European Social Movement Organisations as legitimate actors?

The cases of the European Environmental organisations and the European Trade Unions

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How can European social movement organisations guarantee their legitimacy in the multi-level context of the European Union? Social movement organisations developed traditionally in the context of the nation state. In order to influence EU policy social movements had to organise at the different European governance levels. (Imig & Tarrow, 2001) Social movements were confronted with a new political setting, a multilevel governance setting, which made interest representation more complex. (Grande, 1996; Kohler-Koch, 1997; Michalowitz, 2004) Social movement organisations did not only have to take into account the different levels of the multi-level governance system (local, national and European) but also the complexity of the decision-making procedures at the European level with its multiple arenas of policy making (European Commission, European Parliament and European Council of Ministers) (Greenwood, 2002; Kohler-Koch, 1997) As a consequence, European organisations were created, bringing the different national organisations together in a multi-level, networked organisational structure.

Considering the particular form European Social movements have (a grassroots based organisation) and the particular context they have to work in (the multi-level governance
context) a particular approach should be chosen to study the legitimacy of these ESMOs. When considering the European organisations as monolithic, stand-alone organisations, one denies the fact that its national members could also contribute (or even obstruct) to the lobbying process and consequently the legitimacy of the ESMOs. It is more interesting to study ESMOs as part of a network of social movement organisations linked to each other by membership. This allows us to see how the different organisations at the different levels of the network (national or European) coordinate their interest representation and cooperate in their lobbying campaigns.

By focussing on how the mobilisation, the communication and the information exchange between European and national (in this case Belgian) organisations is organised, it will be possible to get more insight into how ESMOs are dealing with legitimacy issues in their organisation. The results of two case studies, the case of the European environmental movement in their actions on the REACH-regulation and the case of the European Trade unions in the dossier of the services directive will be presented. Before describing these case studies in section 2, section 1 will first look at how legitimacy of ESMOs can be studied. The argument will be that in order to grasp the complexity of their legitimacy in the multi-level context several dimensions of legitimacy should be distinguished. Finally, in a third section, we will analyse the two cases using these legitimizing dimensions.

1. How to study legitimacy of ESMOs?

Literature on the concept of legitimacy is vast and is spread over different fields of studies. In building a framework for the study of legitimacy of European social movement organisations we can draw from two domains of study: the literature on NGO legitimacy and the literature on democratic legitimacy of the EU. Social movement organisations can be defined as a particular form of NGOs. They distinguish themselves by their individual memberships basis. Their individual members, the grass roots base, forms the cornerstone of these organisations. (Rucht, 1999) Consequently, a European social movement organisation (ESMO) can be defined as a particular type of interest organisation that has a multi-level structure linking a grass roots base to the European organisations via its national member organisations in the different member states.

Scholarly attention for NGO legitimacy has been growing since NGOs have been gaining an important place in the landscape of international politics. (Atack, 1999; Hulme & Edwards, 1995; Scholte, 2004) Criticism has however grown that studies on the legitimacy of international NGOs has been focusing too much on a technical approach to legitimacy reducing it to aspects of accountability, representativeness and performance. (Lister, 2003) It was suggested that institutional theory could bring a better perspective on how to study NGO legitimacy. In this theory it is argued that legitimacy is socially constructed and given meaning by the normative framework within it exists. It recognizes that organisation’s environments are not homogeneous. Depending on the environment the organisation has to work in, but also on the different stakeholders the organisation can be working for, legitimacy of the organisation can be understood differently. As such, organisational theory teaches us that legitimacy questions should be disaggregated into three questions: legitimacy towards whom?, Legitimacy about what?, and Legitimacy in which way?

While studies of NGO legitimacy focus mainly on the legitimacy literature developed within organisational theory, the debates on the democratic legitimacy of the European Union could be also helpful to study social movement organisations in the European context. Since the
European Union has developed itself as a multi-level governance structure, discussions on the democratic deficit of the EU have been flourishing. While democratic theory was mainly built within the framework of the state, new approaches have been used to look at democratic legitimacy within a multi-level governance framework. It was Scharpf (Scharpf, 1999) introducing the distinction between input and output legitimacy in the EU democratic deficit debate. This distinction turned out to be helpful to capture the different attributes of democratic legitimacy as they were defined in theoretical debates and to give a tool to apply them in a multi-level governance framework. While Scharpf defined input legitimacy as political choices reflecting the ‘will of the people’, presupposing the existence of a ‘thick’ collective identity, input legitimacy has been more and more used to indicate a notion that people are sufficiently involved in the decision-making process either directly or indirectly. (Smismans, 2004) Output legitimacy, on the other hand, can be defined as ‘government for the people’, focusing mainly on the outcomes of a policy process. (Scharpf, 1999)

Following Smismans (2004) we could define legitimacy as “a generalized degree of trust of the governed towards the political system” (p.72), where trust could be the result of input or output mechanisms. This generalized trust is, following organisational theory, socially constructed, based on rules (formal legitimacy) and perception (informal processes). We will look closer into the three questions we mentioned in the discussion on organisational theory. Since ESMOs are largely confronted with the same context (and problems) as EU institutions it seems promising to use the concept of input and output legitimacy and their different attributes to evaluate their legitimacy.

Membership: Legitimacy towards whom?

Since legitimacy depends on the context, it can be interpreted differently by different parties involved. Organisations can be legitimate towards members (if they are membership based), the general public, the authorities, etc…Within the literature on NGO legitimacy as well as the literature on the European democracy deficit scholars have questioned the need for legitimacy of NGOs or civil society groups in general. Critics argue that NGOs – or civil society groups in the debates within the EU – do not need legitimation as far as they are only presenting an opinion playing a role as pressure group. (Charnovitz, 2006; Greenwood & Halpin, 2005). Nevertheless, there is an agreement in the literature that as far organisations claim to represent a constituency, they should be legitimate towards this constituency. European social movement organisations are by our definition exactly this kind of organisations.

A ESMO should be legitimate towards its members. Considering the multi-level structure they are working in this is however not always easy. The members of ESMOs are mainly national organisations (Greenwood, Strangward, & Stancich, 1999). Often these national organisations are themselves federations of local or regional organisations. ESMOs are thus in general built up in a layered structure. Moreover, this structure is not purely hierarchical. Members of ESMOs could also be member of other organisations whether they are other national organisations or other European organisations. Consequently, ESMOs should be understood as an organisation being part of an organisational network. Gerlach (Gerlach, 2002) argues that social movements should be interpreted as SPINs, segmented and

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1 Within the literature on the EU democratic deficit debate the terms interest groups and civil society organisations are more used.
polycentric networks. The advantage of such a network structure is that a social movement is highly adaptive to its environment. The organisations within these networks are autonomous but cooperate closely. Looking at social movements within the context of the EU, this approach could contribute to the understanding how social movement organisations work in a multi-level context. The implication for the legitimacy of a European social movement organisation is however huge. The legitimacy of the European organisation will depend on the legitimacy of the member organisations at the different levels since they are the links between the European organisation and its grass roots.

Assignment: Legitimacy about What?

Social movement literature has pointed out the different roles social movements can be performing. Kriesi (Kriesi, 1996) distinguishes in a social movement four different types of formal organisations: the social movement organisation (SMOs), the service providing organisations, the movement associations and the party groups. A social movement organisation distinguishes itself from the other types of organisations by the fact that a direct participation is asked from its members in the mobilisation towards a political authority. Following this definition, if we look at the legitimacy of ESMOs, the main task of these organisations is interest representation. Legitimacy questions should, consequently, be limited to the representative tasks of the ESMOs.

Process: Legitimacy in which way?

Central to the legitimacy question of social movements is what is described in the social movement literature as the ‘leadership-dilemma’. This dilemma faces social movement organisations with the question “how to reconcile leadership roles with the requirements of grassroots democracy?” (Della Porta & Diani, 2006:142) Authors have mainly touched on this dilemma within the national or local context of social movement organisations (Kriesi, 1996; Zald & McCarthy, 1987) Within a multi-level governance perspective this question is even more complicated. If we define legitimacy as a generalized degree of trust, ESMOs must be able to overcome the leadership-dilemma to guarantee this trust. This will be only possible by finding a good balance between input forms of legitimacy and output forms of legitimacy. Although the ideas about input and output legitimacy are developed within the context of political systems, they can also be applied to social movement organisations. The main difference is that members of social movement organisations are free to enter or leave the organisations at any time. This could imply that input-oriented legitimacy is more important. But, social movement organisations are also confronted with problems of effective problem-solving. This means that also forms of output-oriented legitimacy will be needed.

In the literature several attributes of input and output legitimacy can be distinguished. We can interpret these attributes as dimensions of legitimacy. Not all dimensions should be present in an organisation to consider the organisation legitimate. The dimensions are tools to discover tensions in the informal processes of organisations that have an influence on the legitimization of that organisation. At the input side we distinguish 5 dimensions: Participation, representation, transparency, accountability and deliberation. At the output side there are 3 dimensions: Effectiveness, problem-solving capacity and agenda-setting capacity. We will shortly describe each of these dimensions.

Input legitimacy

Participation refers to the idea that an institution or policy gains legitimacy when affected actors can participate in the decision making process. “The more encompassing the
participation of actors that are affected by a policy in the decision-making process, the higher the resulting democratic legitimacy of this policy.” (Héritier 2003) Considering the specific nature of social movement organisations – i.e. their grassroots base – participation could be considered as an important legitimization of their activities. Within a multi-level context this participation can, however, be looked at in different ways. One could look at the participation of the individual member or at the participation of the national organisations in the organisational network of the European social movement organisation. Both aspects are important in evaluating the participatory dimension of their legitimacy.

The participation of national organisations is directly connected with their representative role of their individual members. One can thus argue that participation and representation are closely interwoven with each other in a multi-level organisational setting. Nevertheless, it is worth to consider both dimensions separately. Representation enables the formation of a unity from a multitude. While representation is often reduced to responsiveness to citizens’ policy preferences, the evaluation of representativeness of ESMOs is more complex. To look at this aspect we have to make a distinction between internal representation and external representation. Internal representation refers to how national level respondents evaluate the work of their umbrella organisation towards European organisations. Internal representation concerns thus representation within the organisational network. External representation refers to the representation of European organisations towards the European institutions, i.e. policy makers.

Transparency can be described as the guarantee that actors concerned have access to all relevant information and policy documents in all stages of a decision making process. It is a way of providing information so that actors involved “can know which decisions are taken, why, and on the basis of which arguments.” (Smismans, 2004:22) As such, two aspects are important. Firstly, information should be open to all and communication should be going in both directions. One should not only inform your public but also be open to receive comments on the issues you are dealing with. Secondly, decision making procedures should be clear at all times in order that it is clear for your public how and in which way decisions are taken. (Dyrberg, 2002)

Peruzzotti defines accountability as “the ability to ensure that public officials are answerable for their behaviour, in the sense of being forced to inform and justify their decisions and of being eventually sanctioned for those decisions.” (Peruzzotti, 2006:45) Accountability is a concept that is also largely developed within NGO literature, but the critic has been formulated that the approach is often too technical focusing on certification-and-rating systems, developing infrastructure and management capacity and establishing codes of conduct. It is argued that these technical solutions often do “not reflect the mission or values of an NGO or the multiple important relationships in which they are engaged”(Jordan & van Tuijl, 2006:6) We already mentioned that ESMOs are involved in multiple relationships, but the focus we take here is their relationship with their members. As such we can limit ourselves to a narrow definition of accountability. Bovens defines this as “the obligation to explain and justify conduct” (Bovens, 2006:9) As such, within the framework of ESMO legitimacy, accountability must be understood as an ex post tool.

Deliberation as a dimension of input legitimacy comprises the idea that decisions taken through the public reasoning of citizens will be perceived as more legitimate. Political theorists distinguish two key prerequisites in a deliberative process: it must be inclusive and it must encourage unconstrained dialogue (mutual respect). (Bohman, 1998; Gutmann & Thompson, 2004; Sanders, 1997) However, the inclusion of all poses some problems.
Different sources for exclusion in the deliberative process can be distinguished. It is important to have formal equalization of access. Institutions must create opportunities open to all (a forum) to deliberate. The context, however, has an influence on deliberation processes and the way actors act. (Elgström & Jönsson, 2000). Also equal access to resources – time, money, education, skill at arguing - could cause inequality. (Bohman, 1998) Consequently, the outcome of deliberation will be dependent on who has participated in the deliberation.

**Output legitimacy**

Support for a system is likely to be affected by how well that system performs. (Easton, 1965) Performance can, however, be evaluated in different ways. In political theory two dimensions of output legitimacy are generally mentioned: effectiveness and efficiency. (Héritier, 2003; Horeth, 1999; Scharpf, 1999)

**Effectiveness** can be described as the capacity to achieve citizens’ goals. (Horeth, 1999) It finds its origin in (neo-)functionalist theories, which argue that more authority would be given to institutions that perform well. (Marsh, 1999) While here effectiveness refers to policy outcomes, it is more difficult to define effectiveness of ESMOs and interest groups in general. Different perspectives can be used. In their evaluation of their effectiveness, one can look at their overall performance and how this corresponds to their values, goals and mission statements. One can also look at the results the organisation books, which interests are taken up by policy makers. Finally, because the effective results are also dependent on factors external to the organisation, one can also evaluate the effectiveness of the internal performance of an organisation, how campaigns are organized and if all possible efforts have been done. While some authors argue that the validity of their ideas, the values they promote and the issues they care about are the source of legitimacy for organisations (Marshall, 2002), Vedder argues that “legitimacy is not merely about the justifiability of an organisation’s goals, principles, and procedures; it is also about the extent to which organisations embody and actually realize their goals and aspirations.” (Vedder, 2007:207)

**Efficiency** refers in general to the **problem-solving capacity** of a political system. The idea of a problem-solving capacity as a dimension of output-legitimacy is based on the idea that some institutions or actors are more suited to tackle certain problems. This idea finds its origin in principle-agent theory which states that “a task is delegated to an agent because of the principal’s lack of time and lack of expertise, and because it makes it possible – and here it links back to political transaction cost theory – to adjust measures flexibly and more speedily to the demands of a rapidly changing social, economic and technological environment, without having to go through a complicated political decision-making procedure.” (Héritier, 2003:113) It is not only the technical expertise, but also the actor-specific characteristics that can make an actor more suitable to perform and to delegate tasks to him.

Looking at ESMOs, efficiency can also be interpreted as **agenda-setting capacity**. Since ESMOs represent grassroots interests, an important task for them is bringing these interests on the European political agenda. This can be done via direct (lobbying and participation in consultations) and indirect (protests) channels of influence. (Della Porta & Diani, 2006) While the dimensions of problem-solving capacity and effectiveness are mainly looking at the role of organisations in a policy process, the dimension of agenda-setting capacity focuses on the process before an issue has come on the policy agenda.
Table 1: aspects and dimensions of ESMO legitimacy

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<th>Who?</th>
<th>The members (i.e. direct members and grassroots members)</th>
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<td>What?</td>
<td>Assignment of the members: interest representation</td>
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<td>How?</td>
<td>Input-and output-legitimacy must be in balance</td>
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<td>2) representation</td>
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<td>3) transparency</td>
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<td>4) accountability</td>
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<td>5) deliberation</td>
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2. Studying ESMO legitimacy: two case studies

Table 1 summarizes the different aspects of legitimacy of ESMOs and the dimensions to be taken into account. Following, we will, using these aspects, look at ESMO legitimacy in two social movements: the trade unions (an old social movement) and the environmental movement (a new social movement). Studying a specific case for each movement offers the possibility to look closer into informal processes within the network of ESMOs. Principal criterion in the choice of the cases was that it were actions undertaken by a European social movement organisation against an initiative of the European Commission. The choice was made for the services directive as a case for the trade unions and the REACH regulation for the environmental movement. Both cases mobilised largely the social movements. Moreover, both cases took place more or less in the same period between 2000 and 2006. For practical reasons, the study was limited to the relationship between the ESMOs and their Belgian affiliates.

The case studies are based on 40 qualitative interviews with Belgian and European trade union (22) and environmental (18) organisations. Interviews were carried out between January and June 2008. Preceding to the interviews the membership network of the Belgian and European organisations was mapped out. Respondents for the interviews were chosen on the basis of their involvement in the case and of their network position. A mixture of central and more peripheral organisations was chosen. By focusing on how the mobilisation, the communication and the information exchange between the European and Belgian organisations was organised in the campaigns of the services directive and REACH, I look at how ESMOs are dealing with legitimacy issues in their organisations. Before I will give a short description of both cases, I will first give an overview of how both movements are organised.

The organisational networks of trade unions and environmental organisations in Europe

The network of European trade union organisations is organized along sectoral and intersectoral lines. There exist four intersectoral organisations at European level: the European Trade Union Confederation (ETUC), the Council of European Professional and Managerial Staff (EUROCADRES), the European Confederation of Independent Trade Unions (CESI) and the European Confederation of Executives and Managerial Staff (CEC).

2 Although ETUC is the only organisation recognised as an intersectoral organisation at the European level, the other three organisations also represent organisations from different sectors.
They all have both national and European organisations among their members. Besides the intersectoral organisations, the network also counts 28 European sectoral organisations of which the largest part are member of ETUC. The Belgian sectoral organisations are in general member of one of the Belgian intersectoral organisations and also of their European sectoral organisations. The Belgian intersectoral organisations are at their turn member of one of the four European intersectoral organisations. In the European landscape of trade unions the ETUC could, however, be considered as the strongest organisation, bringing most of the trade union organisations around Europe together. Also the three largest Belgian intersectoral organisations (ACV, ABVV, ACLVB), counting for almost all trade union members in Belgium, are member of ETUC.

The network of the European environmental movement looks somewhat more complex. We counted 22 European organisations, of which 10 of the biggest are working closely together and are know as the Group of 10. At the Belgian level, we distinguished 31 organisations working on a national or regional level and having a membership with one of the European organisations. Within this group of 31 organisations there are 4 federations (1 Flemish, 1 Walloon and 2 Brussels) of which some of the other 31 organisations are member and some are not. Another 472 local organisations which are member of one or more of the Belgian organisations were found. This group of local organisations was, however not included in the research.

**Services Directive: trade unions versus Bolkestein**

The general aim of the Services directive was to create a genuine internal market for services. Already in 2000 the Commission published its first communications on a strategy for the creation of a single market for services. While these communications were welcomed also by the trade union organisations, the final proposal adopted by the Commission in 2003 was more contested. The trade unions identified three important points of concern. Firstly, the scope of the directive was too large for the trade unions. Secondly, the country-of-origin principle introduced in the proposal was a major concern for the trade unions. This principle stated that “service providers are subject only to the law of the country in which they are established and Member States may not restrict services provided by operators established in another Member State.” (Commission of the European Communities, 2004:9) Thirdly, the proposal provided that service providers should be controlled by the authority of the country where the service provider is settled. Trade unions had three clear demands concerning the services directive: adjustment of the scope of the directive, a bolition of the country-of-origin principle and keeping the responsibility for control with the authorities of the host country. However, these demands were only formulated after difficult internal discussions between the European trade union organisations and their members. In the whole lobbying process of the trade unions on the services directive 4 phases can be distinguished.

In the preparatory phase (December 2000-January 2004) of the proposal trade unions had not much attention for the upcoming proposal. Only within a few (national and European) organisations, who did obtain via informal contacts draft texts, discussions on the issue took

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place. The issue of the internal market for services was difficult to tackle for the trade unions, since it was for them a relatively new subject.

The second phase in the mobilization process (January 2004-September 2004) was characterised by a growing interaction between trade union organisations trying to find a common position on the issue. It were mainly the Scandinavian, German and Belgian trade unions who were pushing the European organisations to consider this issue. It took several months to convince the European organisations to act on the services directive and the first official positions on the issue only were formulated in March 2004. Belgian trade unions were rather disappointed about this common position since it expressed a rather positive message on the services directive. Consequently, they organised themselves the first demonstration against the services directive in June 2004 to put more pressure on the ETUC. Besides, they also took the initiative, together with a large platform of NGOs, to start a website and an internet petition under the name ‘Stop Bolkestein’ in order to raise larger public awareness on the issue.

Also in other member states national trade union organisations were becoming more active on the services directive. The growing evidence from national affiliates and European sector federations made the ETUC Executive Committee finally harden its opposition to the directive proposal. In the preparation of these opinions, consultations with member organisations happened in formal and informal ways. New tools were used to increase deliberation. One of the European sectoral organisations set up a whole new information system with an intranet, monthly newsletters and e-mail alerts for very important issues to keep all members up to date. ETUC started an informal working group to discuss the possible impact of the services directive. In this working group mainly technical issues were discussed.

By the end of the summer of 2004 there was more or less a consensus between the trade union organisations and the campaign got in a new, third phase (September 2004-February 2006). We can call this phase the mobilization phase. The first hearings in the committees of a newly installed European Parliament meant also the take-off of the lobbying campaign of the trade unions. Lobbying took place at all institutional levels in a more or less coordinated way. The interaction and cooperation that steadily grew during the second phase, fully developed during this third phase. ETUC organized also two main demonstrations, one in March 2005 before the Spring Summit and one in February 2006 on the day of the final vote in first reading in the European Parliament, mobilizing individual trade union members from all over Europe.

Overall, one can say that there did exist a good cooperation and coordination of the campaigning and lobbying activities of the trade unions in this third phase. Politicians were approached at the different levels and information was as much as possible spread throughout the network of trade union organisations, keeping also the national trade unions with difficult government relations informed. Although in this third phase there existed a more or less consensus on the common position to defend, some tensions were to be noticed concerning the strategies used. Coordination of activities was considered valuable, but all actors were careful not to loose their autonomy. Different opinions about the timing of demonstrations and the use of model letters existed. This shows that within the European trade union network still very different cultures exist, not only between member states but also between the different sectors.

While during the third phase the trade unions formed a front against the services directive, this front was again falling apart during the fourth phase (February 2006-December 2006). The 14th of February 2006 the European Parliament voted in favour of the largely amended
services directive. To a part of the European trade union organisations the most important elements were achieved. For these organisations mobilizations was not useful anymore. They limited their activities to the follow up of the further process. The dynamic of information exchange, coordination and cooperation that was strong during the third phase, disappeared totally in this fourth phase. The coordination between the different European organisations more or less died after the vote in first reading in the European Parliament. Some respondents remarked that a too optimistic press release of ETUC after the vote of February 2006 in the Parliament, created a situation for the trade unions where it became difficult to further act against the services directive. This opened the opportunity for other parties to partly turn back the achieved compromise in the first reading.

**REACH: Environmental organisations versus chemicals industry**

REACH is standing for the Registration, Evaluation, Authorisation and Restriction of Chemicals. The main problem with the chemicals community policy was that it was too complex and mainly designed to comply with the demands of the internal market. It were among others the environmental organisations who were pressuring for a revision of this legislation by handing over more and more scientific evidence on the impact of certain chemical substances on the environment and human health. However, not all environmental groups were working on the issue before the official REACH proposal was published. We can distinguish four phases in the REACH campaign of the environmental movement.

In the first phase (1998-February2001) several environmental organisations were working on different aspects of chemicals policy, mainly on a substance by substance base. UK environmental organisations, mainly WWF-UK and Friends of the Earth- UK (FoE-UK) were already working closely together on this issue and it were these UK branches that brought the issue on the European agenda of WWF and FoE respectively. At the same time a Danish group of environmental organisations was pushing forward the issue within the European Environmental Bureau (EEB), one of the biggest European environmental organisations. Nevertheless, mobilisation on the issue was still in an embryonic stage. It were mainly small initiatives taken by individuals in the different organisations. In this phase of the policy process the issue did not get the full attention of the environmental organisations. It were a few key people who worked on their own initiative on the subject and who started to contact each other.

The establishment of a working group within EEB intensified the contacts between these key people and was the beginning of a mobilisation within the environmental network. This working group was mainly working towards a conference held in 2000 in Copenhagen where a Charter was adopted with 5 key demands for the future EU chemicals policy: (1) a full right to know – including what chemicals are present in products; (2) a deadline by which all chemicals on the market should be assessed; (3) a phase out of persistent or bioaccumulative chemicals; (4) a requirement to substitute less safe chemicals with safer alternatives; and (5) a commitment to stop all releases to the environment of hazardous substance by 2020. The Copenhagen Charter was an important step in the mobilisation of the environmental movement. It created a common base from which the environmental movement could lobby together. The Charter would turn out to be a crucial document in the further cooperation between the different environmental organisations at the European as well as the national level. The Belgian organisations, however, were not working on the issue at this stage of the process. They mentioned that they were informed about the issue by their European organisations, but since it was not yet an urgent point on the agenda, there was no attention paid to the issue.
A second phase in the process started with the publishing of the White Paper in February 2001. It was during the period of the consultation on the white paper that an environmental coalition was slowly building up and getting more organised. This happened mainly in reaction to the growing anti-REACH lobbying, led by the chemicals industry. WWF, EEB, FoE and Greenpeace published not long after the publication of the white paper each separately a position paper in favour of the REACH proposal. This indicates not only that at that moment the cooperation and coordination between the European organisations was almost non-existent, but also that within these organisations deliberation with members was only limited. As the anti-REACH lobbying camp was growing strength in the months following the publication of the white paper, environmental organisations realised they had to strengthen their lobbying efforts. Closer cooperation and coordination of their campaigns would be necessary in order not to lose too much in the REACH-debate.

It was, however, only in September 2002 with the organisation of an EEB conference titled ‘European Chemicals Policy Reform-from paralysis to action’ that the environmental organisations started to cooperate on a more structural base. Two e-mail listserv were set up to intensify the coordination and the information exchange between the different national and European organisations. One listserv, called the Chemicals Task Force, was limited to the policy officers of the European environmental organisations. The other listserv was open to any environmental organisation working on or interested in the issue. Moreover, an internet-campaign, called Chemical ReAction, was set up by EEB, FoE and Greenpeace in order to increase grass roots participation and involvement of national organisations.

At the Belgian level the environmental organisations were also starting to work on REACH. Three groups followed the REACH campaign at the Belgian level actively: BBL, IEW and Greenpeace. Within BBL and IEW the issue of REACH came on the agenda via the federal council for sustainable development (Federale Raad Duurzame Ontwikkeling) where they both participate as stakeholders. It was not via the EEB that they first started to work on the issue, but both organisations mentioned that EEB was for them very important as a source of information. In this phase of the process, however, the Belgian organisations were not yet very active. They participated in the internet consultation, but mainly followed the instructions of the European organisations to complete the forms of the consultation.

By the time the REACH proposal was published in October 2003, the environmental campaign entered in a third phase (October 2003 – July 2006). This phase is characterized by a full cooperation and coordination between the European environmental organisations and a bigger involvement of national organisations. There existed daily contacts between the policy officers of the European organisations involved in the issue (Greenpeace, WWF, EEB, FoE, HEAL and WECF). The Chemicals ReAction campaign was also getting to full speed during this third phase. Via this website individuals were mobilised in all EU countries. On the organisational level, information was spread through the different e-mail listservs. Besides the general EEB e-mail listserv, each organisation had also its own e-mail listserv. Although this kept all members up to date, it also caused sometimes an overload of information for members.

The mobilisation of the national level organisations throughout Europe only happened little by little. The technical complexity of the dossier made it difficult for small organisations to easily get involved. Especially those organisations where there was no expert working on chemicals, were often not involved. This meant, however, not that they didn’t do anything concerning REACH. In general, well coordinated actions which take little time investment for the national organisations are more easily done by the national organisations. It was, however,
often mentioned that organisations are autonomous and decide on their own if they want to participate or not. At the same time, the European-level respondents also had to admit that national organisations were necessary in their campaigns to do the lobbying at the national level and as such they were activating also their national members. The national context turned out to be important in approaching the different members of the European parliament and of the Council.

The fourth phase (July 2006-December 2006) of the environmental campaign was characterised by less mobilisation and more lobbying. In spite of the large mobilisation during the full two years of the first reading, the environmental movement did not fully succeed in her lobby efforts. The REACH regulation would be applied only to a limited number of chemicals and data requirements were lower than expected. In order to go through a fast second reading there were extensive interinstitutional negotiations besides the formal policy process. This forced the environmental organisations to focus more on lobbying than on mobilization in order to keep up with all developments in the process. The involvement of national and local groups was, however, less important. The national organisations did still write letters to their MEPs in order to try to influence their vote, but the environmental campaign was mainly concentrated within the European level organisations.

Overall, the outcome of the REACH regulation was not a full success for the environmental movement. The initial proposal got step by step weakened by the successful lobbying efforts of the chemicals industry. What was considered as a big success, was that the environmental movement succeeded in building a big coalition for REACH and keeping it together until the end despite some tensions and discussions.

3. Results from the case studies

Input Legitimacy

Participation

Participation is considered important by all ESMOs, but participation of national organisations stays limited. The ESMOs realize that a larger participation will increase their legitimacy, especially in the current debates on the role of civil society in the European Union. New tools, especially ICT-tools, were in both cases used to increase the participation of members in the discussions. It was, however, mentioned that personal contact with members still is the most important guarantee for their involvement. Moreover, it was at different moments emphasized that members still stay autonomous organisations and they consequently can not be forced to participate.

Depending on the phase in which the policy process is, European organisations will involve more or less their national members. An important difference, however, between the trade unions and the environmental movement is the way participation of national members is organized. While involvement of national members is clearly structured along sectoral and intersectoral lines within the trade union movement, the environmental organisations are more structured in a loose networked way. In both networks one can find a clear horizontal (between European organisations or between national organisations) and a vertical (between European and national organisations) division of work. In the environmental network this is complemented with a third kind of division: a functional division of work. Depending on where one has the available resources, one will do the work.
A lack of resources (time, money and expert knowledge) turns out to be the most important factor in a non-participation of members. This is also the main factor explaining the difference between the involvement of Belgian trade union organisations and environmental organisations in the cases studies. While Belgian trade unions are one of the best developed organisations in the European trade union network, the Belgian environmental organisations are clearly less resourced in comparison to other national environmental organisations. Consequently, the Belgian environmental organisations have a more passive attitude towards their European organisations. Within the trade union movement it was mentioned that especially language skills form a stumbling block for participation. In the environmental network this is not considered as an impediment, although some respondents had to admit that participation in discussions is sometimes difficult due to the English (often technical) language used. Besides all material reasons, personal commitment turns out to be an important factor for (non-)participation. The involvement of an organisation often depends on one person in that organisation.

On the individual participative level, both movements have to admit that involving grass roots members in European issues stays very difficult. Although the mobilization of individual members in the case of the services directive turned out to be very positive for the trade unions, it was admitted that this is only possible on very selective cases. Other forms of participation in campaigns, mainly via the internet, have been tested in the two cases. The use of ICT tools are evaluated differently. In the trade union network mobilization via the internet (i.e. an internet petition) turned out to be not so successful. In the case of the REACH regulation, the e-mail actions of the environmental movement were evaluated as a big success. Trade unions and environmental organisations are representing a different public which can explain the different success of ICT tools.

**Representation**

Overall, national members in both movements evaluate the representative role of their European organisations as good. Nevertheless, in both cases some tensions are noticed. In the case of the services directive some question marks were put with the representative role of ETUC in the early stage of the process. National organisations and European sector federations had to push the ETUC to represent their interests on the issue. Also further in the process, some remarks of distrust were made about the fact that the European organisations were not fully open about the contacts they had with European policy makers. It was, however, argued by European level actors that ‘lobbying behind closed doors’ sometimes is unavoidable in order to get results. Within the case of the REACH regulation the trust of national members in the representative role of their European organisations was bigger. Only in a later stage in the process some small tensions concerning the position taken in the debate were mentioned. This difference between the trade unions and the environmental organisations can be explained, again, by their different involvement in the respective cases. Moreover, as we mentioned before, the trade union organisations consider the representative role of their European organisations also more important. Consequently, their evaluation will be fiercer on this issue.

Besides the external representation, we also distinguished the aspect of internal representation. National organisations are supposed to represent the interests of their members towards their European organisation. This is a characteristic of the layered structure of ESMOs. Nevertheless, in practice, this internal representation is not always guaranteed. The more peripheral an organisation is in the network, the less its involvement and representation is guaranteed at the European level.
Transparency

Formal transparency, i.e. clear information exchange and decision making processes, is guaranteed in the ESMOs. However, the case studies show some problems concerning transparency in the informal process. While it was recognized that information exchange is crucial in a multi-level campaign, in both cases, throughout the process, a growing divergence was noticed between ‘insiders’ and ‘outsiders’. Those organisations closely involved in the issue, i.e. those organisations who can participate in meetings, were getting systematically also more information on the progress in the campaign. ESMOs are faced with a difficult balancing exercise: in order to be transparent, ESMOs must guarantee full information for their members. European issues, however, can be often very complex and far reaching in order that national organisations could become overwhelmed by all the information and will give up trying to keep up with the issue. ESMOs must try to find a balance in the information they spread in order that all their national organisations would be able to get involved at any moment in a process. In both cases, however, the ESMOs were not always successful doing this.

Accountability

While in both cases evaluations of the campaigns were made, some question marks can be put at the accountability mechanisms within ESMOs. Evaluations were mainly done at the European level. National members were not involved, while the campaigns were clearly multi-level campaigns. The results of the evaluations were not explicitly communicated towards all members. Moreover, no real consequences were coupled at the evaluation process. Formally, accountability mechanisms exist in the ESMOs via the elections of the board and the yearly reports and budgets that must be approved by the general meeting. One could, however, question these mechanisms since members are not fully involved and informed in order to give a full judgment on the performance of their European organisation.

It must be also questioned if normal accountability mechanisms are sufficient in evaluating performance of ESMOs. In both cases it was emphasized by respondents that ESMOs need their members in order to work at the multiple political levels of the EU. Without such a multi-level approach, it is very hard to influence EU policy. Consequently, accountability mechanisms that only focus on the performance of ESMOs without looking at the performance of the other actors within the social movement would be insufficient to take account of the overall performance of the network.

Deliberation

Deliberation in a large, multi-level organisation takes time. It is precisely this aspect that makes it difficult to guarantee a full deliberation at every step in a decision making process and a campaign of ESMOs. It was emphasized that in lobbying it is important to react immediately at incidents. Therefore, once a common position is taken on an issue, ESMOs consider this as a mandate. Within the boundaries of the common position they can act freely. This, however, implies that extensive deliberation in the early phase is necessary to guarantee the inclusiveness of all members.

The two cases show us two different images of deliberations in the early phase of a campaign. Within the environmental movement there was only limited deliberation in the beginning of the process. It was only a small group of members that discussed the issue and put it on the agenda of the European organisations. The European Environmental Bureau organized a conference on chemicals policy in 2000 where the Copenhagen Charter was approved. While this was a tool to gain support for an issue, it is difficult to consider this as proper
deliberation. There did not exist a broad platform where the issue was discussed in depth. The main reason for this was the technical complexity of the issue, which made it impossible for the majority of the actors in the network to participate in a thorough discussion. In contrast, in the case on the services directive discussions were fierce in the beginning of the process. Through deliberation, mainly in the special working group, the members in the trade union network could come to a consensus on a common position.

The inclusiveness in the deliberation process was, however, not guaranteed in neither of the cases. While in the case of the environmental movement it was mainly the difference in skills and knowledge (and as such indirectly also the difference in resources), in the case of the trade unions it was mainly a difference in resources (time, staff and money) that obstructed a full involvement of all members. But, not only practical reasons were mentioned for a non-involvement in the deliberation process. Deliberation includes two parties, the ESMO and the members. It was, however, mentioned that EU issues are not always a priority on the agenda of national organisations and consequently there is often only a low spirit to participate in a deliberation process.

Output Legitimacy

Effectiveness

National environmental organisations consider their European organisations as effective actors at the European level. Especially in the case of REACH, the coordinating role of the European organisations in the multi-level campaign was appreciated by the member organisations. They got the right information at the right time in order to work at the national level and considered the work done by the European organisations at the European level as good. In the trade union network the evaluation of the effectiveness of the European organisations, more precisely that of the ETUC, was less positive. Especially the late response of ETUC to the developments in the services directive was considered as problematic. Several respondents also questioned the position of the ETUC as an intermediate between the European institutions and its members, arguing that ETUC sometimes let prevail institutional interests above the interests of its members.

It is somewhat surprising to see that, while the REACH campaign was less successful for the environmental movement than the services directive campaign was for the trade unions, the effectiveness of the latter is more questioned by its members. External factors can explain a large part of the difference. In the case of REACH environmental organisations were confronted in their struggle for a better chemicals regulation with fierce opposition of the chemicals industry, an important and largely resourced interest group. The trade unions, on the other hand, were fighting against certain provisions in the services directive. This made the claims they made more specific. Moreover, they were in their struggle not confronted with a largely mobilized opponent.

Problem-solving capacity

Outsourcing European level policy work is mentioned as the main reason why national organisations are member of a European organisation. National organisations realise that the European political level is of growing importance. They are however limited in their possibilities to follow developments at the European level, mainly because of a lack of time and staff. Besides a lack of resources to do this, the environmental organisations mention also that as a national organisation they are not well placed to do this kind of work. European organisations are able to keep the overview on the European policy process and can profile
themselves as European partners. Among the advantages of European organisations are mentioned: the expertise, the technical know-how, their knowledge on EU level politics and the contacts they have at the European level. This argument is less pronounced by the national trade union organisations, mainly because Belgian trade unions are themselves well resourced to take up a large part of these tasks. Besides the outsourcing argument, Belgian trade unions also emphasize the need for solidarity between European trade unions as an important argument to join the European organisations.

**Agenda-Setting Capacity**

The REACH case has shown that the European environmental movement did play a role in the agenda setting of the chemicals debate at the European level. Different environmental groups were already for several years working on chemicals issues, all with their special focus. While one can not conclude that it was the exclusive achievement of the environmental movement a revision of the European chemicals legislation came on the agenda, it can however not be denied they did play an important role in it. In the case of the Services Directive the ESMOs failed to play an agenda-setting role. Only in a late phase of the policy process, when the proposal of the Commission was already entered in first reading, trade unions started to react and building a campaign against the directive.

4. **Conclusion**

How can European social movement organisations guarantee their legitimacy in the multi-level context of the European Union? We defined legitimacy as a generalized degree of trust which is socially constructed, based on rules and perception. By distinguishing 8 dimensions of input- and output-legitimacy we got a better view on how these perceptions are constructed in a multi-level context. The cases studied show us that legitimacy is a complex, difficult process in which tensions exist at all levels. A dynamic process in a multi level, networked setting needs commitment from all sides (national and European).

Resources (i.e. time, money, expertise) are however crucial elements in such a commitment. Belgian environmental organisations are less resourced than Belgian trade unions. Consequently they have smaller opportunities to involve themselves fully in European issues. More than the Belgian trade unions they consider their membership of a European organisation as an outsourcing of their task to follow the European agenda and they fully trust their European organisations in this task. Belgian trade unions also trust their European organisations but take a much more active role to control them, too. They simply have more resources to involve themselves in European issues, can build more expert knowledge in it and consequently can be more critical about the performance of their European organisations.

The analysis of the different dimensions of legitimacy shows clearly this difference between the two cases. While in the case of the trade unions input dimensions of legitimacy were more present and the output dimensions were less well evaluated, this was the opposite case with the environmental organisations. For ESMOs it is difficult to keep a balance in guaranteeing enough involvement of members. Transparency in information exchange and decision making is important in order to avoid insider and outsider groups within the movement. Nevertheless, too much information could have the opposite effect and create a barrier for national organisations to involve themselves.

The multi-level setting in which ESMOs have to work also complicates representation of its member organisations and makes outcomes of their work unpredictable. Participation in and
deliberation on campaigns by their members is necessary in order to include the different national contexts. This demands a strong and powerful coordinating mandate for the European organisations. Accountability mechanisms are, however, non-existent to evaluate this coordinating role.

What can this tell us about legitimacy of ESMOs? Legitimacy is not just about accountability, representativeness or performance as often described in NGO-legitimacy literature. In a multi-level context it is a more difficult process where ESMOs do not only have to represent and give account to their members. It also asks a committed involvement of these members. On the one hand, commitment, time and knowledge is necessary for national members to be able to involve themselves in this process. On the other, European organisations have to facilitate their involvement by giving the proper tools and information to work while taking into account the scarce resources of all their members.

References


