the EU executive agencies speaks of a similar set of factors, emphasizing the importance of *institutional opportunity structures* and *issue-level* characteristics (Chalmers, 2015; Pagliari & Young, 2016) and/or *consultation format* (Beyers & Arras, 2020). We recognize and explicitly build on these studies advancing our understanding of stakeholder engagement mechanisms in the EU governance by recognizing the importance of the institutional setting in developing our main argument. Likewise, we consider policy area characteristics as an alternative and complementary explanation of participation as part of our theoretical framework. We note that the existing research lacks a systematic analysis of the role played by administrative acts (and their characteristics) in explaining stakeholder participation in different consultative mechanisms in the EU bureaucratic arena despite their high relevance in policymaking.

To understand the patterns of participation in public commenting, we build theoretically on the research on participatory governance and bureaucratic policymaking emphasizing the importance of procedural and institutional rules governing decision-making processes and consultation mechanisms (Balla, 1998, 2015; West, 2004). This approach recognizes a key, distinctive feature of policymaking within the realm of bureaucratic governance: the fundamental importance of *administrative acts* and *rules* that govern the functioning of bureaucratic actors and their engagement with external environments (Potter, 2019).

We argue that the number and diversity of stakeholders providing public comments is primarily a function of the *administrative act characteristics* on which stakeholders comment. This builds on the observation that bureaucracies generate a diverse set of administrative (policy) documents, which vary in terms of substantive content, level of formality, administrative and legal status, length, structure, and complexity (Potter, 2019). These administrative/policy acts are part and parcel of the bureaucratic procedures and tools used to design and implement public policies and deliver policy outputs and outcomes and lay thus at the core of bureaucratic policymaking (Yackee, 2020).

Policy act characteristics are particularly relevant in complex systems of governance such as the EU, which employs a complex myriad of policy tools and decision-making modes to design, adopt, and implement policies (Wallace & Reh, 2017). As mentioned, the EU expanded its consultative regime by inviting public comments on five different types of administrative/policy acts previously out of its remit: roadmaps, inception impact assessments, draft legislative proposals, delegated, and implementing acts.

We argue that these five act types present a set of distinct characteristics with respect to four key dimensions that shape their role in supranational bureaucratic policymaking and stakeholders' incentives to participate in public commenting: the *placement* of the act in the *policy sequence*; the *scope* of the act; its *technicality level*; the *feedback loop rules* governing how comments inform policymaking. We first outline the differences between these five acts across four dimensions. Then, we discuss how these differences inform our theoretical expectations about levels and diversity of participation.

From a *policy sequence perspective*, the five acts correspond to different stages of the policymaking cycle.² Roadmaps and inception impact assessments correspond to the very early stages: "comments received on a roadmap or IIA feed into the early stage of policy preparation" (European Commission, 2017: 435). In practice, roadmaps precede the launch of an IIA, unless policymakers decide that only one of the two is needed. Legislative proposals represent the outputs of the policy formulation stage and correspond to a post-formulation/adoption stage. They were adopted by the College of Commissioners (the political leadership of the Commission), received their political endorsement and, following the receipt of stakeholder comments, are sent for discussion and adoption to the two EU co-legislators, namely the Council and the European Parliament (EP). Delegated and implementing acts correspond to the post-legislation stage (policy clarification and implementation). The Commission needs "to adopt legal acts of general application to supplement or amend certain non-essential elements of a legislative act" (delegated acts) or when "uniform conditions for implementing legally binding acts are needed" (implementing acts) (European Commission, 2017: 441).

An act's placement in the policy sequence shapes its *scope* and *level of technicality*. Roadmaps and IIAs "provide the first opportunity to explain to stakeholders why a particular initiative is being prepared and what it aims to achieve" (European Commission, 2017: 37). For example, roadmaps on new initiatives "describe the problem to be tackled and the objectives to be achieved, explain why EU action is needed and its added value and outline alternative policy options." (European Commission, 2017: 438). Roadmaps on policy evaluations "specify the scope of the evaluation and the issues to be examined in the context of an evaluation" (European Commission, 2017: 438). An IIA "sets out in greater detail the description of the problem, issues related to subsidiarity, the policy objectives and options as well as the likely impacts of each option" (European Commission, 2017: 438). Both acts aim to raise stakeholder awareness about initiatives and get feedback on "initial ideas and appreciation of the problems the initiative aims to tackle and to ask for relevant data" (European Commission, 2017: 37). Their content is formulated broadly, as guidelines that help the public understand the envisaged procedural road and substantive content of the planned initiative. The better regulation guidelines recommend that the text of these two acts "are written in a clear non-technical way that will maximise the involvement of stakeholders and enable them to prepare for the

subsequent consultation activities the Commission services will organise” (European Commission, 2017: 37). Thus, roadmaps and IIAs are acts that are broad in scope and low in technicality.

In contrast, legislative proposals invite stakeholder feedback on “the written text of the proposal” and “where relevant, on the accompanying Impact Assessment” (European Commission, 2017: 439). Therefore, stakeholders are invited to comment on a written and formalized draft legislative text, approved by the political leadership of the Commission (College of Commissioners), and ready to be sent to the EP and Council. Legislative proposals are significantly more elaborate documents than roadmaps and IIAs. They are more precise and detailed concerning the substantive and procedural aspects of proposed measures. Their *scope* is narrower, more specific, and policy-goal oriented, which increases their technicality relative to roadmaps and IIAs.

Finally, draft delegated and implementing acts are even more specific and narrower in scope than legislative proposals. Delegated acts “allow the Commission to adopt legal acts of general application to supplement or amend certain non-essential elements of a legislative act” (European Commission, 2017: 441). Implementing acts “are used where uniform conditions for implementing legally binding acts are needed” (European Commission, 2017: 441). Both acts enhance the Commission’s ex-post legislation powers and can only be used if the legislative acts adopted by the Council and the EP include empowerment clauses. They are formulated and adopted following a rigorous and well-established administrative procedure ensuring oversight over their content and adoption procedures by Member States, the EP, expert groups, and the comitology procedure (European Commission, 2017: 442). Given their focus, one can reasonably argue that both acts have a narrower scope than legislative proposals, and the narrowest of all five act types, zooming in on very specific (prerogative-related) aspects of adopted legislation. A key implication is that they present the highest technicality levels. This is openly acknowledged in the better regulation guidelines: “[t]he majority of delegated and implementing acts are very technical and may, in reality, only trigger comments from a specialised group of stakeholders” (European Commission, 2017: 445). The guidelines indicate that this technical character should not prevent public participation through the feedback mechanism: [t]he feedback mechanism applies nevertheless and gives the public at large the possibility to react on the actual draft act’ (European Commission, 2017: 445). We note, however, a significant difference between delegated and implementing acts: the former, similar to legislative proposals, are always preceded by a (simpler) “explanatory memorandum [explaining the] context of the delegated act; (ii) consultations prior to the adoption of the act; (iii) legal elements of the delegated act” (European Commission, 2017: 287). We argue that this aspect makes the delegated acts somewhat less technical and more approachable by stakeholders relative to implementing acts on the *scope* and *technicality* dimensions.

From the perspective of *the feedback loop rules* governing how comments are included into policymaking, feedback received on roadmaps and IIAs is summarized and “referred to in the synopsis report” that outlines the consultation activities on a policy initiative or evaluation and “accompanies the initiative through interservice consultation up until adoption and must be published on the consultation webpage of the initiative” (European Commission, 2017: 434). This report should explain “how and to which extent the feedback has been taken into account in the final initiative/evaluation” (European Commission, 2017). Therefore comments on roadmaps and IIAs feed into the “early stage of policy preparation” (European Commission, 2017) and inform the final text of the draft legislative proposal, evaluation, or delegated act. Conversely, the comments on legislative proposals are summarized by the Commission as a “factual summary of the feedback received” and is “presented to the EP and Council, with the aim to feed these views into the legislative debate” (European Commission, 2017: 439). While theoretically, this offers stakeholders an opportunity to provide input into the decision-making stage, practically this feedback is rarely used by the EP and the Council: the 2019 EC staff working document (COM(2019)1783) accompanying the EC “Communication on Better Regulation: Taking stock and sustaining our commitment” states explicitly that “the EP has made clear that it would prefer the Commission to limit its consultations to before it adopts the legislative proposal as it considers that, during the legislative process itself, it is for the Parliament and Member States to carry out their own consultations, if they choose to” (European Commission, 2019: 14). Therefore, the comments received on legislative proposals

Table 1 Policy acts characteristics and implications for stakeholder participation and diversity

Policy act	Act characteristics				Expectations		
	Policy sequence	Scope	Technicality	Feedback loop	Incentives to comment	Participation	Diversity
Roadmaps	Early policy preparation	Broad	Low	Synopsis report accompanying the initiative throughout policy formulation	High	High	High
IAs	Early policy preparation	Broad	Low	Synopsis report accompanying the initiative throughout policy formulation	High	High	High
Legislative proposals	Post formulation	Specific	High	Summary sent as a letter to EP and Council	Low	Low	Low
Draft delegated acts	Post adoption	Very specific	High	Explanatory memorandum accompanying delegated act	Lower than for roadmaps and IAs; higher than for proposals and implementing acts	Lower than for roadmaps and IAs, higher than for proposals and implementing acts	Lower than for roadmaps and IAs, higher than for proposals and implementing acts
Draft implementing acts	Post adoption	Very specific	High	Brief mention of the oral report in the comitology meeting records	Low	Low	Low

have, actually, low chances to inform the final text of adopted legislation or at least the inter-institutional debates at decision stage.

Comments on delegated acts feed into the explanatory memorandum accompanying the draft delegated act. The responsible EC Directorate-General (DG) explains in this memorandum how it addressed the comments received (European Commission, 2017: 442). On implementing acts, “the lead DG assesses the feedback and explains in the [Comitology] committee meeting how it took it into account” (European Commission, 2017: 443). This explanation is included in the summary record of the committee meeting and published in the Comitology register. We note an important difference: draft delegated acts present a significantly more formalized procedure through which comments feed into policymaking relative to draft implementing acts. This in turn signals stakeholders a more formalized and transparent institutional opportunity to inform policymaking. Moreover, delegated acts bring about a type of empowerment for the Commission that is more relevant for stakeholders wanting to shape the content of supranational policymaking, namely the prerogative to make small changes to adopted legislation. We argue this should make delegated acts a much more inviting institutional opportunity for stakeholders interested in informing and shaping supranational governance relative to implementing acts.³

Considering this variation in policy act characteristics (summarized in Table 1), we argue that the five acts provide different *institutional opportunities* (Chalmers, 2015) for stakeholder comments to inform policymaking and therefore incentivize to different degrees stakeholders to participate in public commenting. Roadmaps and IAs present the most attractive incentives for stakeholders to comment, given their early stage in policymaking, general formulation and scope, low level of technicality, and rules governing their feedback loop. Delegated acts

present the second most attractive incentives given their more formalized and impactful feedback loop mechanism and the type of empowerment prerogative they entail for the EC. Legislative proposals and draft implementing acts provide the least attractive incentives: they are complex and narrowly focused acts and offer significantly less attractive feedback loops either because of less formalized rules (implementing acts) or the ambiguity resulting from a disjoint between formal rules and informal policy practices regarding the management of comments (legislative proposals).

As mentioned in our introduction, the number of comments and the diversity of actors authoring them are closely linked, yet not fully commensurate, dimensions of participation.⁴ Therefore, we derive two sets of hypotheses regarding the relationship between administrative acts and the number of comments and diversity of stakeholders:

H1.1. Roadmaps and IIAs generate more comments than legislative proposals, delegated and implementing acts.

H1.2. Delegated acts generate more comments than legislative proposals and implementing acts but fewer than roadmaps and IIAs.

H2.1. Roadmaps and IIAs present, on average, higher levels of stakeholder diversity relative to legislative proposals, delegated and implementing acts.

H2.2. Delegated acts present higher levels of stakeholder diversity relative to legislative proposals and implementing acts, but lower levels relative to roadmaps and IIAs.

Table 1 summarizes our argument and expectations. Acts are presented in the order of their policy stage.

2.2. The importance of policy area

While we argue that act type is an important and currently under-researched institutional aspect that helps explaining public commenting patterns, existing research highlights another key aspect shaping stakeholder participation in policymaking: the policy area to which an initiative belongs. This is particularly relevant in the EU governance system, our empirical testing ground. Here, the research shows significant differences across policy areas in levels of policy integration, distribution of decision-making power between national and supranational institutions, decision-making modes, and policy styles (Wallace & Reh, 2017). Furthermore, the research on EU interest groups showed that, at least for organized interests, these structural differences across policy areas shape the patterns of interest representation in policymaking in general (Coen & Katsaitis, 2013) and in the EC open public consultations in particular (Binderkrantz et al., 2021; Rasmussen & Carroll, 2014).

Building on this, we argue that an alternative, complementary, explanation for the observed patterns of participation is driven by the policy area type. Whether the act invites comments on an initiative in a regulatory, distributive, foreign, or interior policy area shapes stakeholders' incentives to comment. In the EU governance, policy areas characterized by higher integration levels and concentration of decision-making power at supranational level are more likely to display a higher level of stakeholder mobilization and actor diversity. Broadly speaking, EU regulatory and distributive policies are more integrated than foreign and interior policies. The power of supranational institutions in deciding these policies is more extensive and better established, and the decision-making is more supranational than intergovernmental (Hix & Høyland, 2022). They are more likely to invite comments on politically and economically salient and relevant initiatives from the perspective of supranational governance. Supranational institutions are also more open toward receiving inputs from external audiences and are more interested in identifying the broad European encompassing interest, so they actively encourage the participation of a broad and diverse set of stakeholders. Regulatory and distributive policies present the most attractive opportunities and incentives for stakeholders to access and inform supranational policymaking. Consequently, they are more likely than foreign and interior policies to meet the standards of a pluralist model of participatory governance characterized by high stakeholder participation and diversity (Bunea et al., 2022: 723).

We note, however, that relative to other policy areas, EU regulatory policies usually motivate more business actors to participate in policymaking (Berkhout et al., 2015) and public consultations (Rasmussen & Carroll, 2014). Almost all regulatory policies are directly or indirectly linked to the development of the EU single

market and thus have business actors as primary targets of their regulatory goals. Furthermore, in regulatory domains, policymakers tackle more technical issues than in other policy areas. Stakeholders with higher informational capabilities and policy expertise are more likely to engage in policymaking than stakeholders lacking these capabilities. This creates an advantage for business actors, which are more likely to comment in higher numbers on regulatory policies. A strong business presence can decrease the plurality of actors participating in policymaking compared to distributive policies, which are, by comparison, more politicized, less complex, and attract the attention of a more diverse pool of stakeholders (Rasmussen & Carroll, 2014: 457). We derive the following two expectations about how policy area type co-varies with patterns of stakeholder public commenting:

H3. Policy acts in regulatory and distributive policy areas witness higher levels of stakeholder comments relative to those in interior and foreign policy areas.

H4. Policy acts in distributive policies present higher levels of stakeholder diversity relative to those in regulatory, interior, and foreign policies.

3. Research design

We test our argument on a new dataset recording information about all public commenting events organized by the EC between June 2016 (when the mechanism was introduced) and November 31, 2019 (when the Juncker Commission ended its mandate). This information was available on the “Have your say” webpage dedicated to public consultations and feedback mechanisms. We identified 1261 acts inviting public comments. Three events generated a high number of comments that makes them clear outliers and are excluded from the analysis.⁵ The total number of analyzed events is 1258. They generated 15,824 comments received from 6758 unique organizations and 3946 citizens. Tables A1 and A2 in the Appendix present the distribution of stakeholder types by act and policy type. Comments were received on acts covering 34 policy areas, plus a policy area coded as “Other.” Figure A1 in the Appendix presents the total number of feedback events in each policy area. The information about stakeholder characteristics (e.g., stakeholder type), act type, and discrete policy area was available on the EC website dedicated to the event and coded into our dataset.

3.1. Dependent variables

We construct two dependent variables measured at feedback event (policy act) level. The *first outcome variable* captures the *level of participation* and represents a count measure of the number of *comments* received on each act. The distribution of comments across events is highly skewed (mean 12.58, SD 39.67): 331 events (26.3%) received zero comments; 476 events (37.8%) received between 1 and 5 comments, while 451 events (35.9%) received between 6 and 556 comments (see Table A4 and Figs. A2 and A3 in the Appendix).

Our second outcome variable captures stakeholder diversity based on the type of *functional interest* they represent by virtue of their stakeholder type. This was constructed in two steps. First, the stakeholder type was identified for each commenting stakeholder based on the information made available online on the EC webpage dedicated to each act. Eleven categories were identified based on this webpage: EU citizen, non-EU citizen, public authority, business association, company/business, trade union, NGOs, consumer organization, environmental organization, academic/research organization, and “Other.” We thus employ the EC official categorization of stakeholder types. Stakeholders could choose from a predefined menu of stakeholder types or choose that their feedback is reported as anonymous. In our analyses, we merge the “Anonymous” and “Other” categories of stakeholder type. Second, a stakeholder diversity index was computed at event-level based on the formula:

$$\frac{1}{\sum_{i=0}^{11} \frac{x_i^2}{n}}$$

where x_i is the number of comments provided by stakeholder type i , and n is the total number of comments in each event. The set of stakeholder types i includes these 11 categories. Figures A4 and A5 in the Appendix

present the distribution of this variable across act type and policy area. Figure A6 illustrates how the share of different stakeholder types contributes to different constellations of stakeholder diversity across events. It shows that high(er) stakeholder diversity is generally associated with a relatively equal participation of business associations, companies, EU citizens, and NGOs, while low(er) diversity is associated with a higher share of business associations, companies but sometimes also EU citizens. As the share of a given stakeholder type increases, diversity decreases.

3.2. Independent variables

Our first *explanatory variable* is nominal and distinguishes between six act types: roadmaps on new initiatives; roadmaps on evaluations; inception impact assessments; legislative proposals; draft delegated acts; draft implementing acts.⁶

The *second explanatory variable* is also nominal and discerns between regulatory (863 events), distributive (138 events), foreign (45 events), interior (79 events), and an “Other” (labeled as such on the EC website—136 events) policy area types. Our categorization of policy area types builds on Hix and Høyland (2022) who discern between regulatory, expenditure, interior, and foreign policies in their most recent examination of the EU system of governance.⁷ Table A3 in the Appendix details our coding of specific policy areas into policy types and Table A6 presents the distribution of act types across policy area types.

3.3. Control variables

The analyses control for several factors that could potentially impact the patterns of public commenting: *the length of the title* used by policymakers to publicly advertise the act, based on the assumption that the presentation format matters for participation and “effective message presentation strengthens the impact of content on message understanding” (Porumbescu et al., 2017), which increases commenting; *the time period* for providing comments; *the size of the policy community* of interest groups active in the respective policy area, to account for the possibility that the number of stakeholders commenting is a function of the number of organizations active in that policy; *the year of the event*, to account for policy learning and the possibility that participation was initially (negatively) affected by the novelty of the mechanism followed by a subsequent gradual adjustment and increased participation.

To account for the first aspect, we use the number of words in the event title based on the observation that text organization and especially arranging text into smaller “issue-specific blocks of content” improves presentation and understanding (Porumbescu et al., 2017, 994). To estimate the second, we use a count variable measuring the number of days between the start and the end of the feedback period. For the third, we build on Bunea et al. (2022) and use the EU Transparency Register to estimate the size of interest group community active in each EU policy domain. Models examining diversity include a fifth control: the logged number of comments received at event-level to account for the possibility that higher participation generated higher actor diversity. Table A5 in the Appendix presents their descriptive statistics.

4. Analyses

4.1. Describing levels of participation

We start by examining the average number of comments across act type (depicted in Fig. 1, Panel a) and policy type (Panel b). Roadmaps and IIAs generated more comments than legislative, delegated and implementing acts, in line with our expectations (H1.1). On average, IIAs generated almost 19 comments, roadmaps on new initiatives 16. For IIAs, this means on average 5.5 comments more than for delegated acts, 7 more than for legislative acts, and approximately 10 more than for implementing acts. These relative differences are lower for roadmaps on new initiatives, but clearly identifiable. However, roadmaps on evaluations generated on average the lowest number of comments (almost nine), a first indicator that distinguishing empirically between the two roadmap types provides more fine-grained insights into the relationship between act type and participation in public commenting. Delegated acts generated fewer comments than IIAs and roadmaps on new initiatives but slightly more than legislative and implementing acts (consistent with H1.2).

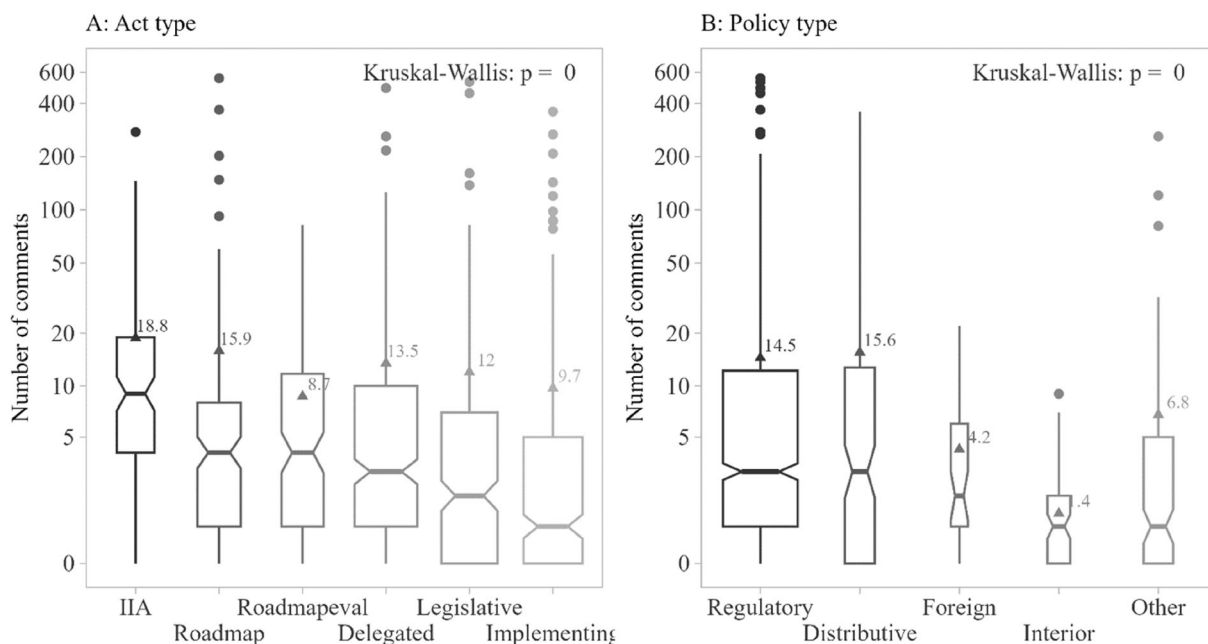


Figure 1 Number of comments per act type and policy area. Note: The y-axis is log (10) transformed to reflect lower-level stakeholder participation.

The figure also shows that relative to foreign and interior policies, regulatory and distributive policies generated significantly more comments (consistent with H3). For regulatory and distributive policies, this difference is three times higher relative to foreign policies, and 10-fold higher compared to interior policies.

Formal tests indicate these differences in means are statistically significant. The Kruskal-Wallis test indicates that differences between participation levels across act and policy types are statistically significant. These observed differences are largely supported by Dunn’s test, which estimates the difference in means separately for each pair of act and policy types.

This descriptive analysis indicates that while the observed differences in the average number of comments across act and policy types are statistically relevant, there is a very high variation in the number of comments across events, and most received, on average, relatively few comments. As the research design section shows, the average number of comments is 12.58, the median 3, and the SD is 39.67. This highly uneven pattern of commenting is consistent with what previous research found to describe public commenting in the US e-rulemaking (Balla & Daniels, 2007) and stakeholder participation in the public consultations organized by the EU executive agencies (Beyers & Arras, 2020) or the EC (Bunea & Thomson, 2015).

Table A1 in the Appendix presents the distribution of stakeholder types authoring the comments across policy acts. On roadmaps on new initiatives, most comments came from EU citizens (50.6%), business associations (14%), NGOs (13.1%), and companies (7.7%). On roadmaps on evaluations most comments came from business associations (28.8%), companies (17.5%), NGOs (20.3%), and EU citizens (11.2%). On IIAs, from business associations (28.9%), companies (20.5%), EU citizens (17.7%), and NGOs (12.3%). On legislative proposals, from EU citizens (26.4%), business associations (22.5%), companies (20.6%), and NGOs (10.6%). On delegated acts, from companies (32.3%), business associations (27.9%), EU citizens (14.1%), and NGOs (10%). On implementing acts from business associations (24.2%), EU citizens (24.1%), companies (23.3%), and NGOs (11.2%).

In absolute terms, this distribution indicates a strong presence of business stakeholders across acts: together, the comments from business associations and companies account for nearly half of the comments (47.5%). However, we also note a relevant presence of stakeholders representing the “public interests” broadly defined, namely (EU) citizens (24.2%) and NGOs (11.2%) (alongside other stakeholders such as environmental organizations, consumer’s organizations, trade unions, and public authorities). While a strong business presence describes

most acts, we notice that on roadmaps on new initiatives this is “countervailed” by a strong participation of EU citizens, authoring 50% of comments.

Table A2 in the Appendix indicates that events in regulatory policies generated almost the same number of comments from EU citizens (24.7%), business associations (24.9%), and companies (24.7%), with NGOs commenting significantly less (9.5%). Distributive policies received the bulk of comments from EU citizens (25.7%), business associations (20.4%), companies (17.1%), and NGOs (15.8%). Foreign policies received most comments from NGOs (41.4%), business associations (15.7%), companies (11.5%), and EU citizens (11%). Interior policies got most comments from business associations (23.6%), citizens (20%), NGOs (14.5%), companies (10.9%), and public authorities (10.9%). This marks a strong business presence in regulatory areas, which decreases somewhat in distributive areas, and is much lower in interior and foreign policy. This pattern of business participation is consistent with what previous research documented in the classic EC open public consultations (Binderkrantz et al., 2021) and more generally in EU policymaking (Bunea et al., 2022).

Table 2 Examining the relationship between act type, policy type, and participation levels

	Model 2.1: Baseline	Model 2.2: Full
Intercept	10.118*** (1.098)	0.000 (0.000)
Act type (reference category: implementing act)		
Act type: roadmap on new initiative	2.068*** (0.374)	1.519* (0.274)
Act type: roadmap on evaluation	1.095 (0.206)	0.806 (0.153)
Act type: IIA	2.168*** (0.413)	1.664** (0.320)
Act type: legislative	1.366* (0.211)	1.043 (0.226)
Act type: delegated	1.529** (0.217)	1.366* (0.195)
Policy area (reference category: regulatory)		
Policy type: distributive	1.111 (0.176)	1.136 (0.180)
Policy type: foreign	0.283*** (0.080)	0.362*** (0.103)
Policy type: interior	0.097*** (0.022)	0.119*** (0.028)
Policy type: other	0.401*** (0.069)	0.447*** (0.085)
Control variables		
Title length		0.937*** (0.013)
Community size		1.000*** (0.000)
Feedback period		1.003 (0.003)
Event year		1.035 (0.063)
Num.Obs.	1258	1258
AIC	7868.0	7839.9
BIC	7924.5	7916.9
RMSE	39.27	39.01

Note: Significance levels: * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$.

AIC, Akaike information criterion; BIC, Bayesian information criterion; RMSE, root mean square error.

4.2. Explaining levels of participation

We use negative binomial models to examine the covariation between act and policy type and participation levels. This is justified by three reasons: our first dependent variable is a count variable, with a skewed distribution and a high number of events with zero comments. Given our data structure (comments are given on acts clustered in different policy area types), we use robust clustered standard errors at the policy type level. Our “Robustness checks” section in Appendix B discusses alternative models employed to account for data overdispersion and check the robustness of findings. Models in Table 2 test Hypotheses 1.1, 1.2, and 3 and display the estimates for the relationship between act and policy types and the volume of comments. The model estimates represent incidence rate ratios (IRR) and indicate the change in the number of comments relative to implementing acts and regulatory policies (reference categories).

Models 2.1 (baseline) and 2.2 (full) support our hypotheses. Roadmaps, IIAs, and delegated acts generate more comments relative to legislative proposals and implementing acts (Model 2.2). The IRR for stakeholder comments on IIAs is 1.66, which is 66% more comments relative to implementing acts. Likewise, the IRRs for roadmaps on new initiatives and delegated acts imply a 52% and 37% increase in comments compared to the reference category. We note the differences between roadmaps and IIAs on the one hand, and delegated acts on the other: while all three generate more comments than implementing (and legislative) acts, delegated acts receive fewer comments relative to roadmaps and IIAs, in line with H1.2. Furthermore, consistent with our hypotheses, there are no significant differences between implementing acts and legislative proposals. However, roadmaps on

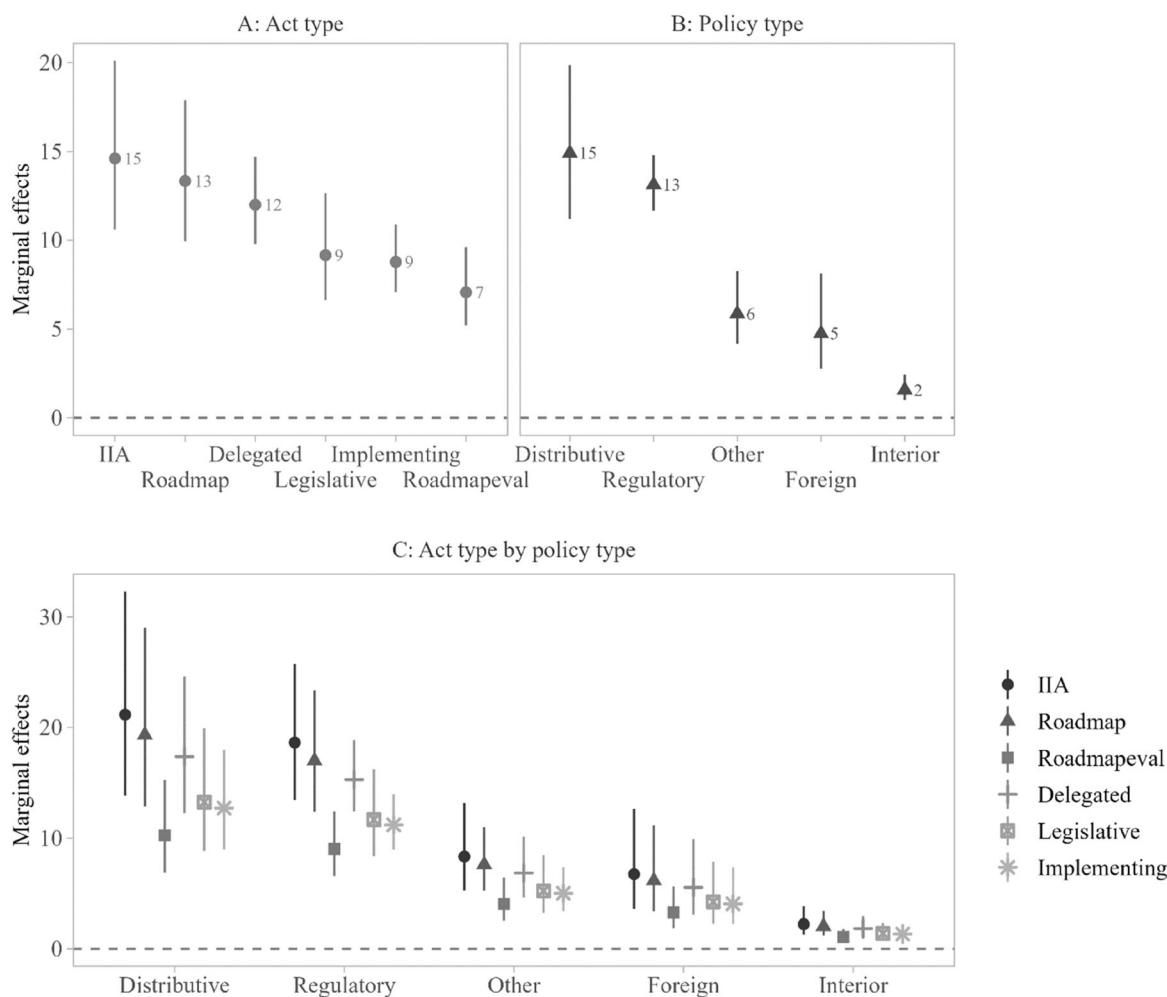


Figure 2 Marginal effects of act and policy type on levels of comments. *Note:* Marginal effects represent the average number of comments per feedback event.

evaluations attract fewer comments than implementing acts, although the differences are not statistically significant.

Panel (a) in Figure 2 presents the marginal effects on stakeholder participation more intuitively: it connects the IRR to the average number of comments conditional on act type. For instance, the average participation level for IIAs is approximately 15 comments, about 6 comments higher than for the implementing acts. This difference translates precisely into the 1.66 IRR or 66% more comments for the IIAs relative to implementing acts. The same holds for the difference between comments concerning roadmaps on new initiatives (13.3 comments; +52%), delegated acts (12 comments; +37%) and legislative proposals (9.2 comments; no difference) compared to implementing acts. This is consistent across all policy types, as depicted in Figure 2, Panel (c) presenting the marginal effects of the act type on participation nested within policy types. Although the number of comments varies conditional on policy type, the pattern holds across all policies.

Table 2 also supports H3 recognizing the importance of policy area type: acts belonging to regulatory and distributive policies generate significantly more comments than those in interior and foreign policies. As Model 2.2 indicates, the IRRs for foreign and interior policies are 64% and 88% lower relative to regulatory ones. The strong relationship between policy type and participation levels is evident in Figure 2, Panel (b). Distributive policies attracted, on average, roughly three times more comments than foreign policies (15 vs. 5 comments) and seven times more than interior policies (15 vs. 2 comments). Similarly, regulatory policies generated, on average, 2.8 times more comments than foreign and 6.5 times more comments than interior policies.

Our results indicate that along with act type, policy-area characteristics also possess considerable explanatory power and complement our argument. These findings reinforce the importance of policy-context in understanding stakeholder dynamics in modern systems of governance and bureaucratic policymaking (Klüver et al., 2015).

4.3. Describing stakeholder diversity

We turn now to analyzing the second dimension of participation in public commenting: the diversity of stakeholders.

Figure 3 presents the distribution of the stakeholder diversity index across act and policy area types. It shows a systematic pattern of association between act type and diversity, and policy type and diversity. The Kruskal-

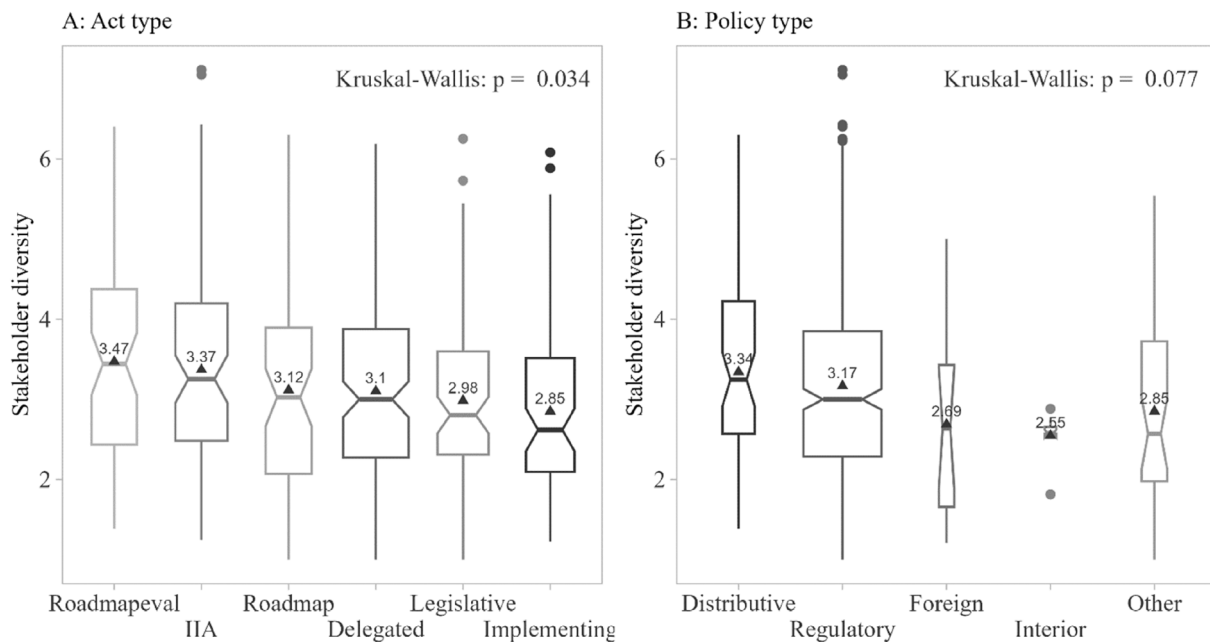


Figure 3 Stakeholder diversity index by act and policy type.

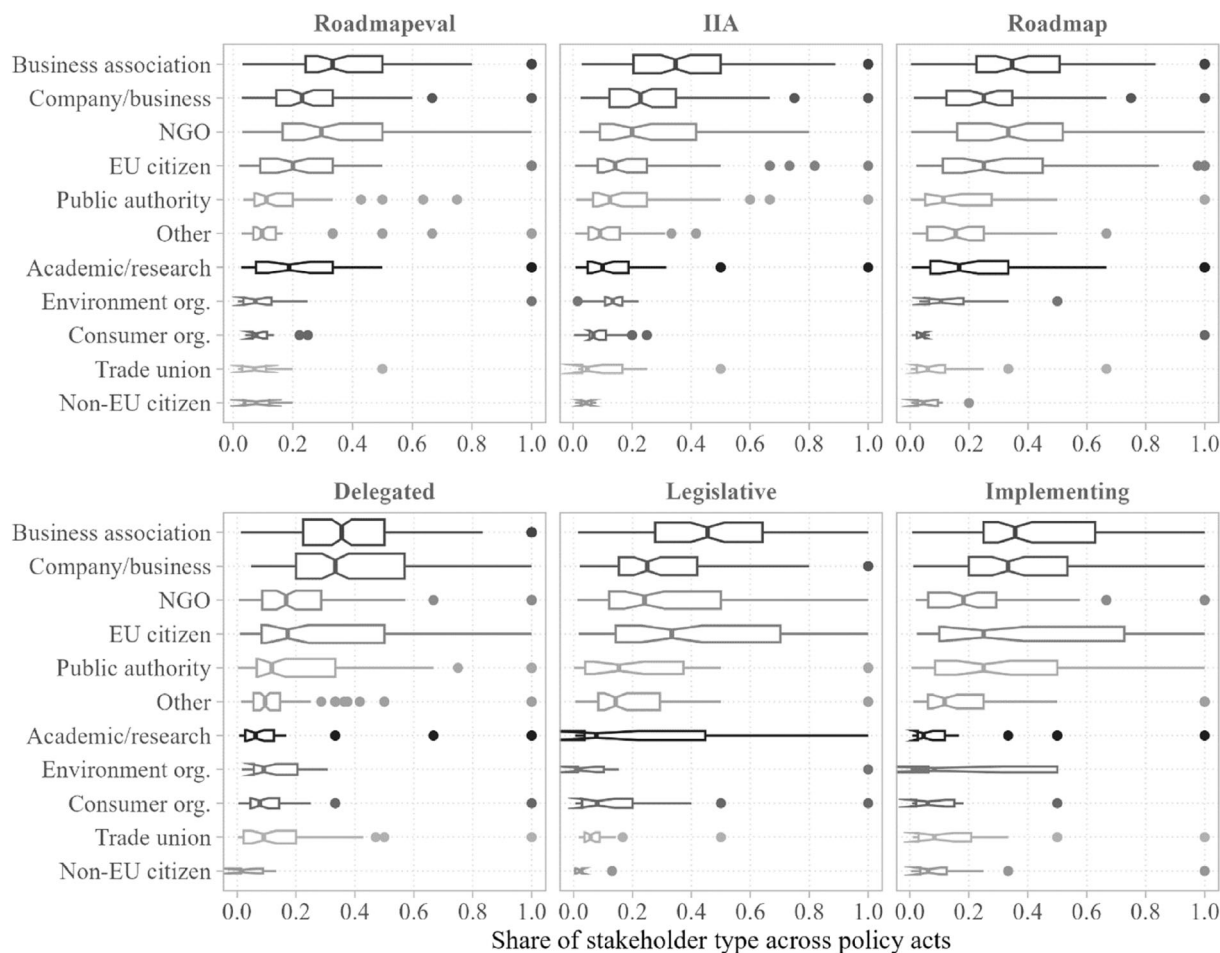


Figure 4 Share of stakeholder types across policy acts.

Wallis test indicates significant differences in means: these are significant at conventional level for act type, and at 0.1 level for policy type.

For a closer inspection of actors’ constellation behind observed levels of diversity across acts and policy areas, we present the distribution of the (average) share of different stakeholder types per act (Fig. 4) and policy type (Fig. 5). This allows exploring a key issue in the research on representation bias, namely the extent to which the share of business actors (and interests) are over-represented in discrete policy/consultative events. This also helps understanding what constellation of stakeholder types underpins the observed diversity levels.

Figure 4 indicates that business associations authored, on average, the highest share of comments across acts. Yet their average share is under 0.4 across all acts with the exception of legislative proposals where it is slightly above this value. For both roadmaps on new initiatives and evaluations, NGOs matched this presence by submitting an almost equal share of comments. The average share of comments submitted by companies is also relatively low across acts, and sometimes equal (for legislative proposals) or even lower (for roadmaps) compared to NGOs. When business interests are accounted for as being represented by associations and companies, we note a strong but not predominant business presence across policy acts. The business presence is especially well “countervailed” by the presence of NGOs and citizens in the case of roadmaps and IIAs. The relatively higher diversity describing roadmaps and IIAs correspond to a combination of a relatively lower average share of business associations and companies, and a relatively higher share of NGOs, EU citizens, and all other non-business stakeholders, compared to other acts.

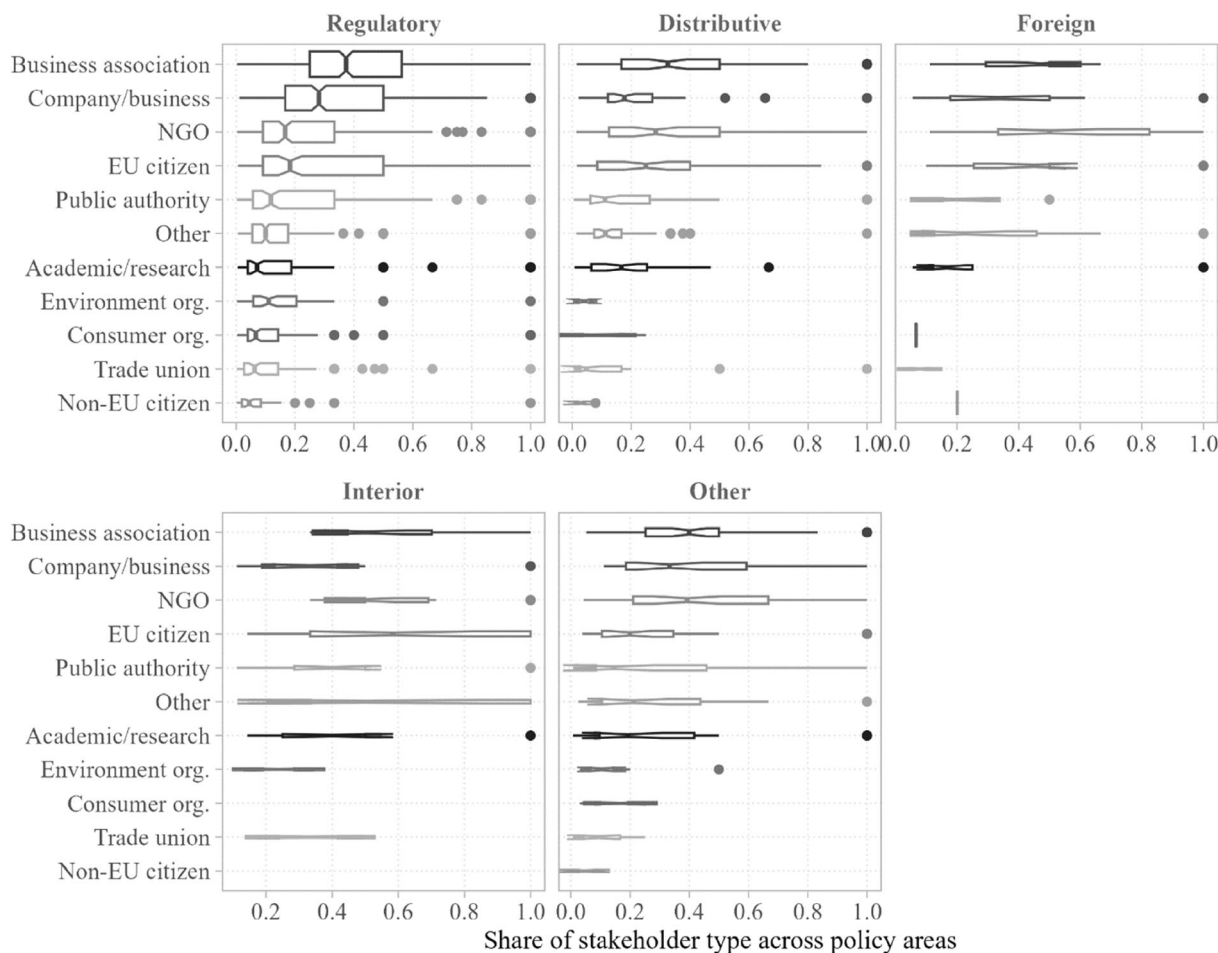


Figure 5 Share of stakeholder type across policy areas.

Figure 5 indicates that higher levels of stakeholder diversity describing distributive policies correspond to a higher share of comments from NGOs and EU citizens compared to other policy areas. Regulatory policies received, on average, a higher percentage of comments from almost all stakeholder types but present a lower average diversity index because the proportion of business associations and companies is higher than for all other stakeholder types, while the share of NGOs and EU citizens is lower relative to other policy areas.

4.4. Explaining stakeholder diversity

To assess the strength and direction of the relationship between act and policy types and stakeholder diversity we employ OLS models with robust standard errors clustered by policy type. Additionally, since the diversity variable is skewed, we apply a square root transformation that produces a better normalization outcome than a logarithmic transformation, according to the Shapiro test. Finally, we include only the feedback events with at least five stakeholder comments. This is a reasonable threshold for the diversity measure to have substantive meaning. Thus, our sample is reduced to 487 events.

Models 3.1 and 3.2 (Table 3) present the association between act and policy types and stakeholder diversity. Regression analyses confirm our descriptive account. Model 3.2 supports H2.1 showing that roadmaps and IIAs present a higher stakeholder diversity than legislative and implementing acts. The relationship is statistically significant only for roadmaps on evaluations, suggesting that although they may elicit fewer comments than roadmaps on new initiatives (see our findings in the previous section), they may invite participation from a significantly broader pool of stakeholders. This finding provides further evidence of the nuanced relationship

Table 3 Examining the relationship between act and policy type and stakeholder diversity.

Dependent variable	Interest diversity	
	Model 3.1: Baseline	Model 3.2: Full
Intercept	1.584*** (0.073)	−97.537* (38.110)
Act type (reference category: implementing act)		
Act type: roadmap	0.111 ⁺ (0.058)	0.089 (0.059)
Act type: roadmap evaluation	0.185** (0.057)	0.148* (0.058)
Act type: IIA	0.153** (0.053)	0.130* (0.053)
Act type: legislative	0.037 (0.053)	0.063 (0.078)
Act type: delegated	0.075 (0.048)	0.081 ⁺ (0.048)
Policy area (reference category: distributive)		
Policy type: regulatory	−0.047 (0.045)	−0.055 (0.045)
Policy type: foreign	−0.196* (0.098)	−0.188 ⁺ (0.098)
Policy type: interior	−0.184 (0.123)	−0.151 (0.123)
Policy type: other	−0.127 ⁺ (0.068)	−0.064 (0.072)
Control variables		
Title length		−0.006 (0.004)
Community size		0.000* (0.000)
Feedback period		0.000 (0.001)
Event year		0.049** (0.019)
Log (no. comments)	0.043** (0.016)	0.036* (0.016)
Num.Obs.	487	487
R ²	0.062	0.090
R ² Adj.	0.042	0.063
RMSE	0.32	0.32

Note: Significance levels: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$.

RMSE, root mean square error.

between participation levels and stakeholder diversity discussed in the introduction. It highlights the importance of a separate empirical examination of both dimensions of participation (Chalmers, 2015). Model 3.2 also supports H2.2: delegated acts display significantly higher stakeholder diversity relative to implementing acts, but their diversity coefficient is lower than for roadmaps and IIAs.

The model also supports H4: the negative signs for feedback events in regulatory, foreign, and interior policy areas indicate that they attracted a less diverse constellation of stakeholders relative to distributive policies, which we expected to generate the highest levels of actor diversity. This is consistent with the research finding that EC open public consultations covering expenditure policies present a higher diversity of organizations than consultations in regulatory or administrative areas (Rasmussen & Carroll, 2014; Røed & Wøien Hansen, 2018).

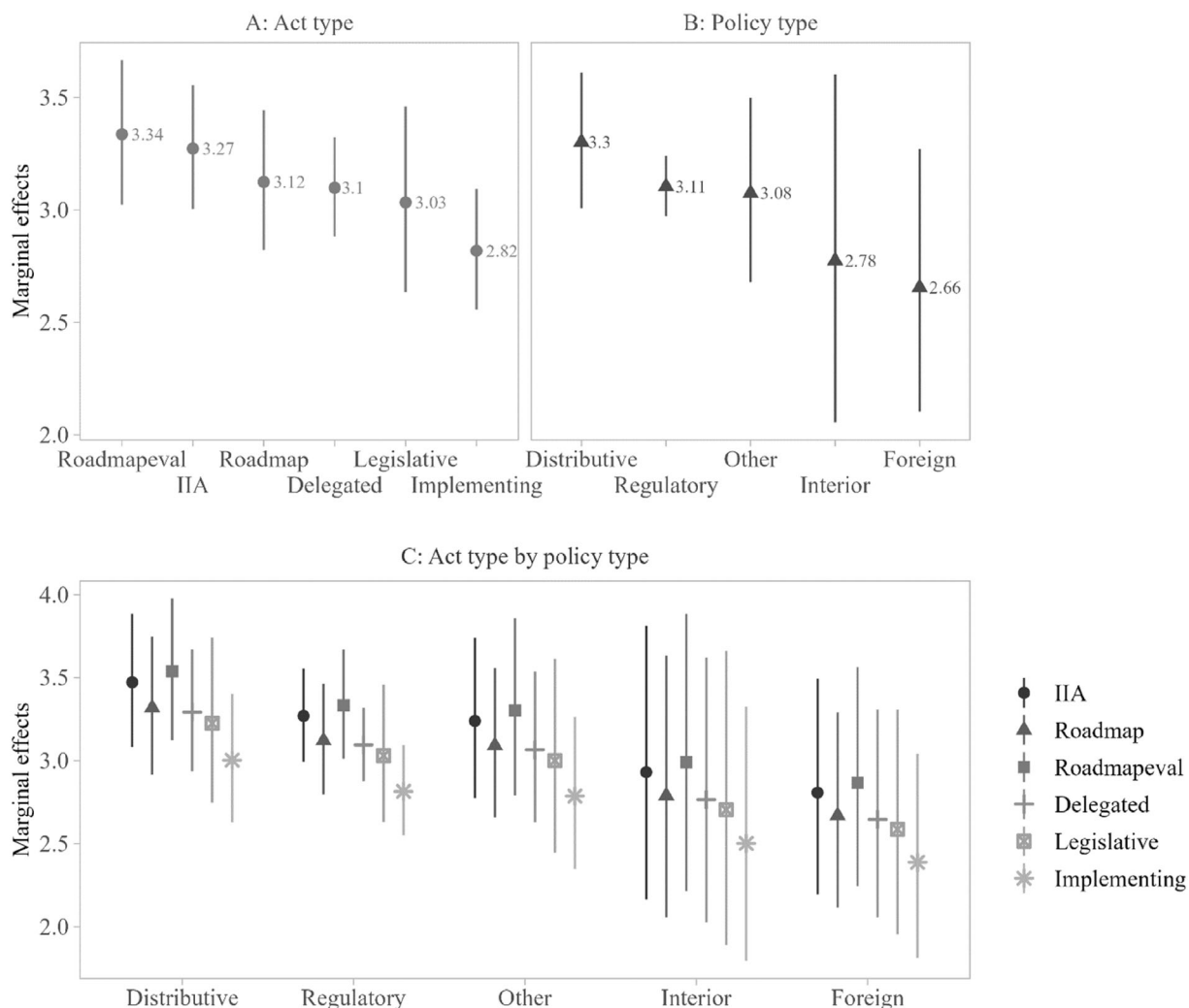


Figure 6 Marginal effects of act and policy area on stakeholder diversity.

Note that due to the square root transformation of our dependent variable, we cannot meaningfully assess the effect size of regression coefficients presented in Table 3. Yet we can see the magnitude by looking at marginal effects plots in Figure 6 where we convert the transformed variables to their original scale.

As Panel (a) illustrates, the switch from the implementing acts to roadmaps on evaluations, IIAs, roadmaps on new initiatives, and delegated acts is associated with increased stakeholder diversity by 0.52, 0.45, 0.29, and 0.28 units. This represents an 18%, 16%, and 10% increase in diversity. Except for roadmaps on new initiatives, these differences are statistically significant at 0.1 level and higher (Model 3.2). These results are consistent across policy types. Panel (c) indicates that implementing acts and legislative proposals score lower on stakeholder diversity than other act types, irrespective of the policy type. This pattern is particularly visible for implementing acts, providing additional evidence supporting H2.1 and H2.2. In light of Figure 4 showing a higher share of business actors (especially companies) commenting on implementing acts, this finding is consistent with recent research showing that during policy implementation, the EU policymaking attracts mostly the attention and lobbying efforts of business actors that possess the informational capacities to engage meaningfully with this highly technical policy stage (Truijens & Hanegraaff, 2023).

Turning to the covariation between policy type and stakeholder diversity, Panel (b) shows that distributive policies record the highest level of diversity, consistent with H4. The shift from distributive policies to regulatory, “other,” interior, and foreign policies is associated with a decline in diversity by 0.20, 0.22, 0.53, and 0.64 units. It

translates into a drop in stakeholder diversity by 6%, 7%, 16%, and 19% relative to distributive policies, albeit the difference is statistically significant only regarding foreign policies.

We perform several robustness and sensitivity tests and present them in Appendices B and C.

5. Conclusions

We examined the patterns of stakeholder participation in a new stakeholder engagement mechanism inviting public comments on the EU's supranational bureaucratic policymaking. We focused on the volume of comments and stakeholder diversity as key dimensions of participation. We found, on average, a relatively low number of comments, marked by statistically significant differences across administrative acts and policy areas. We also found that stakeholder diversity varies greatly and systematically across administrative acts and policy areas.

In absolute terms, most comments came from business associations and companies which authored together almost half (47.5%) of them. The public commenting mechanism does not seem to have improved considerably the imbalances in interest representation and the strong, sometimes predominant, presence of business that marked existing EC open public consultations (Quitkat, 2011; Rasmussen & Carroll, 2014). This reminds us about the challenges bureaucracies face when attempting to “make policy public” (Moffitt, 2014) and encourage a more diverse, and especially citizen-based, participation in venues that were traditionally the place of elite, technocratic decision-making (Quick & Bryson, 2016).

However, we notice a robust presence of non-business stakeholders such as EU citizens (authoring 24.1% of comments) and NGOs (11.2%). A closer look at the share of different stakeholder types across policy acts reveals substantial variation in the constellation of commenting stakeholders. This variation indicates that on roadmaps, IIAs and delegated acts, the relative dominance of business stakeholders can be diminished and successfully countervailed by comparatively equally robust participation of citizens and NGOs. In this respect, the Commission's efforts to use the public commenting mechanism to increase the relative presence of stakeholders representing the public interests broadly defined paid off and encouraged a more frequent participation of citizens and NGOs. On certain acts and policy stages, this effort also translated into a more diverse constellation of represented interests. However, these stakeholders are more likely to comment during the early stages of policy formulation and less likely to comment during the later, implementation-related stages, when business stakeholders regain their dominant presence in, and implicitly power over, policymaking (Truijens & Hanegraaff, 2023).

Several implications follow from our findings. *First*, the relatively low number of comments across feedback events indicate the Commission's efforts to increase stakeholder and public participation in supranational governance and policymaking were only partially successful. The public commenting mechanism increased the participation of traditionally underrepresented stakeholder categories such as citizens and NGOs. However, it did not generate a substantial increase in overall stakeholder participation levels relative to, for example, its open public consultations. The latter also present a high variation in participation but their average participation rates score now more in the thousands than in the tens or hundreds of stakeholders (ECA, 2019: 13).

We note, however, a significantly higher number of comments on acts corresponding to early agenda-setting and policy formulation, that is, roadmaps and IIAs. This matters because it allows the Commission to make a credible claim that its initiatives benefited from higher stakeholder involvement during those policy stages that are most fertile for stakeholder inputs to inform decision-making. The fact that these acts generated significantly higher stakeholder diversity further enhances the Commission's claim for input legitimacy of its initiatives.

Second, the clear pattern of association between act type and the frequency and diversity of participation reaffirms the impact of institutional arrangements on stakeholder participation in policymaking. Our findings highlight the importance of a rather mundane but powerful institutional instrument—administrative acts—used by bureaucracies to conduct their activities, formulate policies, and engage with external audiences. We show that not only the strategic “bending” of bureaucratic rules and procedures but also the manner of “crafting” bureaucratic documents represents a powerful institutional tool with significant consequences for stakeholder dynamics and participation in policymaking (Potter, 2019). For EC policymakers, this creates the opportunity to exert considerable leverage over shaping participation patterns by paying attention to the formulation of administrative acts and the specification of policy feedback loops regarding the management of stakeholder inputs. Policymakers can encourage (or conversely deter) robust and diverse stakeholder participation through the wording of

administrative acts. In practice, policymakers can increase stakeholder participation and diversity by formulating acts in a manner similar to the formulation of roadmaps and IIAs, namely using texts broader in scope and using a layman, non-technical terminology. A clear outline of how stakeholder inputs inform policy decisions encourages high and broad participation. However, such measures could bring the EC further away from its currently preferred, legitimizing, public image of a technocratic, expert-based institution and closer to that of a more political and, importantly, more susceptible to being politicized, institution. This move risks threatening its institutional and reputational uniqueness, which underpins its current institutional power and legitimacy (Bunea & Nørbech, 2023). This highlights the intrinsic challenges of reconciling the logics underpinning technocratic, evidence-based policymaking, and participatory governance in bureaucratic policymaking.

Third, the finding that policy acts generating higher participation also feature, on average, higher stakeholder diversity speaks in favor of EC's efforts to set up institutional venues encouraging higher participation as part of its better regulation reforms, in the hope that this also leads to higher stakeholder and interest diversity.

Fourth, from a representational bias and unequal stakeholder participation perspective, our findings provide further evidence that bias emerging from a predominant business presence is more likely to intensify during the later, implementation-related stages. The danger of bias is somewhat alleviated during the early policy stages which allow a more diverse set of stakeholders, in our case citizens and NGOs, to participate. This reinforces the importance of studying key issues of stakeholder participation in and influence over policymaking across policy stages (Truijens & Hanegraaff, 2023).

While our study provides one of the first analyses of stakeholder public commenting in EU supranational policymaking, several limitations mark our analytical focus and open fruitful venues for future research. *First*, we did not examine the concrete constellation of actors at event-level. Therefore, an intuitive next step for research would be to explain the exact share of business, non-business and citizen actors participating in public commenting across events, and use it as a dependent variable. *Second*, we investigated stakeholders' diversity but have not examined the substantive content of their comments to assess the diversity of stakeholders' substantive policy inputs. This would allow assessing the extent to which actor diversity actually translates into input diversity, a theme long-discussed in the literature on interest group participation in policymaking. *Third*, we did not examine the extent to which some organizations or citizens participate in public commenting as part of coordinated campaigns. This is critical insofar as it may shape the volume, diversity and content of comments, and policymakers' responsiveness to them (Balla et al., 2022). Lastly, one lingering question pertains to the manner and timing in which public comments inform policymaking, and the pivotal role played by stakeholder participation and diversity in this dynamic.

Acknowledgments

This research is funded by the EU Horizon2020 research and innovation program under the ERC-2018-STG CONSULTATIONEFFECTS research grant agreement no. 804288. The authors thank Idunn Nørbech and Joe Chrisp for their help with the data collection. They are also grateful for the comments received as part of EPSA 2021 general conference, ECPR 2021 general conference and the 2023 Biennial Conference of the ECPR Standing Group on Regulatory Governance.

DATA AVAILABILITY STATEMENT

The data that support the findings of this study are available from the corresponding author upon reasonable request.

Endnotes

¹ Our theoretical section presents each policy document in detail.

² <https://cor.europa.eu/en/events/Documents/CIVEX/stakeholder-consultation-on-better-regulation/Factsheet.pdf> (last accessed March 8, 2023).

- ³ These are feedback loop rules stated in the official EC Better Regulation guidelines (2017). They do not mention the Commission's obligation to respond to comments. There are no legal requirements compelling the EC to respond to comments or stipulating how comments should be considered in policymaking.
- ⁴ See also Figure A7 in the Appendix.
- ⁵ The three outliers are: the legislative proposal on the European Defence Fund and EU defence Industrial Development (2017): 4071 comments; the delegated regulation on High and Low Indirect Land-Use Change (ILUC)—risks biofuels, bio-liquids and biomass fuels (2019): 68,564 comments; the delegated regulation on Pesticides—uniform principles for evaluation and authorization (2019): 4735 comments.
- ⁶ Although the theoretical argument does not distinguish between roadmaps on new initiatives and those on evaluations, the empirical analysis discerns between the two to capture potential differences in how public commenting works for new initiatives and evaluations.
- ⁷ Research examining interest groups participation in EU policymaking discerns between regulatory and (re-)distributive policies (Coen & Katsaitis, 2013), while research on groups participation in EC public consultations discerns between regulatory, expenditure, and administrative policies (Rasmussen & Carroll, 2014).

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