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A new generation of European Citizens' Panels – Making citizens' voices a regular part of policymaking

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DISCLAIMER

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Executive summary

As a first concrete follow-up to the Conference on the Future of Europe (CoFoE), beginning as of next year, the European Commission plans to make European Citizens' Panels (ECPs) a regular form of consultation ahead of key legislative proposals. Von der Leyen's initiative to involve citizens in policy development is a substantial and positive innovation for EU law making and democracy. It not only answers citizens' calls expressed in the CoFoE exercise. The measure will also give a boost to EU democracy and has the potential to mitigate shortcomings in the existing institutional consultation process. Yet, to make a difference, these Panels should be integrated into the current policymaking cycle by becoming part of the Commission's better regulation toolbox. This paper makes concrete recommendations on how this could be done by answering these three questions:

- ▶ When in the process and to what end? First, to make a difference, the Panels need to take place **as early as possible in the development of a policy**. Second, they must be consulted in a way that keeps the process as streamlined and effective as possible. The ideal way to reach these goals is to establish the ECPs as an additional consultation tool that the Commission can activate in addition to the public consultation carried out. The Panels would become an integral part of the institution's stakeholder consultation toolbox.

- ▶ When is a proposal 'key'? First, the proposal must be a **flagship proposal** that is essential for one of the central priorities anchored in the Commission's political guidelines. Second, as the Panel is supposed to complement the existing public consultation procedure, the proposal must be a legislative initiative with an Impact Assessment – thus also involving a public consultation – **in which citizens are a key stakeholder group, primarily and directly affected by the policy**.
- ▶ What is the follow-up? Citizens' recommendations should **directly feed into the Commission's Impact Assessment** of the respective measure and be annexed to it so that the co-legislators can take citizens' recommendations into account at a later stage.

If lawmakers follow these, the new generation of ECPs could improve the quality of legislative proposals from the Commission. Conversely, they risk becoming a fig leaf exercise, without any impact on the legislative initiative they accompany. In this context, the Commission should use the upcoming ECP on food waste as a pilot Panel, a steppingstone towards embedding ECPs fully in the EU's decision-making.

1. After the Conference on the Future of Europe

Between 9 May 2021 and 9 May 2022, the Conference on the Future of Europe (CoFoE) involved thousands of citizens from across the European Union (EU) in an unprecedented democratic exercise. Central to it were four European Citizens' Panels (ECPs) in which 800 randomly selected citizens from all member states debated one topic cluster each¹ to develop concrete policy recommendations. These ECPs took place over three weekend sessions, in which participants talked to each other with the aid of simultaneous interpretation. A Conference Plenary² later transformed the Panels' recommendations into proposals. Already in the Joint Declaration, the inter-institutional agreement that launched the Conference, all European institutions had committed to implementing citizens' proposals after its end.³

The CoFoE resulted in 49 proposals and more than 300 associated measures. One of these was a call for more frequent opportunities for citizens to contribute to EU policymaking.⁴ As a direct answer to these calls, the Commission President vowed in her latest State of the Union address to make European Citizens' Panels a "regular feature of our democratic life"⁵ by using them to consult with citizens on key legislative proposals. She also indicated that the first of this new generation of ECPs would take place at the beginning of 2023 to inform initiatives on food waste, learning mobility and virtual worlds.⁶

A key principle should be to keep the process as slim and concise as possible, in line with the Commission's effort to streamline the law-making cycle.

But for the new generation of Citizens' Panels to work, they need to be fully embedded into the existing policymaking frameworks of the European institutions – and finetuned with the current methods of consultation laid out in the Commission's Better Regulation Guidelines. A key principle should be to keep the process as slim and concise as possible, in line with the Commission's effort to streamline the law-making cycle. For this purpose, public consultations and ECPS should go hand in hand – otherwise, the Panels will amount to parallel structures that complicate and extend the legislative process instead of making it more inclusive and efficient. But how can this new consultative process that includes Citizens' Panels look like? And why is it necessary in the first place?

2. Existing consultation procedures: Where do von der Leyen's Panels fit?

THE EXISTING FRAMEWORK FOR CONSULTATIONS

Already today, the EU has an elaborate participatory toolkit,⁷ which includes, for example, the elections to the European Parliament, Citizens' Dialogues and the European Citizens' Initiative. Moreover, in the preparation of legislative initiatives, the Commission holds public consultations with the aim of giving stakeholders – including citizens – the chance to have their say on a given topic.

Anchored in the Commission's Better Regulation Guidelines, public consultations take place ahead of any legislative proposal that involves an Impact Assessment (IA) or for any evaluation of initiatives that contain an IA.⁸ Targets are all individuals and interests groups "whom it will affect, who will have to implement it and who has a stated interest in the policy".⁹ This makes any interested citizen a potential stakeholder that should be consulted. The feedback of these groups is collected over a period of at least 12 weeks via a questionnaire on

the Commission's *Have Your Say* portal.¹⁰ In this way, the results of the public consultations feed directly into the IA and thus affect the final policy choices the Commission takes in its initiative.

WHY DO WE NEED ADDITIONAL FORMATS OF CONSULTATION?

So, if the EU already has a tool which can consult the general public during the law-making process, why is it necessary to add new instruments, such as ECPs?

► *Boosting EU democracy*

The Conference on the Future of Europe has shown that citizens want to contribute directly to policies. Testament to this desire are not just the dedicated proposal in the final CoFoE report, but the countless speeches of citizens during the Conference Plenary and interviews at the fringes of the CoFoE events.¹¹ And also beyond the Conference, citizens demand to

be more directly involved in politics. For example, the 2021 Special Eurobarometer on the Future of Europe notes that 92% of citizens want their voices to be better taken into account by decision-makers on the European level.¹² The Panels aim to answer this demand.

Citizens demand to be more directly involved in politics. The Panels aim to answer this demand. Ultimately, they could help to increase trust in EU policymaking, reducing the widening gap between citizens and political elites.

Furthermore, the ECPs can provide law makers with new bottom-up perspectives that reflect the concerns and wishes of European citizens. By assembling a *microcosm of the general public*,¹³ the Panels can boost the representativeness of policymaking. In doing so, the Organization for European Cooperation and Development (OECD) argues, “they bring a wider diversity of perspectives into democratic decision-making.”¹⁴ The ECPs can therefore contribute to enhancing the “equality of access” (Art. 9 TEU) to the Union’s participation tools for any EU citizen.¹⁵ They can also improve visibility and transparency of EU law making and serve to put pressure on legislators to reflect citizens’ recommendations on key pieces of legislation. Ultimately, they could help to increase trust in EU policymaking, reducing the widening gap between citizens and political elites.

► *Adding to existing forms of consultations*

In a recent report, the OECD finds that the EU’s practices of public consultations are already among the best in the world.¹⁶ Still, the current formats have several shortcomings, which the Commission itself has acknowledged,¹⁷ but so far failed to sufficiently address. They relate to the tools’ lack of visibility and accessibility but also self-selection bias. The new Citizens’ Panels have the potential to mitigate these limitations.

Although the Commission has over time improved its outreach about these consultations, there is still a **lack of awareness** among citizens about the possibility to contribute to EU law making via public consultations, as well as about ongoing consultations that could interest citizens. The European Court of Auditors assesses “the visibility of the instrument as ‘very limited’ and geographically imbalanced and highlights the need for improved channels of communication”.¹⁸ As a result, countries such as Germany and Belgium are often largely overrepresented in consultations.¹⁹

Public consultations are accessible to everyone via the Commission’s *Have Your Say* portal. Still, the format suffers from a **lack of accessibility** to the general public. Many consultations “use excessively technical language or assume prior/expert knowledge”,²⁰ so the input of regular citizens in these cases ends up being very limited. The Commission has recently pledged to improve this issue by using less technical language,²¹ but it is still too early to say if these tweaks will have a lasting effect on accessibility.

These shortcomings result in a third major flaw of the existing system, i.e., a **self-selection bias**. Due to the public’s lack of awareness and access, the consultations mainly reaches “those [that] already have access to the political process, rather than those who are mostly affected” by it.²² This “leads to the monopolisation of the procedure by the profit sector” for which “time and resources are far more available ... than [to] the non-profit one, let alone individual citizens”.²³

So citizens are clearly disadvantaged in the current consultation process. A new form of consultation, which exclusively targets citizens, would be beneficial to give this underrepresented but key group of stakeholders a bigger say in EU legislation. In turn, the legitimacy and effectiveness of EU outputs would improve.

Furthermore, a recent study finds that participation (from all stakeholder groups) in the current form of public consultation is especially high when there is increased media or civil society attention to the topic.²⁴ Media and civil society attention around the Citizens’ Panels could therefore boost awareness about the online consultation process, which then would boost engagement – a win-win situation. But this requires both public consultations and Citizens’ Panels to be parts of the same process.

3. von der Leyen’s proposal: A new generation of Citizens’ Panels

In her letter of intent to the President of the European Parliament,²⁵ President von der Leyen called for the inclusion of “Citizens’ Panels in our policy-making toolbox so that they can make recommendations before certain key policy proposals, starting with the upcoming

work on food waste”. In the 2023 work programme, the Commission elaborated that in addition to the food waste directive, citizens will also be consulted on non-legislative initiatives on learning mobility and virtual worlds.²⁶ Randomly selected citizens from all 27 member

states – one-third of whom will be young people – will be invited at the beginning of 2023 to debate the new food waste directive. The methodology for the selection of participants and the Panel’s content will draw from the experience and lessons learned from the CoFoE’s European Citizens’ Panels – though adapted to a different political setting, with a much narrower topical focus.

This all sounds promising at first. However, things look less promising if you look closer at the planning for the initiative on food waste, which is currently the furthers along. A Citizens’ Panel on food waste at the beginning of next year would be entirely contradictory to the intra-institutional processes that are already underway.

The proposal for a directive on food waste reduction is one of the Commission’s flagship initiatives of 2023 in the context of its Farm to Fork Strategy.²⁷ The idea to give citizens a say on this issue that affects their lives is admirable. However, the timeline of the process is completely off. With the public consultation period for this issue having closed already on 24 August 2022, the work behind this initiative is already too advanced.²⁸ What value could a Citizens’ Panel in early 2023 add to this directive, long after the end of the public consultation and shortly before the Commission’s scheduled date for the adoption of the final proposal in the second quarter of 2023? The process is further complicated by the fact that the responsible unit in the Directorate-General for Health and Food Safety (DG SANTE) has only been involved very late in the plans to hold a Citizens’ Panel on the file they have been working on for months. The content of the directive has already progressed based on the feedback of the public consultations. Not a single input from citizens was even being thought of or prepared for.

This way of working in silos limits the room for citizens’ contributions even further.

The idea to give citizens a say on an issue that affects their lives is admirable. However, the timeline of the process is completely off.

For this new participatory element to have any impact, the Commission should better align these Panels in the future with the existing policymaking cycle. There is also the need to better coordinate internally with all actors involved, tearing down policy silos between the DG in the lead (in this case DG SANTE), the Secretariat General and the DG for Communication, who is spearheading the planning and methodology of the Panels.

In the current form, the process foreseen for the upcoming Panels runs against at least two of the Commission’s four general principles for consultations: the **effectiveness** of the activity, by failing to “consult[ing] at a time when stakeholder views can still make a difference”; and its **coherence**, by falling short of ensuring that all services are well aligned in running and analysing the consultation.²⁹ If effectiveness and coherence are lacking, the new generation of Citizens’ Panels risks becoming a fig leaf without much bearing on policy outcomes.

4. Recommendations for a functioning European Citizens’ Panel

How can a Citizens’ Panel be embedded into the existing structures in a way that doesn’t undermine the effectiveness and coherence of the consultation, but rather mitigates its’ existing shortcomings?

WHEN IN THE PROCESS AND TO WHAT END?

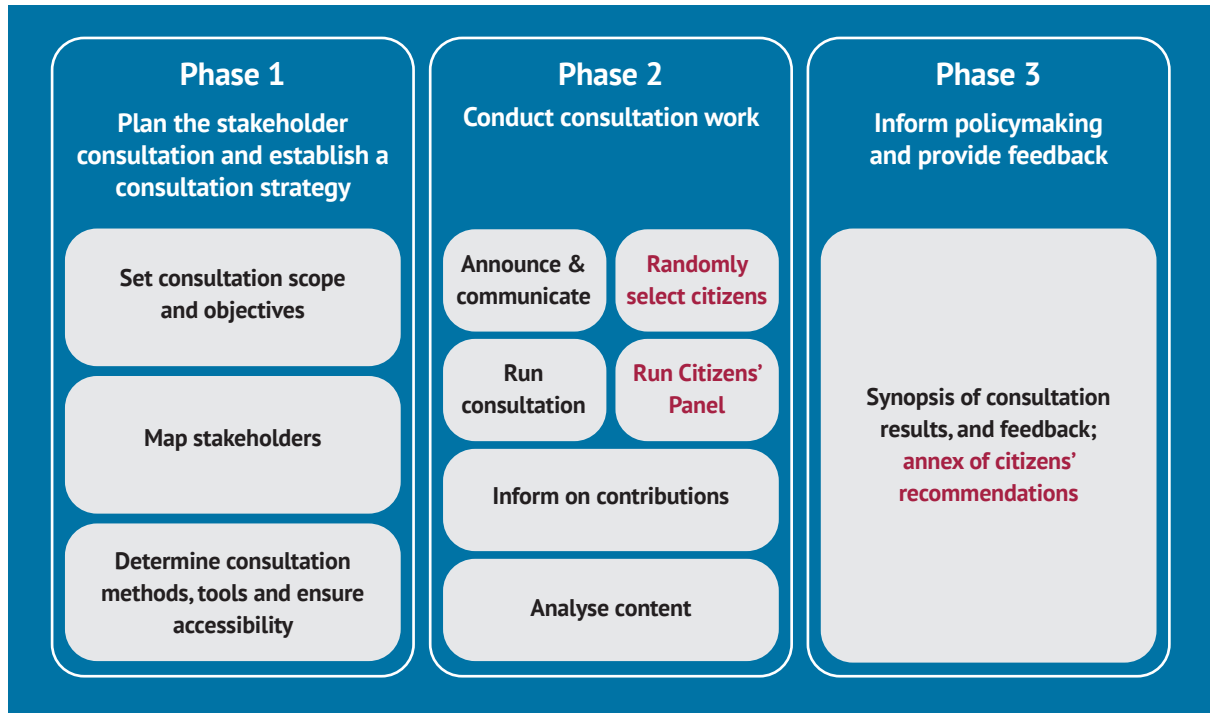
The Citizens’ Panels should be included in the law-making process by following two basic principles. First, **citizens must be consulted early on**, at a point where they can still impact the content of the legislation. Second, they must be **consulted in a way that keeps the process as streamlined and effective** as possible.³⁰ The ideal way to reach these goals is to establish the Citizens’ Panels as an additional consultation tool that the Commission can activate in addition to the public consultation carried out. The Citizens’ Panels would

become an integral part of the institution’s stakeholder consultation toolbox.

Citizens’ Panels would be held during the public consultation period of at least 12 weeks – whereas the exact timing of the sessions can remain flexible. In this way, the Panels can either take place mid-way through the general consulting period and discuss the key elements and issues of the proposal, or they can come in at the end to test certain preliminary findings of the public consultations or concrete questions that have arisen.

If the planning phase of a stakeholder consultation concludes that a Citizens’ Panel should be held (see “when is a proposal ‘key?’”), the Panel would be prepared and organised during the Commission’s consultation phase, during the public consultation

INTERACTING PHASES AND KEY STEPS OF THE CONSULTATION PROCESS –
ADAPTED TO THE NEW CITIZENS' PANEL



Source: European Commission (2021a), *op.cit.*, p. 17, adapted (red parts are added)

period. As shown in Figure 1 above, this would mean that the Panels could be held without further complicating the law-making process or creating structures that would extend the latter.

WHEN IS A PROPOSAL 'KEY'?

So far, the Commission has not indicated when a proposal would be considered 'key' for it to be supported by an ECP. But to establish the Panel as a formal part of the existing toolbox, the measure needs clear guidelines on when exactly it should be used. This begs the questions: (1) who makes the decision to hold Citizens' Panels and (2) which filters should inform this decision?

On the former: the decision should be made centrally by the Secretariat General of the Commission under the political guidance of the involved Commissioners – led by the Vice-President in charge of better regulation and the Commission's work programme, and in coordination with the President and the Commissioner who oversees the policy file. The involvement of all relevant political actors and the Secretariat General will ensure that the Panel will be involved in the policy planning from the start. Given the careful planning necessary to hold a Citizens' Panel, the measure should be announced already in the Commission's annual work programme.

The Citizens' Panels would mitigate the public consultation's lack of engagement with the general public and give citizens a direct opportunity to have their say on those proposals that immediately concern them.

On the latter question: due to the preparation and resources necessary to organise Citizens' Panels with participants from all member states, the Commission should only use this format selectively for very important legislative initiatives. In this way, the consultation with citizens will be targeted on the key legislative output, keeping the overall policy formulation process as slim as possible for non-essential files. Two criteria should apply. First, the proposal must be a flagship proposal that is essential for one of the central priorities anchored in the Commission's political guidelines. Second, as the Panel is supposed to complement the existing public consultation procedure, the proposal must be a legislative initiative with an IA

– thus also involving a public consultation – in which citizens are a key stakeholder group, primarily and directly affected by the policy. In this way, the Citizens’ Panels would mitigate the public consultation’s lack of engagement with the general public and give citizens a direct opportunity to have their say on those proposals that immediately concern them.

WHAT IS THE FOLLOW-UP?

Citizens’ recommendations should – alongside the results of the public consultations – directly feed into the Commission’s IA of the respective measure. Furthermore, they should be annexed to the IA so that the co-legislators can take citizens’ recommendations into account at a later stage.

Following these steps, the Citizens’ Panel could develop into a well-synced additional form of consultation that gives citizens a voice in those areas that affect them primarily. And it would reach that goal without extensively complicating or extending the law-making process over a longer time.

For the currently discussed proposal on food waste, this will not be possible anymore. A Citizens’ Panel in early 2023 will come too late to influence the IA of the directive. This means that citizens would be consulted but arguably without any real value for the legislative process. The easy way out of this dilemma would be to choose a different topic for the pilot Panel or to severely delay the adoption of the proposal. Both options seem unlikely at this

stage given the political announcement and the high profile of the topic. But is there an alternative?

A WAY OUT OF THE ‘FOOD WASTE DILEMMA’

After all, finding the right way to consult with citizens on legislative initiatives will require plenty of experimentation. From this perspective, the Citizens’ Panel on food waste could test the main/core elements of the nearly finished food waste proposal with citizens and give them the chance to clarify final, outstanding issues or options that are still undecided after the public consultations. Although the scope of the Panel would be limited in this context, citizens’ feedback might still be important for the finalization of the proposal. It would also allow the Commission to get citizens’ endorsement for the proposal before its adoption.

This option would also provide the Commission with the chance to further develop the consultation with citizens on a concrete legislative file, before transposing the measure into the existing structures. This form of consultation so late in the process, however, should be avoided in future. It would extend the EU’s legislative process by an additional milestone – a development that is detrimental to the Commission’s better regulation efforts to streamline the process by eliminating unnecessary steps. As such, this (and possible other Panels on non-legislative issues) would effectively count as a pilot Panel, experimenting with different methodologies and building a steppingstone towards embedding ECPs fully in the EU’s decision-making.

Fig. 2

INTERVENTION SUMMARY FOR PUBLIC CONSULTATIONS AND CITIZENS’ PANELS

	Public consultations	Citizens’ Panel
Who?	Stakeholders that will be affected, who will have to implement it and who have a stated interest in the policy	200 randomly selected citizens from all EU member states, 1/3 of which are young Europeans
When?	For every legislative initiative with an IA	For every legislative initiative with an IA (1) that represent flagship proposals anchored in the political guidelines of the Commission, and (2) in which citizens are a key stakeholder group or are primarily affected by the policy
At what point in the policy cycle?	Once during the policy process during a 12-week consultation period	During the public consultation period
How?	Questionnaire	3-weekend sessions
Impact	Influencing IA/legislative initiative	Influencing IA/legislative initiative

Source: own elaboration

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Von der Leyen’s initiative to involve citizens in policy development is a substantial and positive innovation for EU law making and democracy. But the Panel’s format and institutionalisation need further fine-tuning. If lawmakers follow the principles outlined in this paper, the new generation of European Citizens’ Panels could improve the quality of legislative proposals from the Commission. More fundamentally, they would strengthen EU democracy and legitimacy by giving people a say in the policy issues that concern them. What better way to fulfil von der Leyen’s vision of a democracy that “constantly gain[s] and regain[s] the citizens’ trust”?³¹

- ¹ ECP 1 dealt with the cluster “Stronger economy, social justice, jobs, education, culture, sport, and digital transformation”; ECP 2 with “EU democracy, values, rights, rule of law, and security”; ECP 3 with “Climate change, environment, and health” and ECP 4 discussed issues around “EU in the world and migration”.
- ² The Conference Plenary consisted of 449 members, including representatives from European, national, and regional institutions as well as citizens and civil society groups.
- ³ European Commission, European Parliament, Council of the EU (2019), [Joint Declaration on the Conference on the Future of Europe](#), Brussels.
- ⁴ Conference on the Future of Europe (2022a), [Report on the final outcome](#), Strasbourg, pp. 79, 127-130, 169; Conference on the Future of Europe (2022b), [Multilingual Digital Platform Report](#), Brussels, p. 12.
- ⁵ von der Leyen, Ursula, “[2022 State of the Union Address](#)”, Strasbourg (European Commission), 14 September 2022.
- ⁶ European Commission (2022a), [Commission 2023 Work Programme: A Union standing firm and united](#), Brussels, p. 5.
- ⁷ See Hierlemann, Dominik; Stefan Roch; Paul Butcher; Janis A. Emmanouilidis; Corina Stratulat and Maarten de Groot (2022), *Under Construction: Citizens’ Participation in the European Union*. Gütersloh: Verlag Bertelsmann Stiftung.
- ⁸ European Commission (2021a), *Better Regulation Guidelines*, Brussels.
- ⁹ *Ibid.*, p. 19
- ¹⁰ A link to the *Have Your Say* portal can be found [here](#).
- ¹¹ See Stratulat, Corina and Johannes Greubel (2021), “[Una casa para todos: Observations from the first European Citizens’ Panel of the Conference on the Future of Europe](#)”; Stratulat, Corina, Johannes Greubel and Lucasta Bath (2022), “[Moving Europe Together, through citizens’ deliberations](#)”, Brussels.
- ¹² European Commission (2021b), *Special Eurobarometer on the Future of Europe*, Brussels.
- ¹³ Chwalisz, Claudia (2020), *Innovative Citizen Participation and New Democratic Institutions: Catching the Deliberative Wave*, Paris: OECD, p. 11.
- ¹⁴ *Ibid.*, p. 37.
- ¹⁵ Abels, Gabriele; Alberto Alemanno; Ben Crum; Andrey Demidov; Dominik Hierlemann; Anna Renkamp and Alexander Trechsel (2022), *Next level citizen participation in the EU: Institutionalising European Citizens’ Assemblies*, Gütersloh: Verlag Bertelsmann Stiftung, p. 12.
- ¹⁶ OECD (2019), “Better Regulation Practices across the European Union”, Paris; OECD.Stat (2022), “[Government at a Glance – yearly updates: Regulatory Governance, European Union](#)”.
- ¹⁷ European Commission (2021a), *op.cit.*
- ¹⁸ Hierlemann *et al.* (2022), *op.cit.*, p. 137.
- ¹⁹ *Ibid.*, p. 139.
- ²⁰ *Ibid.*, p. 140.
- ²¹ European Commission (2021c), *Better Regulation: Joining forces to make better laws*, Brussels, p. 5.
- ²² Listorti, Giulia; Egle Basyte Ferrari; Szvetlana Acs; Giuseppe Munda; Eckehard Rosenbaum; Paolo Paruolo and Paul Smits (2019), “The debate on the EU Better Regulation Agenda: a literature review”, Luxembourg: Publication Office of the EU, p. 41.
- ²³ Christopoulou, Antonia-Evangelia (2022), “[Public Consultations Unpacked: The Commission’s participatory regime under the 2021 Better Regulation Agenda](#)”, European Law Blog (4 October).
- ²⁴ Hierlemann *et al.* (2022), *op.cit.*, p. 138.
- ²⁵ The letter of intent followed President von der Leyen’s State of the Union address 2022; see European Commission (2022b), *State of the Union 2022 - President von der Leyen’s letter of intent*, Brussels, p. 4.
- ²⁶ European Commission (2022a), *op.cit.*
- ²⁷ European Commission (2020), *A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system*, COM/2020/381 final, Brussels.
- ²⁸ See European Commission (2022), [Food waste – reduction targets \(Have Your Say\)](#) (4 October 2022).
- ²⁹ European Commission (2021a), *op.cit.*, p. 14.
- ³⁰ This is in line with the Commission’s current undertaking to streamline processes in the policy cycle. In the 2021 recast of the better regulation guidelines, the Commission already reduced the possibilities for public consultations from four input areas to only one during the policy cycle; see *op.cit.*, p. 4.
- ³¹ von der Leyen, Ursula (2022), *op.cit.*

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