

PROJECT OUTLINE

Open Government in the European Union

Exploring the effects of openness on trust, accountability and effectiveness

Project Team: Deirdre Curtin (Utrecht University, University of Amsterdam)
 Albert Meijer (Utrecht University)
 Gijs Jan Brandsma (Utrecht University)
 Bettina Leufgen (Utrecht University)

*Outline to be presented at the NIG Colloquium on Good Governance
Leiden, November 2009*

Version: October 26, 2009

DRAFT VERSION – NOT FOR CITATION!!!

This project outline sets out a research program about open government in the European Union. The objective is to define and conceptualize a broad research domain and to formulate a coherent set of overarching research questions. This framework forms the basis for subsequent definitions of research projects which will fit within this broader domain and which will build upon these conceptualizations.

Open Government in the European Union

1. Openness as a hallmark of democratic government

Government should be transparent. Transparency promotes accountability and provides information for citizens about what their Government is doing. Information maintained by the Federal Government is a national asset. My Administration will take appropriate action, consistent with law and policy, to disclose information rapidly in forms that the public can readily find and use. Executive departments and agencies should harness new technologies to put information about their operations and decisions online and readily available to the public. *President Barack Obama, Memorandum for the Heads of Executive Departments and Agencies, January 21, 2009.*

President Barack Obama has transparency and open government high on his agenda for change in government. He has emphasized that openness is needed to restore trust of citizens in government (see www.whitehouse.gov/Open/ for more information). President Obama is certainly not the only political leader who highlights the importance of transparency and open government. It is in all probability safe to say that the divide is deep between aspirations towards and the status quo of more openness in governments, yet political leaders all around the world pay tribute to the idea of open government and they have launched initiatives to make their government more open and transparent. The European Union, although not a government in the common sense of the word, is not an outlier but follows suit: open government is high on the agenda for strengthening the legitimacy of the European Union (Peterson, 1995; Moser, 2001; Curtin & Meijer, 2006).

Openness has long been a hallmark of democratic government. Openness provides the basis for active citizenship and thus is highlighted in pluralistic, discursive and participatory theories of democracy (cf. Michels, 2008). The basic idea of open government is that it should not conduct its business secretly, behind closed doors, but rather out in the open. As Supreme Court Justice Louis Brandeis once put it: ‘Sunshine is

the best disinfectant.’ The basic idea is that corruption and other forms of abuse of power can be prevented through openness. Openness can also prevent a runaway bureaucracy which focuses on its own interests. Openness is, therefore, one of the key elements of good governance (Addink, 2005). Indeed the European Commission in its White Paper on Governance (2001) placed ‘openness’ alongside other ‘principles of good governance’ values such as accountability and participation.

The fact that openness is highly valued in political theory certainly does not mean that openness is taken for granted in political practices. The level and nature of openness has always been subjected to political contestation. Even the publication of laws, a crucial precondition for a *Rechtstaat*, has not always been regarded as an obvious element of government, but now it is. Access to meetings of parliamentary representatives has increased over time and modern mass media are now used to broadcast these meetings. Meetings of the executive (government ministers) generally still take place behind closed doors and in the Netherlands the minutes of the council of ministers are only made publicly available after twenty years.

The political debate about openness is not a phenomenon of the past. Individual elements of it, such as access to documents, continue to be a subject of political debate. The recent focus on the ‘war on terrorism’ has been used as an argument to limit freedom of information and access to documents in various countries, most notably perhaps the USA by the Homeland Security Act and the Critical Infrastructure Information Act (Birkinshaw, 2006 in Seifert and Relyea 2004). Nevertheless, proponents of access to information still push for more and easier access to documents. Technological developments, the Internet more specifically, facilitate transparency and therefore provide proponents of access to information with new ammunition. The technological opportunities combined with the alleged democratic deficit of the European Union create a boost for calls for more open government in the European Union (Eriksen & Fossum, 2002; Majone, 2000).

Openness is less of an issue in the international relations field with a diplomatic ethos and secrecy going hand in hand, also in the context of many intergovernmental organizations (Roberts, 2004). In recent years there has been an effort in some international organizations to confront a crisis of legitimacy by promising more transparency and openness of information held by intergovernmental organizations such as the World Trade Organization. The European Union is at the cutting edge in this development due to its nature as a supranational organization and the perception that it is an evolving political system (as well as autonomous legal system in its own right). Given the wide-ranging nature of its legislative and executive powers (Curtin, 2009), unprecedented in any other international organization, the issue of openness is particularly salient in the EU context. Indeed one can see an almost 'state' like development in this regard; the 'normalization' of the debate on the role of openness and transparency in the EU as compared to many national political and administrative systems.

In recent years the EU has adopted laws on access to documents of certain (legislative and executive) institutions and these have been applied in practice across a wide variety of issue areas. One of the main reasons, also reiterated in the terms of the Treaty of Lisbon, is to facilitate the participation of the citizens in the democratic life of the Union. In addition scholars often propagate transparency as one of the solutions for its 'democratic deficit' (Majone, 2000; Eriksen & Fossum, 2002, Corbett et al., 2000). At the same time the scope of the right of public access to documents held by the institutions does not cover all facets of transparency. For example, the EU (or certain of its institutions) adopt and apply rules and practices on the confidentiality of documents and their restricted circulation, thereby 'blacking out' large areas from the domain of access rules. Uniquely for an international organization the EU has several accountability forums (Bovens, Curtin & 't Hart, 2010), that function in a checks and balances perspective to ensure that executive power is not abused (the Court of Justice, the European Parliament and the Ombudsman).

The debate about openness and transparency in the European Union, however, has so far been largely of a normative and legal and political nature. The assumptions underlying

this debate, though, have not yet been tested through empirical research (Curtin & Meijer, 2006). Does transparency make the European Union more democratic *in practice*, and if so, by what mechanisms? Empirical research is crucial since all of the above commentators expect transparency to be a cure to the European Union's legitimacy problems. Nevertheless, several critics of transparency have argued that, in principle, it may result in decreasing legitimacy and effectiveness. It may even make decision-makers act less sincere (Stasavage 2004, Prat 2005, Fox 2007), and there is no reason why this would be any different with respect to the European Union. A solid understanding of these relations could lead to an optimum point, and therefore provide a basis for political and administrative decisions about enhancing the openness of the European Commission.

This research project tackles the questions about the nature and effects of open government and aims to contribute to our understanding of the extent, form, causes and consequences of the changes in openness in the European Union. This project proposal presents the results of a preliminary exploration of the core concepts of this study and highlights the questions that form the backbone of this research project. The choice of the Commission, the 'core' executive of the EU as an initial case study for this project is discussed, and the proposal ends by highlighting the research approach.

2. Arguments for Open Government

The above introduction shows that pleas for openness are powerful in the discourse about the European Union. Those pleas, however, generally do not make clear what is meant by these terms. But from this debate and other debates concerning openness, several arguments can be distilled as to why openness is important. We distinguish between four different lines of argument.

1. Openness as a fundamental (human) right

The argument that openness must be considered as a fundamental human right is one that has been made in various contexts, including that of the EU. The argument is that citizens have a basic right to know about the actions of its government. This concerns several things that we now take for granted, but which have only become self-evident over a long process of historical development. For example, the premise that every citizen is obliged to know the law, which also implies that all citizens must have access to legal texts and that laws need to be published before they can be enacted. It also concerns public access to meetings of decision-makers, such as the local council and Parliament (and the media, obviously, also play a central role in this). Freedom of information (FOI) also fits here: the government, acting for the people, must be prepared to disclose all its information to the polity, to whom its decisions apply (Habers, 2006). Obviously, there are plenty of meetings and documents to which the public has no access, and according to this view on openness as a fundamental right these meetings and documents should be accessible. However, FOI does not necessarily imply ‘access to all information without restraint’ but could be interpreted as ‘controlled access under independent oversight’ (Birkinshaw, 2006, p.47). If openness and FOI are considered fundamental rights it cannot be ignored how these touch other rights such as rights of privacy, confidentiality, privilege, and immunity to protect public welfare and safety or individual privacy (Birkinshaw, 2006).

Thus, it can be argued that openness, or in this case, freedom of information, is a fundamental right, human right or a right of citizenship because it instrumentalizes other rights such as freedom of speech and is directly concerned with legitimacy, accountability, and democracy, maintaining all the while that it be balanced against other rights as mentioned above.

2. Openness can increase trust

The second view on the merits of openness does not maintain that openness is an end in itself, but rather a means to an end in that it contributes to legitimacy via other factors. It has been argued many times that transparency makes people trust government (Majone, 2000). In particular, organizations or institutions sharing and providing substantial information encouraging the citizenry to make informed choices and decisions, providing reports that hold them accountable and thus opening themselves up to public scrutiny, are more likely to be trusted by the people (Rawlins, 2008). However, there are also critics who maintain that more information can lead to less understanding, and thus more information leading to a decrease in trust (Strathern, 2000), actually adding to uncertainty rather than to trust (O'Neill, 2002, in Heald, 2006: 62). Nevertheless O'Neill calls for patience as we observe an increase of mistrust when demands for transparency have been heightened, arguing that transparency is indeed the 'proper remedy' to ensure growing trust but that it has simply not been pursued long enough and/or not rigorously enough (O'Neill, 2006: 77). Similarly, transparency may induce decision-makers to posture during negotiations because their constituency expects them to behave in a particular way, which makes their behaviour less trustworthy when they have to strike a deal in the end (Stasavage 2004, Fox 2007). Therefore, there are strong arguments why an increase in transparency will also increase trust, but for that transparency needs to be optimized and not necessarily maximized (Curtin & Meijer, 2006).

3. Openness can foster accountability

The third merit of openness is that it fosters accountability. Accountability is one of the core components of liberal democracy: it functions both as a mechanism to make decision-makers comply with the preferences of those who have delegated power to them, as well as it ensures that decision-makers do not exceed their competences (Bovens, 2007).

The availability of information on the conduct of decision-makers is an important precondition for accountability. In order for an accountability forum to evaluate the performance of an actor, information on conduct needs to be available (Bovens 2007; Drew & Nyerges 2004). However, the availability of more information does not necessarily make government more accountable in itself (Meijer, Grimmelikhuijsen & Brandsma, 2009). For that, other factors matter as well, such as the institutional capacities of the accountability forum. Further, in order to set the wheels of accountability in motion, the available information needs to be picked up by an interested party. Openness therefore can contribute to accountability, but it is not sufficient in itself.

4. Openness can increase government effectiveness

The idea behind this final approach is that public officials will do a better job when their work can be scrutinized by the public. Active citizens or interest groups can get involved with a developing policy and contribute their private expertise to the decision-making process. By doing so in an early stage of the policy process, different viewpoints can be accommodated early which may speed up the decision-making process. Further, as on a file public servants come and go through the years, the public availability of clear and understandable information that explains the rationale of a certain policy choice can greatly benefit the consistency of future decision-making (Drew & Nyerges 2004).

But there are also important limitations to transparency. For security matters, openness undermines effectiveness because villains will have access to the same documents as well-intentioned citizens. Further, transparency will induce decision-makers to defend their positions more strongly than when they meet behind closed doors. It will be harder to come to an agreement – if a deal can be struck at all – and the supporters of the negotiators may even be worse off (Stasavage, 2004; Prat, 2005; Fox, 2007). Therefore, openness generally increases policy effectiveness, up to an optimal point.

The above four approaches show that different merits of openness have been highlighted. These lines of argument form an interesting starting point for our empirical research. The

assumptions behind these arguments can be investigated to analyze whether they hold true. The first line of argument is different: openness is argued to be a fundamental (human) right. There are no assumption regarding effects of openness in this line of argument and, therefore, this line of argument will not be investigated empirically.

In the approaches that we have discussed, openness is presented in a general fuzzy manner. A general approach may not be a problem for normative debates but cannot provide the basis for empirical research. We now need to focus a bit further on the nature of openness.

3. A Preliminary Conceptualization of Open Government

Even though openness is generally not defined by those who hail it as a solution to the European Union's legitimacy problems, it follows from the above that openness has two constitutive elements: *access to information* and *access to decision-makers*. These two element are often discussed in separate terms and constitute different academic and administrative discourses.

Access to information is generally discussed in terms of access to information, information processing and accountability. *Information processing* is the central concept in this discourse. The publications here tend to focus on rights to access documents, nature of freedom of information clauses and opportunities for access to documents (Hood & Heald, 2006; Moser, 2001). This discourse stresses the importance of new technologies in making information available to citizens and stakeholders. Typically, political scientists have shown little interest in this type of openness.

In contrast, access to decision-making has been one of the key interests of political scientists (Beyers, 2004; Van Schendelen, 2005). This discourse on openness is directly related to *lobbying*. Access is defined as one of the strategies that can be used by lobby groups to influence EU decision-making (Beyers, 2004; Van Schendelen, 2005). If

stakeholders manage to obtain access to decision-makers they can make an effort to influence their decisions. In this case, legal scientists seem to have little interest in this type of openness.

The terms ‘openness’, ‘transparency’ and ‘access’ therefore cannot be used interchangeably. Current political and scientific debates often focus on secrecy and transparency, either defined as access to documents (Moser 2001; Brandsma, Curtin & Meijer, 2008) or as the availability of information on conduct in a more general sense (Waterman & Meier, 1998; Héritier, 2003; Strøm, 2006). But ‘openness’ as used in normative political theory has a much broader meaning: it includes both access to information as well as participation to the political processes. It takes various forms: minutes of meetings of popular representatives are published and people can be present at the meetings; laws and legal regulations are published so that all people know what the law is; government documents are published or available on request through freedom of information acts. All together, these measures open up arenas of government decision-making to formal controllers but also to participation of civil society organizations, the media and the people at large.

Openness is generally seen as one of the sources of democratic legitimacy. It works as a circular process, in which decision-makers communicate towards the citizenry, and the citizenry is able to voice its opinion. This means that information about the policy process must be available, and that the recipients of this information are enabled to get a better understanding of certain policies and to engage in debates with the decision-makers. These, then, can be taken into account by the decision-makers (Dahl 1989, Benz and Papadopoulos 2006). Legitimacy, thus, is positively affected by this circular process: the more information is made available, the more the citizenry can interact with the decision-makers. It broadens the decision-making process from the decision-makers and a selective number of groups which have been invited by them to work on a policy together, to a much wider audience. The assumption underlying this reasoning is that when information is made available, this has an effect on the influence of the recipients of the information. They will attempt to get more access to the decision-makers in order

to respond to the information that has been made transparent to them. Use of information by stakeholders and responses to the administrative system may influence both the legitimacy and the effectiveness of a political system.

In the past two decades, the traditional term ‘open government’ has been replaced by the modern term ‘transparency’, even though this only refers to a subset of openness. This shift in terms can be understood as a change in discourse that fits the information age. Whereas ‘open government’ is directly linked to normative political debates about the nature of democratic government, ‘transparency’ is an element in the more pragmatic discourse about ‘good governance’. This change in terminology does not reflect a radical change but should be understood as a new way to reinvigorate an old claim, the claim that democratic government should be open. It also contains a shift in focus: openness in terms of open parliamentary meetings and regulation has been assured before. Access to documents is the prime political battleground. It is important to recognize that technology has played a key role in the increase in openness. Technology has enabled a ‘quantum leap’ in openness by drastically reducing costs and by facilitating new forms of transparency (24/7, worldwide) (Florini, 1998; Meijer, 2009). Laws and regulation are now directly available to everybody through the Internet, agendas of meetings are listed on European Commission websites and many documents are easily accessible through web portals.

The general use of the term ‘open government’ in policy rhetoric and in scientific arguments fits the normative nature of this debate. Openness is said to lead to three different desiderata, but the validity of these arguments needs further empirical underpinning. By what mechanisms does openness lead to a more efficient, more accountable, more democratic European Union? And, does it, actually? In this research project, we aim to substantiate this discourse with empirical information.

We propose the following questions as a starting point for an empirical analysis of open government (see also Brandsma, Curtin & Meijer, 2008; Meijer, Grimmelikhuijsen & Brandsma, 2009):

1. *Which aspects of government are opened up?* A simple process model may help to understand which aspects of government are opened up. Opening up the input side refers to agendas of public meetings and access to these meetings where decision-making takes place. The throughput side refers to the way decisions are made and implemented. Output and outcome transparency refer to the eventual effects of certain policy measures. In short, this question addresses which information is made available and which political or policy processes are made accessible.
2. *Who renders government more open?* On the one hand, there is a long-term trend that government makes itself more open. Ever more documents have been published in libraries or online, and ever more documents can be requested. But often, government is rendered more open by other actors. Parliaments and the European Court of Audit play an important role in opening up certain elements of the European Commission. NGOs, lobby groups and the media may also play an important role by bringing certain information out in the open.
3. *To whom has government become more open?* Granting access does not necessarily mean that all are treated equally. Government may be opened up to formal institutional controllers (e.g. the European Ombudsman), a specific set of actors (e.g. corporate lobbyists) but also to the public at large. Additionally, conceptual barriers such as administrative language may limit the openness to groups that master the administrative discourse.
4. *How is government opened up?* The ‘how’ question firstly refers to the participation into decision-making processes and the access to information. Secondly, one can distinguish the media that are used to make the European Commission more open. Thirdly, this question refers to the accessibility of certain information. Information may be available on a website but that does not necessarily mean that people will be able to find this information. The question then is also whether information that is provided but difficult to find also classifies an increase of transparency or not.

Many publications emphasize that openness only takes place when actors actually use the opportunities to read regulations, to be present at meetings and to access documents. We would like to emphasize that we do not consider use of the opportunities to be an element of openness itself. Openness itself takes place even if nobody makes use of it. We find this distinction important because it enables us to differentiate between government initiatives directed at enhancing openness and reactions from other actors in terms of use: the use of opportunities is a *mechanism* by which openness can have one of the effects that were mentioned above (Naurin 2007). This distinction is important since previous research has shown that increases in access to information may influence the behavior of administrative actors even if no one uses this information (Meijer, 2004).

The distinction between transparency and use is also important to be able to understand differences in perceptions of transparency between government and other actors. Government officials may reason that putting many documents on the Internet enhances transparency since more information is available whereas stakeholders may come to conclusion that much information is irrelevant or of poor quality and enhancing the quantity (but not the quality) of information may actually result in more difficult access to relevant information. The ‘provider logic’ of the supplier of information is different from the ‘user logic’ of processing information of the recipient of it (Naurin, 2007; Brandsma, 2010), and hence we reserve the term transparency for the supply side of this relationship.

This discussion has provided us with a conceptualization of ‘open government’ in general. We will now turn to the European Union specifically to indicate how we aim to investigate the relation between the openness of the European Commission and the effects that it is supposed to bring, and to assess its overall implications for the democratic legitimacy of the European Union.

4. Open government in the European Commission

Increasing openness, and promoting legitimacy by means of it, has been high on the political agenda of the European institutions. Even though the openness of all European institutions is said to have increased over the past decades, the biggest leap forward has been made by the Commission. This is why we concentrate our empirical efforts to this institution as a most likely case.

Since the 1990s, several efforts were made to increase the transparency of the Commission (Lodge, 1994; Peterson, 1995; Hix, 1998). These efforts, however, only concerned the relationship from the Commission towards an, often untargeted, set of recipients. For instance, in 2001 a regulation was adopted on access to information which specified which documents members of the public can request (Council and European Parliament Regulation 1049/2001/EC). The Commission also set up an online register of comitology documents, which meant to inform the citizenry about the activities of this set of implementation committees and a register of Commission Documents (Düro, 2009). For some longer time, the legislative database Eur-Lex and the database of preparatory documents Pre-Lex have been available (Düro, 2009). The Commission also professionalized its policies as to relations with the mass media (European Commission 2002).

Research into the Commission's transparency and its effects generally investigates the messages that the Commission broadcasts, but it does not relate to the mechanisms by which it produces effects in terms of furthering participation, accountability, trust and effectiveness. For example, Grønbech-Jensen (1998) found that alongside the gradually expanding transparency, the Commission also drew up new procedures for consultation with interest groups, and a list of groups having ties with the Commission. Brandsma, Curtin and Meijer (2008) showed that most of the documents that are available on comitology through the public comitology register are little informative, which affects the ability of interested parties to scrutinize comitology decision-making and the degree to which the European Parliament is able to control comitology. But the degree to which the

available information is actually used in practice is not clear from this study. The same is true for the behaviour of lobbyists. In an experimental setting, Naurin (2007) demonstrated that increasing transparency does not make lobbyists use other arguments than they would otherwise do. To what extent lobbyists decide to contact the Commission in the first place as a result of information that has been made public, however, has not been investigated.

The basic premise in our empirical research is that the extent, form, causes and consequences of the increase in the transparency of the European Commission should be studied taking account of its institutional context. The interrelations between actors in and connected to the European Commission need to be taken into consideration. The figure below gives an overview of this system:

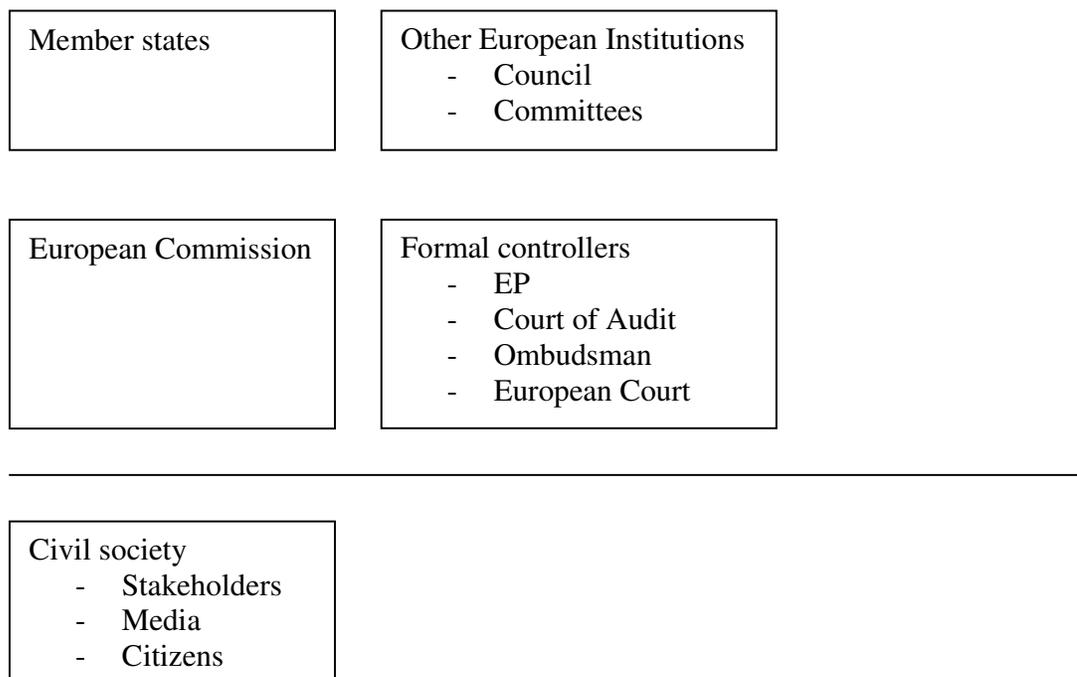


Figure 1. European Commission in context

Increases in openness can have an influence on all the actors and relations in this system. Within the European Commission, for example, directorates-general can more easily

obtain information about each others' activities. This information can influence their strategies and form a stimulus to focus upon general interests (Peterson, 1995). But also, formal institutions can obtain information about the European Commission and use this information to control the European Commission and prevent abuse of power and ineffective governance. Civil society organizations can use openness strategically to influence decision-making in the European Commission at various stages. Decision-making arenas can be influenced by contacts with these civil society organizations. The mass media can use transparency to broadcast more information about the European Commission, and thereby affect popular support. Member states may be more susceptible to influence from stakeholder groups when these groups have been able to obtain information about and access to EC decision-making processes. Other European institutions may be able to exert a larger influence on decision-making in the European Commission when they have more information about these processes as well. The goal of our empirical research is to measure and analyze these changes to enhance our understanding of the system-level changes in the European Union that are triggered by an increase in openness.

There are several institutional actors that have a formal role in controlling the Commission, e.g. the European Parliament, the Ombudsman and the Courts. But as many students of political control have noted, often these institutional controllers do not make systematic use of the information that is sent to them directly, but rather they rely on the information that concerned parties send to them (McCubbins & Schwartz, 1984). Therefore, the relationship between decision-makers and the citizenry as mentioned before can indeed include reciprocal relations between the Commission and the citizenry, but it can also refer to the citizenry as an actor between the Commission, from which it receives information, and formal controllers, to which the feedback is directed. Openness, thus, can lead to accountability in two ways: either directly to an accountability forum or indirectly via an interested party. Several students of European governance have found that this indirect form of accountability is indeed dominant with respect to the accountability of the European Commission (Pollack, 2003; Kassim & Menon, 2003),

which makes public availability of information essential to the functioning of the system (Brandsma, Curtin & Meijer, 2008).

The relation between openness and effectiveness of the European Commission is more instrumental in nature. The basic idea is that public officials will work better when citizens, the media and stakeholders can scrutinize their work, and policies can be enforced more effectively (Tallberg, 2002). This argument has been criticized for various reasons. One criticism is that public officials may become risk averse: they will not be willing to take politically risky actions even if this would be in the best interests of their constituents (Fox, 2007). Another criticism is that these forms of transparency may lead to goal displacement: public officials may only work on the goals that are made transparent to the public (Stasavage, 2004).

This overview shows that proponents, inside and outside the European Commission, have many assumptions about increases in openness taking place, increases in use of government information and opportunities to access meetings and resulting positive effects on legitimacy and effectiveness. The critics, on the other hand, question these assumptions on theoretical grounds but not on an investigation of facts. That is where our research project comes in: we would like to take the debate about the Open European Commission from a normative level to an empirical level. Is the European Commission actually opening up? Who is interested? What are the effects on the trust in the European Union and its accountability and effectiveness?

5. Research questions

This research program consists of a set of interrelated research questions about transparency and, in the first instance, the European Commission. The research questions build up from description to explanation to evaluation to appreciation and end with a question about prescription. This ambitious set of questions will form the general

framework for the project “Open Government in the European Commission”. Specific research projects will focus on one or two of these questions.

Description. The first research question focuses on measuring the changes in the level of openness over the past years. It is widely claimed that the European Commission has become more open. This claim is tested and explored.

1. Has there been an increase in openness in the European Commission?
 - a. What types of information from the European Commission are more widely available?
 - b. In which formats is this information available?
 - c. To whom is this information available?
 - d. Who makes this information available?
 - e. Whose access to which decision-making processes have increased, and in what way?

Explanation. The second research question investigates the causes of the increase in openness. Various probable causes such as technological developments, external pressure, internal changes, etc. are investigated.

2. How can the increase in openness in the European Commission be explained?
 - a. Which factors account for the increase in openness?
 - b. What are the dominant mechanisms that explain the increase in openness?

Use. The third research question focuses our attention on the use of transparency by various actors.

3. How is transparency used by various actors in and around the European Commission?
 - a. To what extent do formal controllers use access to documents, and do they seek access to the European Commission as a result of this?

- b. To what extent do stakeholders use access to documents, and do they seek access to the European Commission as a result of this?
- c. To what extent do individual citizens use access to documents, and do they seek access to the European Commission as a result of this?

Evaluation. The fourth research question shifts the attention to the effects of the increase in openness. The consequences for the European Commission in terms of democratic checks and balances are measured.

- 4. What are the effects of the increase in openness?
 - a. How does the increase in openness influence the behavior of civil society organizations?
 - b. Do formal institutional actors change their behavior because of the changes in openness?
 - c. How do the changes in openness affect the behavior of the European Commission?
 - d. Does increasing openness affect trust, accountability or effectiveness?

Appreciation. The fifth research question focuses on the normative appreciation of the consequences. On the basis of a normative framework the consequences will be evaluated in terms of changes in democratic checks and balances.

- 5. How can we value the changes that result from the increase in openness?
 - a. How can the changes be evaluated in terms of checks and balances?
 - b. Do the changes have an effect on democratic control?

Prescription. The sixth and final research question is prescriptive in nature and focuses on specific ways to make the European Commission more open. Improvements may take the form of changes in the legal framework but could also take place through changing administrative practices.

6. How can openness contribute to good governance in the European Union?
 - a. Is there a need for changing the legal framework for transparency?
 - b. How can administrative practices further contribute to good governance in the European Union?

6. Setting out a research program

A coherent research program is needed to provide answers to these research questions. This research program can be characterized along the following lines:

- *Multidisciplinary research.* The research will integrate perspectives from political science, public administration and law. Some research projects will focus on one disciplinary approach but even these projects will be confronted with ideas from other disciplines.
- *Mixed methods.* The research will consist of a combination of qualitative and quantitative research. We strive for a combination of specific description of situations and more quantitative information about general changes. We feel that this combination is needed to understand the system level changes, while at the same time also understanding the practical workings of the mechanisms that underlie these changes.

Important steps need to be taken for this research:

- *Operationalizing openness.* We need to develop a scientific instrument to measure increases in openness. Instruments have been developed to measure website transparency and policy transparency (Welch & Wong, YEAR; Drew & Nyerges, 2004) and to measure access of civil society groups to the European Commission (Beyers, 2004), but we are not aware of instruments to measure openness. This means that we will need to develop an instrument. This instrument will focus on access to information and participation to the decision-making processes. The

general questions that we presented in our conceptual framework will provide a starting point for developing this instrument.

- *Operationalizing the effects of openness.* We will also need to develop an instrument to measure changes in trust, accountability and effectiveness. This will be an instrument that is attuned to the specific goals of the project. We do not attempt to present a general measurement of these core concepts; we are more interested in what openness brings about.
- *Drafting explicit expectations.* This project outline presents a loose list of expectations concerning the increase in openness, the use of information and the effects on effectiveness and legitimacy. We need to explicate this further as a starting point for our empirical work.

The research project will consist in the first instance of two interconnected projects:

- *Open European Commission and civil society.* This PhD project carried out by Bettina Leufgen will focus on the relation between the European Commission and civil society actors.
- *Open European Commission and formal institutional actors.* This postdoc project will be carried out by Gijs Jan Brandsma and focus on the relation between the European Commission and formal institutional actors such as Parliament, the European Court of Audit and the European Council.

Deirdre Curtin and Albert Meijer will be supervising these projects. The overall project will run from October 2009 till October 2013 and will hopefully result in a book about Open Government in the EU which will consist of a number of case studies across the spectrum of the EU, including the European Commission, but also a conceptual analysis of the manner in which open government can be framed.

Literature

Addink, H. (2005). Principles of Good Governance, Lessons from Administrative Law. In: Deirdre M. Curtin and Ramses Wessel (eds.), *Good Governance and the European Union. Reflections on concepts, institutions and substance*, Intersentia: Antwerp – Oxford – New York, pp. 21 – 48

Benz, A. and Papadopoulos, Y. (2006), 'Introduction. Governance and democracy: concepts and key issues', in: A. Benz and Y Papadopoulos (eds.), *Governance and Democracy: Comparing national, European and international experiences*, London: Routledge, pp. 1-26.

Beyers, J. (2004), 'Voice and Access: Political Practices of European Interest Associations', in: *European Union Politics*, Vol. 5: 2, pp. 211-240.

Birkinshaw, P. (2006), 'Transparency as a Human Right' in: Hood, C. and Heald, D. (eds) *Transparency: The Key to Better Governance?* Oxford: Oxford University Press, pp.48-57.

Bovens, M.A.P. (2007), 'Analysing and Assessing Accountability: A Conceptual Framework', in: *European Law Journal*, Vol. 13: 4, pp. 447-468.

Brandsma, G.J., Curtin, D.M. and Meijer, A.J. (2008), 'How transparent are EU 'Comitology' committees in practice?', in: *European Law Journal*, Vol. 14: 6, pp. 819-838.

Brandsma, G.J. (2010), *Backstage Europe: comitology, accountability and democracy in the European Union*, Utrecht University: PhD Thesis.

Corbett, R., Jacobs, F. and Shackleton, M. (2000). *The European Parliament*, 4th edition. London: John Harper.

Curtin, D.M. and Meijer, A.J. (2006), 'Does transparency strengthen legitimacy?', in: *Information Polity*, Vol. 11: 2, pp. 109-122.

Dahl, R.A. (1989), *Democracy and its critics*, New Haven, CT: Yale University Press.

Drew, C.H. and Nyerges, T.L. (2004), 'Transparency of environmental decision making: a case study of soil cleanup inside the Hanford 100 area', in: *Journal of Risk Research*, Vol. 7: 1, pp. 33-71.

Düro, M. (2009), *Crosswalking Eur-Lex: a proposal for a metadata mapping to improve access to EU documents*, Luxembourg: Office for Official Publications of the European Communities.

Eriksen, E.O. and Fossum, J.E. (2002), "Democracy through Strong Publics in the European Union", in: *Journal of Common Market Studies*, Vol. 40: 3, pp. 401-424.

European Commission (2002), *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on an information and communication strategy for the European Union*, COM (2002) 350 final/2, Brussels, Oct. 2 2002.

Florini, A. (1998), 'The end of secrecy', in: *Foreign Policy*, Vol. 111: 50-63.

Fox, J. (2007), 'Government transparency and policymaking', in: *Public Choice*, Vol. 131, pp. 23-44.

Grønbech-Jensen, C. (1998), 'The Scandinavian tradition of open government and the European Union: problems of compatibility?', in: *Journal of European Public Policy*, Vol. 5: 1, pp. 185-199.

Habers, M. (2006). *Publiek belang, publiek behandeld. Openbaarheid van bestuur in Nederland vanaf 1750*. Masterscriptie, Universiteit Utrecht.

Heald, D. (2006), 'Transparency as an Instrumental Value', in: Hood, C. and Heald, D. (eds) *Transparency: The Key to Better Governance?* Oxford: Oxford University Press, pp.60-73.

Héritier, A. (2003), 'Composite democracy in Europe: the role of transparency and access to information', in: *Journal of European Public Policy*, Vol. 10: 5, pp. 814-833.

Hix, S. (1998), 'The study of the European Union II: the 'new governance' agenda and its rival', in: *Journal of European Public Policy*, Vol. 5: 1, pp. 38-65.

Hood, C. and Heald, D. (2006). *Transparency: The Key to Better Governance?* Oxford: Oxford University Press.

Kassim, H. and Ménon, A. (2003), "The principal-agent approach and the study of the European Union: promise unfulfilled?", in: *Journal of European Public Policy*, Vol. 10: 1, pp. 121-139.

Lodge, J. (1994), 'Transparency and democratic legitimacy', *Journal of Common Market Studies*, Vol. 32: 3, pp. 343-368.

McCubbins, M. and Schwartz, T. (1984), 'Congressional oversight overlooked: police patrols versus fire alarms', in: *American Journal of Political Science*, vol. 28: 1, pp. 165-179.

Majone, G. (2000), 'The credibility crisis of Community regulation', in: *Journal of Common Market Studies*, Vol. 38: 2, pp. 273-302.

Meijer, A. (2004). *Vreemde ogen dwingen. Maatschappelijke controle in het informatietijdperk*. Den Haag: Boom Juridische Uitgevers.

Meijer, A.J., Grimmelikhuijsen, S. and Brandsma, G.J. (2009), 'Transparantie: verbreedt en versterkt openbaarmaking de publieke verantwoording?', in: M.A.P. Bovens and T. Schillemans (eds.), *Handboek Publieke Verantwoording*, Utrecht: Lemma, pp. 205-228.

Meijer, A. (2009). Understanding modern transparency, *International Review of the Administrative Sciences*, Vol. 75, No. 2, pp. 255 – 269.

Michels, A. (2008) Debating Democracy: The Dutch Case. *Acta Politica*, Vol. 43, No. 4., pp. 472-492.

Moser, C. (2001), 'How open is "open as possible"? Three different approaches to transparency and openness in regulating access to EU documents', Working Paper, Institute for Advanced Studies, Vienna.

Naurin, D. (2007), *Deliberation Behind Closed Doors: Transparency and Lobbying in the European Union*, Colchester: ECPR Press.

O'Neill, O. (2002), *A question of Trust*, The BBC Reith Lectures, 2002. Cambridge: Cambridge University Press.

Peterson, J. (1995), 'Playing the transparency game: consultation and policy-making in the European Commission', in: *Public Administration*, Vol. 73: 3, pp. 473-492.

Pollack, M. (2003), *The engines of European integration: delegation, agency, and agenda setting in the EU*, Oxford: Oxford University Press.

Prat, A. (2005), 'The wrong kind of transparency', in: *The American Economic Review*, Vol. 95: 3, pp. 862-877.

Rawlins, B. (2008), 'Measuring the relationship between organizational transparency and employee trust', *Public Relations Journal*, Vol. 2: 2, pp.1-21.

Schendelen, M.P.C.M. (2005). *Machiavelli in Brussels: the art of lobbying the EU*. Amsterdam: Amsterdam University Press.

Seifert, J.W. and H.C. Releya (eds)(2004), Symposium on Federal Information Practices in the Dawning Homeland Security Era, *Government Information Quarterly*, 21: 4, pp.399-504.

Stasavage, D. (2004), 'Open-door or closed-door? Transparency in domestic and international bargaining', in: *International Organization*, Vol. 58: 4, pp. 667-703.

Strathern (2000), 'The Tyranny of Transparency', *British Educational Research Journal*, Vol. 26, pp/309-321.

Strøm, K. (2006), "Parliamentary democracy and delegation", in: K. Strøm, W. Müller and T. Bergman (eds.), *Delegation and Accountability in Parliamentary Democracies*, Oxford: Oxford University Press, pp. 55-106.

Tallberg, J. (2002), 'Paths to Compliance: Enforcement, Management, and the European Union', in: *International Organization*, Vol. 56: 3, pp. 609-643.

Waterman, R. and Meier, K. (1998), "Principal-Agent models: an expansion?", *Journal of Public Administration Research and Theory*, vol. 8:2, pp. 173-202.