



Participatory Democracy

A success story written by the EESC



European Economic
and Social Committee

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Preface

Luca Jahier
EESC President

Almost ten years have passed since the publication of the last edition of this compendium. At a time when civil dialogue and our own democratic and societal models are facing new threats such as Brexit, the rise of populism, disinformation, inequality and Euroscepticism, it is time for the European Economic and Social Committee (EESC) to review the way that participatory democracy has been evolving.

Today the winds of change are blowing across Europe, and this means that a fresh paradigm is needed to find answers in this new decade. The proliferation of issues around which civil society is mobilising, such as young people for the climate, gender equality, elimination of violence against women and the emergence of more nation-oriented people's movements are a sign that the weakening of traditional political structures is preventing them from finding solutions to post-modern challenges. This development gives rise to an opportunity for – and indeed requires – civil society to reinvent itself.

Moreover, over the past decade, social networks have upset the rules of democracy by revolutionising the way people engage in political and public life. All this is a sign that change is needed in the way that institutions operate and civil dialogue is carried out. The accusations directed at the European Union for not listening to its citizens also highlight the need to step up dialogue and give the public and civil society in Europe more opportunities to express their views.

We are now at a tipping point which is forcing us to rethink our society: a tipping point which requires us to remember what we have been through in the past. The European Union has fully understood this need for change, and will try to respond in the very near future through the Conference on the Future of Europe.

This is a unique opportunity for civil society to grasp so it can mobilise and make sure its voice is heard, improve participatory democracy and become better organised to secure maximum impact. It is more necessary than ever for us to be involved in order to improve compliance with Article 11 of the Treaty on the European Union (TEU), which entered into force in 2009.

The paradigm shift we are now seeing in society and this willingness to move forward and look at our model of society from a different perspective represents a window of opportunity that we must grasp together. The EESC is aware of its responsibility and its key role in establishing civil dialogue that is as broad and participatory as possible in order to underpin our democracies.

As a major player and creative force, the EESC has profoundly altered the arrangements for exercising and shaping civil dialogue and has developed them further. This has been achieved through numerous innovations such as: the creation of the Liaison Group to articulate the views of European civil society, the European Circular Economy Stakeholder Platform for stimulating dialogue between institutions and stakeholders in the same sector, and the European Migration Forum.

Thirty years after the fall of the Berlin Wall, which symbolised a divided Europe, it is more necessary than ever to examine the progress we have made from the point of view of participatory democracy, especially with regard to the divisions that we are observing in Europe.

This compendium shows the path we have taken at the EESC. We have always followed the developments in the European Union's consultative functions and have thus become a forum for innovation and experimentation.

As Jacques Delors said in his speech at the first civil society convention: "You are pioneers and, as such, you need to be aware you are taking risks." Now more than ever we need to take into account the risks involved for the EESC, while seizing the opportunity to create multiple opportunities to realise our ambition and assume our role as pioneers.

Introduction

In a Europe being pulled this way by numerous contradictions and changes, the voice of civil society and the development of a structure for civil dialogue appear to be key factors in shaping our future and solving the major crises that Europe is facing today (inequality, climate change, the rise of populism, migration, health crises, etc.).

In the past, we – the European Economic and Social Committee – have played a crucial role in creating a European public forum, growing stronger over time. More particularly, the Committee actively participated in the work of the European Convention, which ultimately led to Article 11 of the Treaty of Lisbon, which gives civil society a key part to play in the process of European public policy making.

With the entry into office of the new Commission with Ursula von der Leyen as its president, the EESC has a window of opportunity to develop its role as a key player between civil society, on the one hand, and the decision-making bodies of the European Union, on the other.

Indeed, the EESC, through its creativity, its in-depth, hands-on knowledge of the matters, its role as a link between the institutions and its ability to think ahead, is capable of developing responses that are tailored to the challenges of the 21st century.

It serves as an unrivalled permanent forum for civil dialogue and consultation. Therefore civil society's involvement by means of the structure provided by the EESC is crucial in efforts to address the lack of public confidence in Europe.

This compendium brings together all the opinions and reports which, over the last thirty years, have enabled the EESC and civil society organisations to strengthen participatory democracy and become an indispensable part of the European decision-making process.



A review of contributions made by the EESC on the subject

Civil society and civil society organisations

Civil society as a concept is cited and invoked in the most diverse contexts, without the meaning always being clear. It is almost as if “civil society” has become a vogue expression, often used without any clear indication of what speakers really mean.

There is no hard and fast definition of **civil society**. Because the term is so closely associated with specific historical developments in individual societies, it can be defined, only loosely, as a society that embraces democracy. Civil society is a collective term for all types of social action, by individuals or groups, that do not emanate from the state and are not run by it. What is particular to the concept of civil society is its dynamic nature, the fact that it denotes both situation and action. The participatory model of civil society also provides an opportunity to strengthen confidence in the democratic system so that a more favourable climate for reform and innovation can develop. In its 1999 opinion on *The role and contribution of civil society organisations in the building of Europe*¹, the EESC stated that it is precisely in connection with this issue of (inadequate) responsiveness to grass-roots opinion that the notion of “civil society” is constantly being mentioned.

An equally important concept, in the Committee’s view, is **organised civil society**. Following the examination of the historical roots and development of civil society set out in the above-mentioned opinion, and with the help of scientific

theories, the EESC has drawn up a definition of civil society that corresponds to political reality: civil society organisations can be defined in abstract terms as the sum of all organisational structures whose members have objectives and responsibilities that are of general interest and who also act as mediators between the public authorities and citizens. Their effectiveness is crucially dependent on the extent to which their players are prepared to help achieve consensus through public and democratic debate and to accept the outcome of a democratic policy-making process².

Civil society organisations include in particular:

- the “labour-market players”, i.e. the social partners;
- organisations representing social and economic players that are not social partners in the strict sense of the term;
- NGOs (non-governmental organisations) which bring people together in a common cause, such as environmental organisations, human rights organisations, consumer associations, charitable organisations, educational and training organisations, etc.;
- Community-based organisations (i.e. organisations set up within society at grass-roots level which pursue member-oriented objectives), e.g. youth organisations, family associations and all organisations through which citizens participate in local and municipal life;
- religious communities.

¹ CES 851/99: https://www.eesc.europa.eu/resources/docs/ces851-1999_ac_en.pdf
² See point 5.2 of CES 851/99 for a more comprehensive definition of civil society.



Civil dialogue

In its opinion on *The Commission and non-governmental organisations: building a stronger partnership*³, the EESC examined the concept of **civil dialogue** – a concept that was then taken up and fleshed out in the 2001 own-initiative opinion on *Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper*⁴, followed by the 2002 Opinion on *European Governance – a White Paper*⁵.

The need for a European form of public dialogue at EU level between representatives of civil society organisations has increased as a result of their growing importance. Organised civil society's wish for "civil dialogue" as a democratic and public opinion-forming process has been made clear and is also accepted in principle by public institutions.

The Committee feels that civil dialogue should have the following features:

- in principle, all members of organised civil society (and therefore the social partners, too) should participate in civil dialogue;
- civil dialogue should not take the place of or compete with social dialogue, but provide an adjunct thereto;
- civil dialogue can be conducted between the representatives of organised civil society alone or between them and an EU body or institution; it can cover horizontal or vertical issues and thus take the form of either general or sectoral dialogue;
- civil dialogue should be provided with the structures which it requires to operate; its remit should be mainly in the socio-economic sector, apart from those areas covered by social dialogue⁶, but should also embrace the environment, consumer matters, development, human rights, culture and all other questions which are important for civil society in all its component parts⁷;
- civil dialogue players should also be responsible for ensuring that third countries and especially the applicant countries are familiarised with the organisational structures and forms of communication of organised civil society. These countries must also be helped to form or develop similar structures.

The Committee considers the establishment of such civil dialogue to be an essential instrument for applying the governance principles (openness, participation, accountability, effectiveness and coherence)⁸. In addition, civil dialogue would, as a result of its principle of providing a public arena, make a vital contribution towards enhancing transparency and creating a European public arena as a sine qua non for a European identity. Some of the characteristics mentioned above need further clarification:

1) Distinction between civil dialogue and social dialogue

From 1999 onwards, the EESC has continually drawn attention to this important distinction. Unlike civil dialogue, European social dialogue is a mechanism with quasi-legislative powers (see TFEU Articles 153 and 154). It is clearly defined in terms

of participants, powers and procedures and has quasi-constitutional status. It derives its distinctiveness from the special powers and responsibilities of its participants playing their role in an autonomous way. For this reason, their role and responsibilities cannot be transferred to other policy areas or actors⁹.

Social dialogue is thus an excellent example of the principle of participatory democracy at work.

2) The three types of civil dialogue

As stated above, civil dialogue can take various forms, depending on the actors involved:

- *horizontal*: dialogue between European civil society organisations on the EU's development, future and policies;
- *vertical*: structured, regular dialogue between these organisations and the EU; and
- *sectoral*: daily dialogue between civil society organisations and their contacts within the legislative and executive authorities¹⁰.

It is interesting to note that the concept of horizontal and vertical civil dialogue set out by the EESC as long ago as 2000¹¹ was subsequently included verbatim in Article 11(1) and (2) of the Lisbon Treaty¹².

3) Consultation and participation as key elements of civil dialogue¹³

Consultation, a *top-down* process, is open in theory to all the organisations having expertise in a given field; the aim is to hear points of view and collect the expertise of civil society players, without imposing prior conditions.

Participation, a *bottom-up* process, provides the opportunity for an organisation to intervene formally and actively in the collective decision-making process, in the general interest of the Union and its citizens. This process, which is underpinned by democratic principles, enables civil society organisations to be part and parcel of policy framing and the preparation of decisions on the development and future of the Union and its policies¹⁴.

The Lisbon Treaty¹⁵ placed consultation in the framework of the now reinforced participatory pillar of the European democratic model. In its own-initiative opinion on *The implementation of the Lisbon treaty: participatory democracy and the citizens' initiative (TEU Article 11)*¹⁶, the Committee pointed out that "consultation", a top-down measure, only allows civil society action indirectly, and, as an initiative from the authorities, should be distinguished from "participation", which is a civic right.

Participatory democracy

The concept of participation brings us to another important concept, that of **participatory democracy**, which is now an integral part of the European social model. As early as the

3 CES 811/2000: https://www.eesc.europa.eu/resources/docs/ces811-2000_ac_en.pdf

4 CES 535/2001: https://www.eesc.europa.eu/resources/docs/ces535-2001_ac_en.pdf

5 CES 357/2002: https://www.eesc.europa.eu/resources/docs/ces357-2002_ac_en.pdf

6 That is to say, matters relating to social negotiation under Articles 153 and 154 of the Treaty on the Functioning of the European Union (TFEU).

7 One example of structured civil dialogue would be EESC participation in informal Council meetings in these areas.

8 On governance, see Opinions CES 535/2001 and CES 357/2002, op. cit.

9 CES 357/2002, op. cit., point 4.2.6.

10 Opinion on *The representativeness of European civil society organisations in civil dialogue*, CESE 240/2006, point 2, footnote 7. <http://www.eesc.europa.eu/?i=portal.en.civil-society-opinions.7226>.

11 CES 811/2000, op. cit., point 5.1.3.

12 Article 11(1): The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action. Article 11(2): The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.

13 CESE 240/2006 op. cit., points 3.2 and 3.2.1.

14 See in particular Opinions CES 535/2001, point 3.4, and CES 240/2006, CESE 3.2/1, points 3.2 and 3.2.1, op. cit.

15 Article 11 (3): The European Commission will carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.

16 Opinion on *The implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative (TEU Article 11)* CESE 465/2010, point 4.3.1: <https://www.eesc.europa.eu/en/our-work>.

beginning of the 2000s, when the Commission was examining the arrangements for partnership with non-governmental organisations and launching “European governance”, the Committee pointed out that the scope of the legitimacy of EU intervention could not be reduced solely to the principle of territoriality and to election mechanisms specific to representative democracy.

Alongside the democratic legitimacy of Europeans’ elected representatives mentioned by the Commission, the appointment of parties to represent specific competences constitutes a basis for legitimacy, both for Committee members and for representatives of NGOs, as part of the development and consolidation of a “participatory model of civil society” in policy design, which “provides an opportunity to strengthen confidence in the democratic system so that a more favourable climate for reform and innovation can develop”¹⁷.

The Treaty of Lisbon established a complementary relationship between representative democracy and participatory democracy, which are the subject of Articles 10¹⁸ and 11 of the TEU respectively. Moreover, Article 10(3) grants citizens the “right to participate in the democratic life of the Union”. One of the instruments of participatory democracy made available to Europeans as of 2012 is the “**European Citizens’ Initiative**” (ECI)¹⁹. It allows citizens of EU countries to propose legal changes in areas that fall within the legislative competence of the European Commission. Seven citizens living in seven different Member States are needed to launch the initiative. Once the initiative has been registered, they have a year in which to collect one million signatures, with the minima defined for each country. The Commission is under a legal obligation to analyse each ECI which reaches the threshold of one million signatures and to present, in an official communication, its position and decision on whether or not to act on the initiative²⁰. The Committee attaches particular importance to this tool. It remains very active at interinstitutional level and is the only EU institution to organise an annual conference entitled the “European Citizens Initiative Day”²¹, which collates all ECI organisers’ experiences and presents all the new developments in this field.

Subsidiarity²² – a pillar of participatory democracy

In stating that “decisions shall be taken as openly and as closely as possible to the citizen”, Article 10(3) refers to the need to apply the principle of subsidiarity. As mentioned above, participation thus becomes a citizen’s right and subsidiarity becomes one of the pillars of participatory democracy.

Actually, as early as the beginning of this millennium, referring to the Commission’s work on European governance, the EESC, in its opinions adopted before and after the publication of the white paper – *on Organised civil society and European governance: the Committee’s contribution to the drafting of the White Paper and on European Governance*²³ – expressed the wish to add a sixth principle to the five referred to by the Commission (openness, participation, accountability, effectiveness and coherence),

namely **subsidiarity** i.e. the principle according to which decisions should be taken at the level that is most appropriate for solving a problem²⁴.

Underlining that subsidiarity is the basic and most important principle of good governance, the Committee also stated that the right decision-making level is determined not only by territorial (European, national, regional and local) criteria, but also by functional criteria which vary with subject-specific knowledge (public authorities, economic community, social partners and other civil society organisations). When selecting the players involved in decision-making, account should be taken – alongside “**territorial (vertical) subsidiarity**” – of “**functional (horizontal) subsidiarity**”. Each in their own way guarantees a better response to people’s concerns and ensures greater efficiency. These two levels of subsidiarity should operate in tandem, complementing one another.

Representativeness

The preceding paragraphs have referred to the composition of civil society and the right to participate in civil dialogue. It is now necessary to lay down the criteria to apply when selecting organisations to participate in civil dialogue, as only clearly established **representativeness** can give civil society players a right to participate effectively in the process of shaping policies and preparing EU decisions. Representativeness is a precondition for participation as it confers legitimacy²⁵.

On several occasions since 2001 the Committee has proposed representativeness criteria; these were the subject of a 2006 opinion entirely dedicated to this delicate issue²⁶. They can be summarised as follows:

In order to be considered representative, a European organisation must meet nine criteria. It should:

- exist permanently at EU level;
- provide direct access to expertise;
- represent general concerns that tally with the interests of European society;
- comprise bodies that are recognised at Member State level as representative of particular interests;
- have member organisations in most of the EU Member States;
- provide for accountability of its members;
- have authority to represent and act at European level;
- be independent, not bound by instructions from outside bodies; and
- be transparent, especially financially and in its decision-making structures.

Also in the 2006 opinion, the Committee proposed a three-dimensional procedure to assess representativeness²⁷, which must provide for a criteria review that is tailored to the European organisations’ existing structure and operating methods. It must also be based on the principle that the organisations are part of the assessment process. The EESC has no designs on their autonomy.

¹⁷ See Opinion CES 851/99, op. cit., point 5.1.

¹⁸ (1) The functioning of the Union shall be founded on representative democracy. (2) Citizens are directly represented at Union level in the European Parliament. Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens. (3) Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen. (4) Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

¹⁹ Regulation No 2019/788 of the European Parliament and of the Council of 17 April 2019 on the European citizens’ initiative.

²⁰ European Commission Official Register: <https://ec.europa.eu/citizens-initiative/public/>

²¹ The EESC and the European Citizens’ Initiative: <https://www.eesc.europa.eu/en/initiatives/european-citizens-initiative>

²² References to Opinions CES 811/2000 and CES 357/2002.

²³ Opinions CES 535/2001 and CES 357/2002, op. cit.

²⁴ See CES 535/2001 op. cit., point 3.6.

²⁵ See CES 535/2001 op. cit., point 3.6.

²⁶ See CES 535/2001, point 3.4.1, CES 357/2002, point 4.2.4 and CESE 240/2006, op. cit.

²⁷ See CESE 240/2006, point 5.

The procedure is based on the following principles:

- openness;
- objectivity;
- non-discrimination;
- verifiability; and
- participation (by European organisations).

The procedure covers three assessment criteria, viz.:

- the provisions in the organisation's statute and their implementation;
- the organisation's support base in the Member States; and
- qualitative criteria.

In its 2010 opinion on the implementation of Article 11 of the Lisbon Treaty, the EESC reiterated what it had already stated ten years previously²⁸: any assessment of the degree of representativeness of NGOs must under no circumstances be based solely on **quantitative criteria** – it must also involve **qualitative criteria**. Whether or not NGOs are representative can therefore not be established exclusively on the basis of the number of members whom they represent. The judgement must also take account of the ability of such bodies to put forward constructive proposals and bring specialist knowledge to the process of democratic opinion-forming and decision-making. It was also pointed out that the associations to be involved in dialogue must be representative in both quantitative and qualitative terms.

The Committee as representative of organised civil society: a pragmatic approach²⁹

By setting up the Economic and Social Committee, the Rome Treaties gave sectoral interest groups access to the European decision-making process. Committee members, by virtue of their expertise, have been instructed by *representative organisations* from the Member States to play a constructive part in the European opinion-forming process in general. They are thus *qualified* to exercise the right to participation.

In view of the role assigned to it by the Treaties and in the light of its membership and the expertise of its members, the Committee is, in the overall EU institutional framework, the ideal forum for representing civil society organisations, expressing their views and providing them with information; it thus constitutes an essential bridge between Europe and its citizens, thereby complementing their political representation (by the European Parliament) and the representation of local and regional authorities (by the Committee of the Regions). The Committee's added value is that opinion-forming within its four walls involves all civil society players, including organisations which are not social partners.

The EESC is aware that it only partially reflects the diversity and developments covered by the term "organised civil society", and so it has taken initiatives and implemented reforms to ensure as broad a representation as possible of civil society organisations, adopting a pragmatic, non-exclusive approach, while gradually structuring its relations with European organised civil society.

European organisations and networks of civil society which are not yet represented on the EESC – or not yet directly – are thus

associated with the EESC's structures and its work in various ways, but without this association being explicitly based on representativeness criteria.

For example, the EESC organises hearings in the context of the drafting of opinions, as well as events such as conferences and seminars on cross-sectoral subjects both in Brussels and in the Member States, in particular in the countries holding the Council presidency³⁰. Attendance at these hearings and conferences has progressively become more extensive and broader, and it can now be said that each year they involve several thousand representatives of the widest range of European and national civil society organisations, which bring significant added value to the process of drafting the opinions and guidelines that the EESC issues.

It was the EESC that, as of the early 2000s, anticipated the importance of grass-roots initiatives (*Going Local*), which all the European institutions now recognise as a fundamental instrument of any good communication strategy for reaching out to the public. The EESC at that time proposed to examine how its members could boost acceptance of the EU in the Member States, through activities in the field and with the support of their organisations.

In particular, on the issue of civil dialogue, the Committee organised three major events attended by representatives of European and national civil society organisations (including those from accession countries), the European institutions and national ESCs: *The civil society organised at European level* (Brussels, October 1999)³¹, *Organised civil society and European governance* (Brussels, November 2001) and *Participatory Democracy* (Brussels, March 2004).

These events reaffirmed the key role of civil dialogue in the European democratic process. They provided opportunities to look in more depth at the concepts set out in this compendium (organised civil society, civil dialogue, actors, representativeness) and to consider the role and makeup of the EESC, the only EU body involving the social partners and other civil society organisations, which does not claim a monopoly on civil dialogue but does institutionalise it.

The EESC Liaison Group³² – Promoting civil dialogue and participatory democracy

A number of recommendations were made at the above-mentioned events to involve in the Committee's work those organisations that are not represented in it. In response, and against the backdrop of the final report of the ad hoc group on "Structured cooperation with European civil society organisations and networks"³³, which itself follows on from a 2001 report³⁴ calling for the establishment of a mechanism to serve as a liaison body and forum for political dialogue, the Committee took an important step in 2004: it set up the **Liaison Group with European civil society organisations and networks** in order to be more open, representative and effective, playing to the full its role as a bridge and major channel of communication between the EU and these European organisations. The Liaison Group is designed to forge links and provide a forum for political dialogue, aiming for stronger, more structured cooperation with these organisations and networks.

²⁸ See CESE 240/2006, point 5.

²⁹ References in Opinions CES 357/2002, CES 535/2001 and CESE 240/2006, op. cit.

³⁰ On this point, see EESC opinion 464/2010, point 4.

³¹ See: https://www.eesc.europa.eu/resources/docs/actes_sco_en.pdf

³² Internet site of the EESC Liaison Group: <https://www.eesc.europa.eu/en/sections-other-bodies/other/liaison-group>

³³ Final report of the ad hoc group on "Structured cooperation with European civil society organisations and networks" – CESE 1498/2003 fin.

³⁴ EESC Bureau report on "The Economic and Social Committee and organised civil society" – CES 1009/2001.

It provides civil society organisations with their only institutional bridge to the EU institutions, thereby establishing vertical civil dialogue allowing them to discuss and influence the EU's agenda and decision-making processes (in accordance with TEU Article 11(1)). In addition, the Liaison Group also offers these European-level organisations and networks a forum in which to meet and discuss issues relevant to them, effectively establishing dialogue among them, helping to set up synergies between different players on issues of common interest, and thus creating an arena for horizontal civil dialogue (TEU Article 11(2)).

In this connection, the Liaison Group in 2018 drafted an Action Plan for the implementation of Articles 11(1) and 11(2) of the Treaty on the European Union, as a follow-up to the roadmap adopted by the NGO Forum in Riga in 2015 under the Latvian Presidency. This action plan outlines the specific measures needed to ensure better civil dialogue in the EU, as well as to involve citizens and their associations, and reflects the public's calls for better decisions, better policy-making and better governance responding to people's needs.

Civil Society Days – An EESC flagship conference organised in conjunction with the Liaison Group

This event helps to raise the profile of the Committee as a special partner for civil society organisations and networks on issues of common interest such as “dialogue and participation”, in the light of Article 11 of the Treaty on the European Union.

The overall objective of this conference is to highlight the contribution civil society organisations are making to the development of a European Union that is more in tune with people's aspirations, enhancing the added value of political dialogue between the Committee and European civil society organisations and networks. By establishing genuine structured civil dialogue between such organisations and networks and the European institutions, it also helps to consolidate their role in fostering greater civil society involvement in the European venture at all levels, and thus the part they play in increasing the democratic legitimacy of EU action and institutions, alongside representative democracy.

The Committee in the institutional context

The Committee works with the Commission, the Parliament and the Council in the consultative process by issuing opinions upon referral, exploratory opinions and own-initiative opinions. It is important to note that the earlier the consultation takes place, the more effective opinions are. For this reason, the Committee succeeds in influencing the decision-making process more effectively through exploratory opinions in which, at the request of an institution, it expresses its views and draws up proposals in the phase preceding the drafting of the proposal by the institution itself.

It is by issuing exploratory opinions that the Committee fleshes out its cooperation with the **Council**, in that each rotating presidency asks the Committee for between two and four exploratory opinions³⁵. But this cooperation also manifests itself, *inter alia*, by inviting high-level representatives to the country holding the Council presidency to the EESC plenary session and to meetings of other EESC bodies (sections, groups, etc.), and by defining priorities and preparing specific

EESC activities in connection with the six-monthly Council presidency programmes, including visits and events held in the country holding the presidency at the time.

Alongside its consultative function and as well as pursuing activities similar to those listed with respect to the Council, the EESC has concluded a major cooperation protocol with the **Commission**³⁶. The aims of this protocol include establishing the arrangements for involving organised civil society in the best possible way in the process of shaping EU policies and preparing European legislation, as well as the implementation thereof, so as to encourage, at all levels, greater ownership and participation by civil society in the European project.

For its part, the **Parliament** has been able to ask the Committee for opinions since the Treaty of Amsterdam in 1999. Cooperation beyond consultation generally happens on an ad hoc basis, but is gradually increasing. One example of this was the jointly-organised Citizens' Agora on The economic and financial crisis and new forms of poverty, following on from the 2008 Agora on climate change.

Moreover, to be remembered is the fact that the Committee participated as an observer in the **European Convention** which prepared the draft Constitutional Treaty. The EESC contributed to the Convention in two ways: firstly by issuing a resolution, an own-initiative opinion addressed to the 2003 Intergovernmental Conference and an opinion requested by the Parliament on the constitutional treaty itself³⁷; and secondly through eight information and dialogue sessions with European civil society organisations and networks, organised in conjunction with the Convention Praesidium, through joint work with national ESCs and similar institutions and also initiatives aimed at involving civil society organisations from candidate countries. However, the Constitutional Treaty never saw the light of day.

The EESC now intends to play a crucial role in the Conference on the Future of the European Union, which will be launched in 2020, so as to feed into the conference the views of organised civil society which it represents under the Treaties.

Examples of how civil dialogue at the EESC works in practice

Over the past two decades, the EESC has extensively changed and developed the way civil dialogue is exercised and structured, including internally, through genuinely innovative institutional measures. Mention should be made of the latter, if only briefly, since they undoubtedly represent an experiment and point of reference enabling the challenge in hand to be tackled, namely effectively implementing civil dialogue, as provided for in TEU Article 11.

The EESC has accompanied all the accession negotiations of new EU Member States, as of the major enlargement in 2004, by setting up dedicated joint consultative committees, made up in equal numbers of EESC members and representatives of the candidate country concerned; these committees are a concrete expression of civil society's contribution to all the main chapters and stages of accession negotiations and often end up being the institutional reference framework for the various social and economic organisations in the candidate countries³⁸.

³⁵ See Opinion CESE 464/2010, *op. cit.*, point 4.

³⁶ 7 November 2005, see: <https://www.eesc.europa.eu/en/node/36104> and 31 May 2007, see: <https://www.eesc.europa.eu/en/node/36105>.

³⁷ Resolution addressed to the European Convention – CES 1069/2002; Own-initiative opinion for the 2003 Intergovernmental Conference CESE 1171/2003; and Opinion on the Treaty establishing a Constitution for Europe CESE 1416/2004.

³⁸ Examples of such activities can be found in the following final declarations: EU-Turkey JCC, 16/11/1995, CESE 7530/2010; and EU-Croatia JCC, 27/1/2011, CESE 1072/2011; in the Opinion on The role of civil society in EU-Montenegro relations CESE 651/2010; and on the Committee's website: <https://www.eesc.europa.eu/en/policies/policy-areas/external-relations>.

At its regional seminar in Bridgetown in the Caribbean, the EESC expressed the wish that the negotiations for the EPAs (Economic Partnership Agreements) would include, on the one hand, a social chapter and environmental provisions and, on the other, the establishment of a Joint Consultative Committee for civil society that would monitor the implementation of these trade agreements³⁹. Article 232 of the EU-Cariforum EPA, finalised in 2008, establishes such a joint consultative committee. The EESC is charged with selecting the European participants and providing the secretariat for an initial period. It is worth noting that this is the first such body provided for at global level in a trade agreement.

As part of its work on the **Lisbon Strategy** for growth and jobs, which has now become the Europe 2020 Strategy, the EESC set up structured, permanent dialogue with the Economic and Social Councils and similar institutions in the 27 EU Member States. The aim is to carry out, in cooperation with the Commission, continuous joint assessment of the various national reform programmes accompanying the strategy, regularly preparing reports on the general and specific themes of the strategy, and also actively and regularly taking into account the views of economic and social interest groups at the various national levels⁴⁰. Following on from its previous work on first the Lisbon Strategy and next the EU2020 strategy on growth and employment, the Committee is now focussing on the **European Semester** as an economic governance tool. Close cooperation with the national Economic and Social Councils is continuing, and is being supplemented with visits to individual Member States, collecting policy contributions from all parts of organised civil society and feeding them into the Semester cycle.

The Committee has played a pioneering and forward-looking role on the various issues that relate to immigration policies, in particular with reference to the European integration agenda. To implement the European Council's decisions of December 2005 concerning the need to establish a European Integration Forum, the EESC carried out comprehensive preparatory work and put forward proposals, which led to the first meeting of that forum being convened. Since 2009, the Committee has thus been providing a platform for dialogue between civil society and the European institutions on issues relating to migration, asylum and the integration of third-country nationals. What started off as the European Integration Forum, in 2015 developed into the **European Migration Forum** (EMF). It is organised in conjunction with the European Commission and brings together up to 250 representatives of civil society organisations, local and regional authorities, Member States and EU institutions, enhancing coordination and cooperation between key players involved in the multilevel European governance of migration. It also provides a way for grass-roots and local-level experts to feed into European policy-making.

Bringing together stakeholders from across the civil society spectrum, the **European Circular Economy Stakeholder Platform** is another active example of participatory democracy. Through its Coordination Group, annual conference and website, it facilitates the exchange of good practice and lessons learned, as well as fostering dialogue and increasing knowledge. Of course, the examples above are by no means exhaustive and are mentioned because they all represent a high level of innovation, foreshadowing ways of putting Article 11 of the Lisbon Treaty into practice.

CONCLUSIONS

This compendium, setting out the EESC's track record in putting participatory democracy into practice, demonstrates that the experience the Committee has acquired in this domain has made it a cornerstone of civil dialogue. With the entry into force of the Lisbon Treaty in 2009, the Committee's role was also considerably strengthened through its work in connection with implementation of Article 11 of the Lisbon Treaty. The history that has been traced out here shows us that, if we want to be innovators and strengthen civil dialogue, the EESC needs strong organisation, institutional continuity and structural stability.

Now, in view of the paradigm shift taking place in our society, the EESC must be aware not just of the risks, but also the tremendous opportunity that there is to be grasped. Participatory democracy is experiencing – and will continue to experience – major upheavals over the coming years. The Committee's role will be to anticipate change and take it into account, with a view to addressing the public's lack of trust in the European institutions, and also perhaps to resolve the legitimacy crisis at European level. This is an opportunity for it to confirm its role as cornerstone of civil dialogue, and also to assert itself vis-à-vis the other institutions.

The Conference on the Future of Europe is a crucial moment for civil dialogue. The EESC will relay the views of civil society organisations and will secure a position as a major player in the game so as to strengthen its role by means of a possible change to the treaties, for there can be no Europe without participation by Europeans.

³⁹ To see the final declaration of this regional seminar, follow this link: <https://www.eesc.europa.eu/en/documents/final-declaration-25>. More information is available at: <https://www.eesc.europa.eu/en/tags/acp-and-africa>.

⁴⁰ <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/improving-implementation-lisbon-strategy>



Appendices



European Economic and Social Committee

SOC/605

Resilient democracy through a strong and diverse civil society

OPINION

European Economic and Social Committee

Resilient democracy through a strong and diverse civil society
(own-initiative opinion)

Rapporteur: **Christian MOOS**

Consultation	12/07/2018
Legal basis	Rule 29(2) of the Rules of Procedure Own-initiative opinion
Section responsible	Section for Employment, Social Affairs and Citizenship
Adopted in section	06/03/2019
Adopted at plenary	20/03/2019
Plenary session No	542
Outcome of vote (for/against/abstentions)	145/5/2

1. **Conclusions and recommendations**

- 1.1 Considerable political forces in Europe, mainly but not exclusively right-wing extremist movements and parties, some of them already in government, are undermining liberal democracy and want to destroy the European Union.
- 1.2 A pluralistic civil society as one of the hallmarks of liberal democracy relies on civil liberties, which are threatened by authoritarian tendencies. It has a key role to play in preserving liberal democracy in Europe.
- 1.3 Liberal democracy requires, inter alia, the guarantee of fundamental rights, an independent judiciary, a working system of checks and balances, a corruption-free civil service with well-run services of general interest and a vibrant civil society.
- 1.4 An independent civil society is a key democratic supervisory entity and a school of democracy. It strengthens social cohesion. It can perform these functions only if the social, political and legal framework allows. Attempts to hinder financing from non-state sources restrict freedom of association and the operation of democracy.
- 1.5 Civil society and democracy are being challenged in many areas. Right-wing populists are calling into question the achievements of women's liberation.
- 1.6 The polarisation of society is also reflected in the emergence of an "uncivil society". Populist ways of thinking are increasingly being echoed by established actors in national and supranational institutions.
- 1.7 Authoritarian elements, including from third countries, support this trend towards "illiberal democracy", leading towards less freedom of the media and more corruption in Europe.
- 1.8 The EU still lacks an appropriate mechanism to ensure the effective preservation of democracy and the rule of law in the Member States.
- 1.9 The EESC calls on all Member States to refrain from all attempts to establish "illiberal democracy". If some Member States succumb to authoritarianism, the EU must employ the Treaty to the fullest.
- 1.10 Parties which turn against liberal democracy should be excluded from their political parties on the European level and political groups in the European Parliament.
- 1.11 The EESC reiterates its call for a Democracy Semester with a European control mechanism on the rule of law and fundamental rights and a Democracy Scoreboard.
- 1.12 The EESC considers that corrective economic measures should be contemplated for failure to respect Article 2 of the Treaty on European Union (TEU).

- 1.13 As regards the protection of the EU budget against rule of law deficiencies, cuts must not be at the expense of civil society aid recipients.
- 1.14 The EESC proposes that in the new MFF there should be sufficient flexibility to allow increased support for civil society organisations if national governments reduce or stop their funding for political reasons.
- 1.15 The EESC stresses that civil society organisations and initiatives receiving EU funding under the new MFF must make a clear commitment to European values.
- 1.16 The EESC calls on the EU legislators to further reduce the administrative burden especially for small initiatives and organisations.
- 1.17 The EESC calls on the Commission to invest more in capacity building for civil society, to strengthen cross-border cooperation networks and to provide better information on existing support instruments. The Commission should make proposals for minimum standards for combining professional activity and volunteering in civil society activities.
- 1.18 The EESC supports the Parliament's call for a proposal for the creation of a European statute for mutual societies, associations and foundations or proposes to establish an alternative system of formal interinstitutional accreditation as a first step.
- 1.19 In the EESC's view, it would be a good idea to find out why this issue has been left in abeyance and, at the same time, to consider drawing up an interinstitutional authorisation, a kind of label for NGOs. The EESC should explore this possibility.
- 1.20 The EESC calls on the Member States to introduce measures to support civil society organisations, without undermining public services and tax justice
- 1.21 The EESC calls on the EU institutions to further strengthen participatory democracy.
- 1.22 The EESC expects all actors to work towards European policies achieving concrete improvements in people's lives.
- 1.23 National and European policy-makers must tackle burning social questions and ensure social sustainability with inclusive education systems, inclusive growth, competitive and innovative industries, well-functioning labour markets, fair and just taxation and effective public services and social security systems.
- 1.24 Strong social partners and civil society in all its diversity are needed to defend the core European values.

2. **Definitions**

- 2.1 "Liberal democracies" are systems of governance combining democracy with constitutional liberalism, which limits the governing majority's power by guaranteeing individual political

liberties and freedoms. They are representative democracies with multi-party systems and plural civil societies, in which systems of checks and balances, including an independent judiciary, exert oversight of governing bodies and freedom of the media is guaranteed. Every natural and legal person is equally subject to the rule of law. Liberal democracies respect and protect minorities, they guarantee civic rights (notably the right to vote and stand for elections), civil liberties (e.g. the freedom of association), human rights and fundamental freedoms.

- 2.2 A well-functioning liberal democracy is a political system enabling the permanent calling to account of public authorities, a system favouring the expression and participation of citizens and intermediary bodies in which they engage, in all civic spaces.
- 2.3 "Participative democracy", complementing representative democracy, needs intermediary bodies (trade unions, NGOs, professional networks, issue-specific associations, etc.) to involve citizens and promote popular and civic ownership of European issues and the construction of a fairer Europe, with more solidarity and inclusiveness.
- 2.4 "Illiberal democracies" are political systems in which elections take place but constitutional liberalism is not established. Democratically elected leaders restrict civic rights, civil liberties and the protection of minorities. The system of checks and balances and an independent judiciary and independent media are undermined in order to free the governing majority's absolute sovereignty from constitutional limitations and controls.
- 2.5 A plural "civil society" respecting the principles of democracy and constitutional liberalism is a key element of liberal democracies. Individual citizens publicly engaging in civil society organisations or informal types of participation constitute civil society, which functions as an intermediary between the state and the people. In addition to the articulation of citizens' interests, the provisions of technical expertise during legislative processes and holding decision-makers accountable, civil society contributes to community building and has an integrative function by strengthening social cohesion and creating identity. Furthermore, a rich variety of civil society organisations, most notably the social partners, is dedicated to practical non-commercial work and serves charitable or other general interest objectives, including forms of mutual self-help.
- 2.6 While a vibrant civil society is key to functioning liberal democracies, its opponents also engage politically in formal organisations or informal types of participation. Such an "uncivil society" does not respect the principles of democracy and constitutional liberalism, but promotes the concept of "illiberal democracy". It makes use of political participation rights in order to abolish the established system of checks and balances, the rule of law and an independent judiciary and to limit media freedom. It aims to restrict civic rights, civil liberties and the protection of minorities. Instead of integrating society and strengthening social cohesion, uncivil society promotes an exclusive nationalist understanding of society that excludes many citizens, notably minorities.
- 2.7 "Populism" is a thin ideology claiming that there is a homogenous people with a coherent will. Populists claim to be the only and true representatives of this will. While populism lacks a clear definition of the people, it constructs enemies and opponents of the people, e.g. the elite, and

claims that they obstruct the people's true will. Populists emotionalise political debates in order to create fear.

3. **Background**

- 3.1 Democracy is being challenged by populism, presently mainly from extreme-right parties and movements. They undermine liberal democracy, fundamental rights and the rule of law, including protection of minorities, mutual checks and balances and clear limits on political power.
- 3.2 In some Member States, these groups are now in government. Everywhere, they claim to be representing the "real" will of "the people against 'elites'". They make false promises, deny political challenges, such as climate change, and want to destroy the European project and its achievements.
- 3.3 The EESC points out that some citizens turn to populists and extremists out of disillusionment. They do not necessarily support the populists' political programmes in full. The growing wealth and income inequality, as well as poverty, provide fertile ground for right-wing groups to promote nationalism as a response to globalisation.
- 3.4 Despite authoritarian and economic challenges such as inequality, Europe is still a leader of liberal democracy in the world, admired by many people living in autocratic systems.
- 3.5 A pluralistic civil society is one of the hallmarks of liberal democracy and underpins any constitutional arrangement based on civil liberties and the rule of law. The EESC has set up a Group on Fundamental Rights and the Rule of Law (FRRL) to defend these principles, as it considers that an open civil society and civil liberties are currently threatened by authoritarian tendencies. This is because freedom and an open civil society are incompatible with the idea of "illiberal or guided democracy".
- 3.6 The EESC considers that civil society has a key role to play in preserving liberal democracy in Europe. Only a strong and diverse civil society can defend democracy and freedom and preserve Europe from the temptations of authoritarianism.
- 3.7 A strong and plural independent civil society is a value by itself in all democracies. Civil society organisations play a vital role in the promotion of European values, in helping communities to organise themselves and in mobilising citizens for the public good.
- 3.8 The ESC observes a trend of decreasing trust in the EU across the continent coupled with escalating tensions with minorities, xenophobia, increasing levels of corruption, nepotism and weak democratic institutions in some countries. In this situation, NGOs are often the only line of defence upholding and promoting key values of the European project, such as respect for human rights, freedom, tolerance and solidarity.
- 3.9 Article 11 TEU invites the European institutions to maintain relations with civil society actors, in particular with associations.

3.10 The density of the landscape of associations and their relevance in the civil dialogue are indicators of the quality of democratic life in any given country. The associations' social and civic functions are essential for a fully functioning democracy, especially in this period of disenchantment.

3.11 The EESC stresses that forms of civic involvement that misuse political participation rights in order to abolish democracy, the guarantees offered by the rule of law and an independent judiciary are not part of civil society.

4. **The contribution of civil society to democracy**

4.1 EU citizens can exercise their right to democratic participation not only through their active and passive electoral rights, but also through civil society activities. The EESC intermediary organisations, as well as European networks of civil society organisations, such as "Civil Society Europe", are their main representative forums at EU level.

4.2 Only the guarantee of individual freedoms, in particular freedom of expression, information, assembly and association, and their enforcement can provide the foundation for a pluralistic democracy and individual political participation.

4.3 An independent judiciary is the guarantor of the rule of law, fundamental and human rights and the right to political participation. However, the independence of the judiciary is threatened in parts of Europe. Legal actions are currently in progress against Poland and Hungary for infringement of the rule of law¹.

4.4 An independent judiciary is part of the checks and balances which prevent any section of society being permanently dominated by a political group. In particular, political decision-making rules may not be changed in such a way that any individuals are permanently excluded from decision-making processes.

4.5 In the same way, a corruption-free civil service with well-run services of general interest that respects and complies with fundamental rights, and in which officials have the right to contest unlawful instructions, is key to any constitutional arrangements based on freedom and the rule of law.

4.6 A functioning liberal democracy also needs citizens who through their civic involvement contribute to a society based on tolerance, non-discrimination, justice and solidarity. This requires a vibrant civil society in which citizens voluntarily engage in civic activity. Their voluntary work is based on the rights laid down in the European Charter of Fundamental Rights. At the same time, they are guarantors of the values expressed in the Charter.

4.7 In liberal democracies, an independent civil society is key in supervising and keeping the political institutions accountable and in ensuring that political actors provide adequate

¹ E.g. [Case C-619/18, Commission v Poland](#); Case in process: C-78/18 Commission v Hungary.

justification for their decisions. By critically monitoring decision-making processes and assessing the implementation of political decisions and public policy in general, civil society creates transparency and contributes its expertise to better governance.

- 4.8 Civil society is a school of democracy, enabling political participation and civic education, which complements public education.
- 4.9 In parallel, public education also has a key role in teaching democratic values and civic education, enabling young citizens to engage in civil society and make use of their civic rights and civil liberties.
- 4.10 Civil society performs a community-building, integrating function by strengthening social cohesion and creating identity. In particular, it has to empower citizens to make use of their rights, thus contributing to a European community of citizens.
- 4.11 The EESC stresses that civil society organisations and initiatives can perform these functions only if the social, political and legal framework allows.

5. **Current threats**

- 5.1 The EESC considers that extremist political groups are currently challenging European civil society in many areas. Election results in virtually all Member States clearly point to growing support for them and to the fact that some citizens are losing trust in democratic institutions.
- 5.2 At the outermost limits on the right side of the political spectrum populist and extremist groups are gaining strength and attempting with growing success to make racism and xenophobia acceptable in Europe and to destroy social cohesion.
- 5.3 Right-wing populists and extremists are calling into question the achievements of women's liberation by invoking a reactionary image of the family. They oppose gender equality and promote homophobia.
- 5.4 The polarisation of society is also reflected in the emergence of an "uncivil society". There are a growing number of NGOs and forms of civic involvement promoting the exclusion of parts of society. They do not share the European values of Article 2 TEU, most importantly human rights and the rule of law, and instead promote an alternative undemocratic political order.
- 5.5 Encouraged by the anonymity of the internet and social media and fostered by disinformation campaigns, the culture of political and social debate is changing, becoming increasingly crude, aggressive and polarising. Against this backdrop, pro-European actors' efforts in communicating European values to the public have mainly failed to remedy the communication crisis of the European project.
- 5.6 Moderate politicians are increasingly taking up populist ways of thinking, as Brexit has shown. Representatives of "illiberal democracy" are increasingly gaining access to national and

supranational institutions. This gives them a platform to disseminate their ideas even more widely.

- 5.7 Authoritarian governments from third countries support the development of populist and extremist actors in Europe and encourage the change in the culture of debate in the traditional media and on the internet with funding and targeted disinformation aimed at undermining the stability of the EU.
- 5.8 The EESC is deeply concerned that a transformation of political systems in Europe has begun with a trend towards "illiberal democracy". Reforms in some Member States are designed to hinder the effective participation of all citizens in political decisions and legally guaranteed framework conditions for civil society are being hollowed out.
- 5.9 If civil society is to perform its function as a supervisory entity for political institutions, it must have the necessary resources. Attempts to hinder financing from non-state sources restrict freedom of association and the operation of democracy.
- 5.10 Particularly worrying is the negative trend towards less media freedom that has been observed in Europe in the last five years. The weak economic bases of independent media, removing the institutional autonomy of public broadcasters or allowing the establishment of private media monopolies, particularly those controlled by government politicians, put the Fourth Estate at risk.
- 5.11 The inter-weaving of political and business interests in particular increases the risk that corruption poses to democracy. The lack of progress in the fight against corruption in Europe should be viewed critically. The situation is exacerbated by significant deterioration in some Member States.
- 5.12 The value of the EU to liberal democracy is undeniable. In the united Europe the rule of law has replaced the principle that might is right. The EU still lacks an appropriate mechanism to ensure the effective preservation of democracy and the rule of law in its Member States. Despite, or perhaps because of, this weakness, the EU is the first line of defence for liberal democracy in Europe.

6. **Recommendations for action to strengthen a resilient civil society in Europe**

The EESC encourages all Member States to respect the EU's values, as laid down in Article 2 of the Treaty on European Union (TEU), and to refrain from all attempts to establish an "illiberal democracy". Only if involvement in politics does not put citizens in danger can a pluralistic and resilient civil society exist and play its role in protecting democracy. However, if Member States succumb to authoritarianism, the EU must employ the current legal tools, such as the infringement procedures and the 2014 Rule of Law Framework, to the fullest.

- 6.1 Member States must be told very clearly that abandoning democracy and the rule of law is unacceptable in the EU.

- 6.2 The EESC draws attention to the procedure under Article 7 TEU, which enables the Council, in the event of a serious breach by a Member State of the values referred to in Article 2 TEU, to withdraw its voting rights in the Council.
- 6.3 The EESC reiterates its call, made in conjunction with the European Parliament, for a Democracy Semester and a European control mechanism on the rule of law and fundamental rights². The EESC proposes the establishment of a Democracy Scoreboard that would, inter alia, reflect the framework conditions for civil society activity and lead to specific recommendations for reform.
- 6.4 Parties which turn against democracy should be excluded from their political party at European level and their political group in the European Parliament.
- 6.5 The EESC considers that a mechanism should be considered by which failure to implement the reform recommendations could lead to corrective economic measures.
- 6.6 The EESC welcomes the Commission's proposal "to strengthen the protection of the EU budget from financial risks linked to generalised deficiencies as regards the rule of law in the Member States" as a step in the right direction³.
- 6.7 Funds withheld under the new mechanism must not be at the expense of civil society aid recipients, which should directly receive support from the EU level.
- 6.8 The EESC is nevertheless critical of the mechanism's exclusive focus on sound financial management. The Committee calls for provisions making it possible to initiate proceedings in the event of shortcomings in terms of democracy and the rule of law which are not directly related to sound financial management.
- 6.9 The EESC welcomes the European Commission's proposal to create a new cluster in the next MFF entitled "Investing in people, social cohesion and values" as a contribution to strengthening the resilience of European civil society. It particularly welcomes the creation of a new Justice, Rights and Values Fund, on which the EESC has issued an opinion⁴.
- 6.10 The EESC also proposes that in the new MFF there should be sufficient flexibility to allow the Commission to increase support to civil society organisations if national governments reduce or stop their funding for political reasons. This additional funding should not mean replacing national funding in the long term, but should, if possible, be accompanied by a compensating reduction in support to the Member State in question in other areas.
- 6.11 The EESC also stresses that civil society organisations and initiatives that receive EU funding under the new MFF must make a clear commitment to European values as set out in Article 2

2 [OJ C 34, 2.2.2017, p. 8.](#)

3 [OJ C 62, 15.2.2019, p. 173.](#)

4 [OJ C 62, 15.2.2019, p. 178.](#)

TEU. Organisations advocating the abolition of democracy or the rule of law, racism or xenophobia should be excluded from support.

- 6.12 In view of the changing participation behaviour of citizens and the growing number of informal and spontaneous initiatives, the EESC calls on the EU legislative authorities to further reduce the administrative burden associated with the application, implementation and accounting procedures for EU-supported projects and to make special support instruments available for small initiatives and organisations.
- 6.13 The EESC calls on the European Commission to provide better information on the existing support instruments for civil society. This should be targeted in particular at stakeholders in remote regions of the Member States.
- 6.14 In order to improve compliance with the eligibility conditions for support and the principles of sound financial management by civil society actors, the EESC calls on the European Commission to increase investment in capacity-building for civil society.
- 6.15 The EESC proposes that civil society cross-border networking instruments be created or reinforced.
- 6.16 The EESC calls on the Member States to introduce measures to support civil society organisations, without undermining public services and tax justice. One such measure, taking into account NGOs' ability to contribute, could be allowing limited tax deductibility for membership fees and support contributions.
- 6.17 The EESC calls on the Commission to make proposals for better implementing the directive on work-life balance for parents and carers⁵ in order to value volunteering and civic engagement in professional life.
- 6.18 The EESC supports the Parliament's call to the Commission to present a proposal for the creation of a European statute for mutual societies, associations and foundations⁶. A complementary European legal statute or an alternative system of formal interinstitutional accreditation as a first step would help civil society organisations which no longer have sufficient legal protection in their Member States.
- 6.19 In the EESC's view, it would be a good idea to find out why this issue has been left in abeyance and, at the same time, to consider drawing up an interinstitutional authorisation, a kind of label for NGOs. The EESC should explore this possibility.
- 6.20 The EESC calls on the EU institutions to implement the provisions of Article 11 TEU and to further strengthen participatory democracy at Union level through the involvement of representative associations and civil society, moving from consultation to a true dialogue.

⁵ [COM\(2017\) 253; OJ C 129, 11.4.2018, p. 44.](#)

⁶ [EP declaration, 10 March 2011.](#)

- 6.21 To prevent citizens from losing trust in the European Institutions it is important that European policy achieves concrete improvements in people's everyday lives and that people know this.
- 6.22 A resilient civil society needs a sound social environment. National and European policy-makers must tackle this and ensure social sustainability, with inclusive education systems, inclusive growth, competitive and innovative industries and well-functioning labour markets, fair and just taxation and effective public services and social security systems. Otherwise, civil unrest and abstention from voting or rising extremism will undermine the foundations of liberal democracy. Social and economic rights are indivisible from civil and political rights.
- 6.23 As the pillars underpinning civil society, strong social partners are of crucial importance in stabilising European democracies. However, civil society in all its diversity is needed to defend the core European values.

Brussels, 20 March 2019

Luca JAHIER
The president of the European Economic and Social Committee

Action Plan
for the implementation of Articles 11(1) and 11(2)
of the Treaty on the European Union
Towards better EU civil dialogue and involvement of citizens for better policy-making
building on the Riga Roadmap

Article 11(1) and 11(2) of the Treaty on the EU

- "1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.*
- 2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society."*

1. INTRODUCTION

1.1. Purpose

This action plan is intended as a follow-up to the relevant Roadmap adopted by the NGO Forum in Riga in 2015, outlining the concrete actions needed for the implementation of better civil dialogue¹ in the EU and the involvement of citizens and their associations. It reflects citizens' calls for better decisions, better policy making and better governance responding to citizens' needs.

The action plan sets out a vision of what the dialogue should seek to achieve and how it could be implemented in an effective, constructive and realistic manner with the widest range of supporters and stakeholders. It lays the groundwork for civil dialogue in which representative civil society organisations play a key role while, at the same time, the full potential of citizens, directly involved or not with CSOs, is harnessed. In this respect, "a distinction should be drawn between consultations of civil society organisations and of the general public. The difference between the two is not only a matter of methodology, but also of objective, since for the former group the aim is to ensure representativeness, while for the latter, it is about promoting inclusion and participation"².

1.2. Current context

Article 11 of the Treaty on European Union provides the legal basis for this. EU institutions, Member States and civil society³ — including but not limited to individuals and representative associations — must work together to put Article 11 into practice. Civil society organisations (CSOs) play a crucial role in promoting active citizenship in Europe. Participatory democracy needs intermediary bodies if it is to involve the citizens and encourage them to express their views in all civic spaces. Civil dialogue has

¹ The European Economic and Social Committee defines civil dialogue as a democratic and public opinion-forming process which can take various forms, depending on the players involved.

² EESC Opinion on *Evaluation of consultation of stakeholders by the European Commission*, [OJC 383, 17.11.2015, p. 58](#).

³ In accordance with the [Council of Europe Committee of Ministers' Recommendation 14 \(2007\)](#) civil society organisations are defined as "voluntary self-governing bodies or organisations established to pursue the essentially non-profit-making objectives of their founders or members. They do not include political parties."

the potential to extend and strengthen the European model of democracy and is a key tool in securing ownership, completion and modernisation of the model.

A political and legal framework should be put in place at European and Member States (MS) level to nurture the development of civil society in Europe, whose activities are an integral part of EU values anchored in fundamental rights. However, the reality is very different as the civic space in some EU Member States is increasingly shrinking, becoming thereby the most dangerous factor for the functioning of CSOs and for European democracy. A robust, independent, diversified and well-functioning organised civil society needs adequate public and private financing which also has a bearing on granting the various stakeholders in European civil society dialogue a role and status of their own, adding up to the needed recognition to counteract the shrinking civic space noted in some Member States⁴. Therefore, special attention has to be paid to an adequate financial strength of CSOs serving the public good as they are central to fostering the conjunction between social capital and economic development, account for resilience of the communities and thus for the internal security of Member States and the European Union as a whole.

2. KEY FEATURES OF CIVIL DIALOGUE

Multi-level

Civil dialogue reaches out to, involves and includes individuals and organised civil society at all levels — local, regional, Member States and European.

Open, transparent and inclusive

Civil dialogue supplements direct participation methods; citizens, organised in civil society structures representing their interests, will be able to participate in and contribute to civil dialogue at the level that best suits them. Digital tools such as e-platforms and other new-tech approaches should be used for collaboration along with traditional ones.

Building on existing dialogues, consultations and participation

Civil dialogue gives an overarching structure to existing dialogues, as well as those yet to be developed, between EU institutions and organised civil society focusing on particular themes. While consultation as a vital component of civil dialogue is a top-down process open in theory to all CSOs and citizens, participation is a bottom-up-process as opportunity for CSO to intervene formally and actively in the collective decision-making process.

Towards better policy-making

Civil dialogue is a process for exchanging expertise and connecting with innovation in grassroots citizens' organisations. It is a space for identifying and reflecting and building on the values, principles and objectives of the European project, creating a European public sphere by closing the gap between policymakers and citizens and also harnessing the potential for direct participation by citizens. It will lead to better policy development for the common good which is closer to citizens' needs and expectations, generating a greater sense of common ownership. The role of civil dialogue is crucial in the drafting of legislation, as it allows the impact of the legislation on the citizens to be assessed.

Joint actions on agreed EU priorities

Civil dialogue is a place for civil society and the EU institutions to cooperate and build joint projects for better implementation of EU policies, contributing to better understanding amongst citizens of the

⁴ EESC Opinion on *Financing of Civil Society Organisations by the EU*, OJ C 2017?, to be completed,

added value of the European Union and evaluating the impact that policies have on civil society and citizens. The value of cross-sector and cross-thematic initiatives should be borne in mind.

European integration through civil society

Civil dialogue is an opportunity to create links between the citizens themselves, organised civil society and their policymakers from across the EU. It can lead to EU-wide cooperation, exchange and projects for change that encourage the development of stronger ownership and a stronger sense of European identity and for these reasons should be fully taken into account in the current and subsequent MFFs.

3. PROPOSED ACTIONS

The action plan outlines **three levels** of dialogue reflecting Article 11 (1) and (2):

3.1. Horizontal dialogue between citizens and representative associations as opportunities to make known and publicly exchange views in all areas of Union action (Local, Regional, Member States and EU Dialogues) (Article 11(1))

Structure

All citizens, engaged in and with organised civil society to represent their interests and values, or as individuals, will be able to express their view, exchange opinions and access civil dialogue at the level that suits them best – be that local, regional, Member States or EU level. These dialogues should be self-organised by the citizens and their representative associations/civil society organisations, in existing or innovative formats, with the support of the relevant public authority, thus getting as close to the citizens as possible and helping to reduce feelings of isolation and distance from policy development and policy-making that has such a huge impact in their lives and that of their fellow citizens.

The format, agenda and topics for discussion would be decided by the citizens and their representative associations/civil society organisations, embracing new forms of engagement and participation. The outcomes would feed into the Member States and EU-level dialogue process.

Proposed actions building on NGO networks, councils, initiatives by organised civil society and grassroots movements, national Conventions such as the proposal from the French President in 2017:

Actions	Partners
1. Relevant public authorities should establish an encouraging environment to facilitate civil dialogue at EU, Member States and sub-Member States levels.	Public authorities from different levels, Member State European Affairs Departments, Economic and Social Councils (where existing), civil society platforms, grassroots movements.
2. The potential of digital participation should be tapped. e.g. by launching an EU participation 2.0 Strategy to enable the exchange of promising examples between all levels (local, regional, Member States and European), set up the objectives and envisage the steps for the creation of a digital system for citizens' engagement .	Public authorities from different levels, Member State European Affairs Departments, Economic and Social Councils (where existing), civil society platforms, grassroots movements.

3. Based on the Charter of Fundamental Rights and by recognising the Freedom of Association, promote participation in decision-making by regularly monitoring the existing situation, reporting on it and spreading best practice.	Public authorities from different levels, Economic and Social Councils (where existing), civil society platforms,
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3.2 Vertical dialogue between *national institutions* and representative associations and civil society (Article 11(2))

Structure

Although Member States traditions and legal frameworks differ considerably, EU decisions are, to a large extent, prepared by Member States-level departments and have the greatest impact at Member States, regional and local levels. Treaties are binding upon Member States and joint commitments and aims (such as the Europe 2020 Strategy) cannot be achieved without broad ownership and participation by the citizens. The thematic dialogues that often already exist at Member States level need better EU recognition and support measures so that they can be extended to other Member States. Member States dialogues should form part of the debate in the annual EU dialogue.

Proposed actions building on existing dialogues on EU issues at Member States level e.g. health, youth, sport, trade etc. EYC 2013 Citizens' Dialogues (adapted and restructured):

Actions	Partners
4. Continue to gather information about existing successful dialogues at Member States level building on the work undertaken by Civil Society Europe (CSE).	CSO representatives involved in the dialogues (also via Economic and Social Councils or other Member States-level structures (where existing))
5. Consultation with stakeholders from sectors and fields with need for improvement regarding regular dialogue	CSO representatives, European Commission, national governments
6. A recommendation from the Council to establish Member States dialogues across the Member States,	European Council
7. Establish mechanisms for exchanging and disseminating good practices	CSOs, European Commission
8. Introduce quality assurance standards, criteria and guidelines for participation	CSOs, Member States, European Commission
9. Promote civic education on common European values and mechanisms.	Member States
10. Establish open consultation processes (both offline and online) on EU topics	EU Presidencies
11. Annual report on civil dialogue developments in Member States	Future European Observatory of Civil Society

12. Appropriate means to finance civil dialogue and to strengthen the capacity of CSOs to take part	Member States
13. Revision of its instruments/programmes to support CSOs operating in the field of participation, democracy and rule of law at Member States level	European Commission
14. Include citizen participation/democracy among the horizontal priorities of its programmes	European Commission
15. Strengthen EU Citizens' Dialogues across EU Member States	Member States, European Commission, CSOs, European Parliament

3.3 Vertical dialogue between *EU institutions* and representative associations and civil society (Article 11(2))

Structure

Appropriate regular and structured dialogue forums to link every EU institution with civil society while creating synergies between the institutions where possible. Existing best practice should be extended and strengthened to ensure effective impact on policy-making. Among other tools, this would include a yearly event bringing together EU institutions represented at the highest levels and organised civil society as well as representatives from sectoral dialogues and local, regional, national and macro-regional (transnational and neighbourhood policy) dialogues.

Such yearly event seem to be the EESC's Civil Society Days (CivSocDays) with workshops and thematic meetings feeding into a comprehensive closing session and a final joint declaration or annual work plan to be forwarded to all the EU institutions, which would all be required to issue a formal reaction. The CivSocDays should be developed along the lines of the Committee of the Regions' Open Days with parallel events in Brussels and in the Member States.

Proposed actions building on the European Economic and Social Committee Liaison Group with CSOs, EESC Civil Society Days and the informal EPSCO meetings which since 2000 have integrated a wider involvement of civil society through consultation – at the same level as the social partners – ahead of decision-making at the formal EPSCO meetings:

Actions	Partners
16. Identify, extend and strengthen existing best practice and make the changes in EU decision-making resulting from civic engagement visible. Policy areas with improvement potential should be identified and a mechanism supporting and coordinating these actions and existing dialogues should be set up.	European Economic and Social Committee, European Commission, European Parliament and European Council, Committee of the Regions
17. In-depth evaluations of relevant Commission-funded pilot projects (like Europe for Citizens) .	European Commission, European Parliament
18. Develop improved strategies that clearly harness so-called “participatory processes” such	CSOs

as crowdsourcing for policy ideas, etc.to regular decision-making processes involved elected representatives.	
19. Establish a Statute for European Associations together with a statute or policy framework for European institutional philanthropy. This would promote recognition of CSOs and cooperation between them at European level, complementing the European Company Statute adopted in 2004.	European Commission, European Parliament and European Council
20. Establish a European Observatory of Civil Society to measure and monitor civil dialogue and levels of citizen engagement with the EU institutions and the decision-making and policy-making processes. Building on the work of Civil Society Europe, it should adopt a yearly report on the state of civil dialogue and of civil society in general in all Member States.	European Economic and Social Committee and its Liaison Group
21. Entrust without delay a specific Commissioner responsible for coordinating civil dialogue and allocate the relevant human resources to be able to implement it. Each DG should have an official who is responsible for dialogue and appropriate finances for supporting participation in decision-making.	European Commission
22. Establish a constructive dialogue and follow-up between the different directorates-general and CSOs for the purpose of assessing good and bad practice and developing a more consistent approach.	European Commission, European Economic and Social Committee
23. Establish a specific unit and a political position in the European Parliament , such as a Vice-President, as required by the EU treaties, as well as specific official responsible for civil dialogue with the European Parliament.	European Parliament
24. Agree appropriate and sustainable funding opportunities from EU sources in the next MFFs	European Commission, Council and Parliament
25. Encourage Member States to introduce tax incentives for private donations and institutional philanthropy and remove obstacles to cross-border donations and philanthropic funding by coordinating tax laws and procedures, and invest in philanthropy across the EU.	European Commission, Council and Parliament
26. Recognise and establish partnerships with organised civil society bodies ⁵ , thereby creating the conditions for a	EU institutions

⁵ some Member States have adopted "charters of reciprocal commitment" or "pacts" to this end

structured European civil dialogue and implementing Article 11 of the TEU and other relevant intergovernmental commitments ⁶ .	
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⁶ EESC Opinion SOC/563



European Economic and Social Committee

SOC/563
Financing of CSOs by the EU

OPINION

European Economic and Social Committee

Financing of Civil Society Organisations by the EU
[own-initiative opinion]

Rapporteur: **Jean-Marc ROIRANT**

Legal basis	Rule 29(2) of the Rules of Procedure
Plenary Assembly decision	30/03/2017
Section responsible	Section for Employment, Social Affairs and Citizenship
Adopted in section	27/09/2017
Adopted at plenary	19/10/2017
Plenary session No	529
Outcome of vote (for/against/abstentions)	188/15/10

1. Conclusions and recommendations

- 1.1 Civil society organisations (CSOs) play a crucial role in promoting active citizenship in Europe. Participatory democracy needs intermediary bodies if it is to involve the public and encourage them to express their views in all civic spaces. A robust, independent and diversified organised civil society is underpinned by adequate public financing.
- 1.2 In addition to increasing difficulties in accessing public financing, the shrinking civic space noted in some EU Member States is the most dangerous factor for the functioning of CSOs and for European democracy.
- 1.3 In the EESC's view, a political and legal framework should be put in place at European and national level to nurture the development of European civil society, whose activities are an integral part of values anchored in fundamental rights.
- 1.4 Taking their cue from some Member States that have adopted "charters of reciprocal commitment" or "pacts" to this end, the European institutions could take steps to establish genuine European civil society dialogue. Discussions must be resumed on a statute for European associations and a statute for European foundations, and Article 11 of the TEU on structured dialogue with civil society must be implemented.
- 1.5 The EU should encourage Member States both to maintain or develop tax incentives for private donations, and to channel part of their tax revenue into CSOs. The EU should also remove obstacles to cross-border donations by coordinating tax laws and procedures, and invest in philanthropy across the EU.
- 1.6 The European institutions should promote a positive image of CSOs and preserve their independence, particularly by strengthening their capacity for action and engagement in social innovation and civic participation.
- 1.7 The EESC calls for a strategy facilitating the development of a strong and independent civil society in Europe and for the establishment of an EU Ombudsman on civic space freedoms to whom NGOs would report incidents related to any harassment or restriction of their work.
- 1.8 Concerning the future multiannual financial framework (MFF), the EESC calls on the budget authorities to increase funding for CSOs, including in the form of operating grants and multiannual financing.
- 1.9 The EESC calls on the Commission to propose a European fund for democracy, human rights and values within the EU¹, to be equipped with an ambitious budget, directly open to CSOs across

¹ This fund would pursue the same objectives as the European Instrument for Democracy and Human Rights: <http://www.eidhr.eu/whatis-eidhr/>.

Europe and managed independently, similarly to the European Endowment for Democracy², with the participation of representatives of the EESC.

- 1.10 In order to foster participatory democracy, the EESC believes that the Europe for Citizens programme should be endowed with a budget of EUR 500 million under the next MFF, as proposed by the European Parliament³. Similarly, Erasmus+ actions targeting civil society should be increased.
- 1.11 The EESC calls on the Commission to monitor the implementation of the code of conduct on partnership with civil society within the Structural Funds. The Commission should also call on national and regional authorities to use the technical assistance provisions, designed to boost capacity-building, for civil society organisations.
- 1.12 The EESC calls for a more in-depth discussion on how to ensure further involvement of CSOs in research programmes by fostering links between researchers and civil society and by proposing a new strand on civic participation and democracy under the societal challenges pillar in the future research framework programme.
- 1.13 The Sustainable Development Goals and gender equality priorities should be mainstreamed in the future MFF.
- 1.14 The EU should maintain and further reinforce its leadership as donor of humanitarian assistance and international cooperation and proactively promote a fully-fledged civil society.
- 1.15 The EESC welcomes the suggestion made by the Commission in its proposed revision of the Financial Regulation to take into account as eligible expenses the hours spent by volunteers (a direct response to the EESC opinion on "Statistical tools for measuring volunteering"⁴) and facilitate the inclusion of contributions in kind as co-financing. It also welcomes the Parliament's report calling for simplification in the oversight of funds, such as cross-reliance on assessment and audits, speeding up responses to applicants and signing of contracts and payments. The EESC calls on the EU institutions to come to an agreement on the proposed text that will allow hours spent by volunteers to be fairly valued.
- 1.16 Strengthening civil society also means improving access to financing for the smallest organisations and the most disadvantaged sectors of society. With this in mind, the Commission should provide for a variety of financing arrangements and further simplify administrative formalities, providing training and guidelines on the implementation of contracts and financial obligations, while ensuring consistent interpretation by its departments of the Regulation on the financial rules.

² EED is an independent, grant-making organisation, established in 2013 by the European Union and EU Member States to foster democracy in the European Neighbourhood and beyond. All EU Member States are members of EED's Board of Governors, together with Members of the European Parliament and civil society experts.

³ [European Parliament resolution on the Implementation of the Europe for Citizens programme](#)

⁴ [OJ C 170, 5.6.2014, p. 11](#)

1.17 The EESC calls on the European Commission to react promptly with relevant measures, including infringement procedures against Member States, when national administrative or legal provisions restrict the access of national civil society organisations to EU funds, including when funding conditions are imposed that restrict their advocacy.

2. Introduction

2.1 In a number of its opinions, the EESC has examined the issues of civil dialogue and participatory democracy, the definition of these concepts, the representativeness of the various stakeholders and the measures needed at European level. In particular, the EESC has stressed that implementing Article 11 of the TEU⁵ was vital for the EU in its quest for democratic legitimacy in the eyes of its people.

2.2 However, the question of how funding can help facilitate active citizenship and participatory democracy has not yet been addressed in a specific opinion.

2.3 There is now a pressing need to look into the distribution and effectiveness of EU funding in this sphere, at a time when the EU institutions are preparing to discuss the proposal on the post-2020 MFF and stand poised to take a decision on the revision of the Financial Regulation.

2.4 The issue of funding also has a bearing on granting the various stakeholders in European civil society dialogue a role and status of their own. The EESC has already discussed the need for a statute for European associations on a number of occasions⁶.

2.5 For the purpose of this opinion, the term "civil society organisations" (CSOs) refers to non-governmental, non-profit-making organisations independent of public institutions and commercial interests, whose activities contribute to the objectives of the Charter of Fundamental Rights, such as social inclusion, active participation of citizens, sustainable development in all its forms, education, health, employment, consumer rights, support to migrants and refugees, and fundamental rights⁷.

3. The role of civil society organisations

3.1 Engaged, pluralist and independent civil society plays a crucial role in promoting active public participation in the democratic process and in governance and transparency at EU and national level. It can also contribute to policies that are fairer and more efficient, and support sustainable development and inclusive growth⁸. Inasmuch as they have the ability to "reach the poorest and most disadvantaged and to provide a voice for those not sufficiently heard (...)", CSOs make for greater participation and contribute to defining European policies⁹.

⁵ [OJ C 11, 15.1.2013, p. 8](#)

⁶ [OJ C 318, 23.12.2006, p. 163](#)

⁷ [OJ C 88, 11.4.2006, p. 41](#)

⁸ [White Paper on European Governance, 25.7.2001](#)

⁹ [COM\(2000\) 11 final](#)

- 3.2 Over and above their civic and social functions, some CSOs are also involved in what is referred to as the "social and solidarity economy" and even make a significant contribution to job creation.
- 3.3 A distinctive feature of CSOs is their ability to bring together a combination of mostly highly motivated volunteers and dedicated employees around a range of projects. Volunteering, in the sense of active civic participation that strengthens common European values, such as solidarity and social cohesion, must benefit from an enabling environment¹⁰.
- 3.4 Genuine participatory democracy needs intermediary bodies (trade unions, organisations of employers and SMEs, NGOs and other non-profit stakeholders, etc.) if it is to involve the public, promote popular and civic ownership of European challenges and build a Europe that is fairer, more inclusive and based on greater solidarity. A robust and diversified civil society is underpinned by adequate public funding and a framework facilitating access to different types of private funding.

4. The different types of funding

- 4.1 At EU level, there are numerous programmes in a range of sectors (education, cultural, social, citizenship, environment, fundamental rights, research, international cooperation, humanitarian assistance, health, etc.) that include specific objectives on the participation of civil society, particularly in the form of projects. The institutions have also introduced operating grants designed particularly to promote networking among the national organisations active in a range of sectors and societal issues. This financial support thus helps to shape "European public opinion".
- 4.2 As regards enlargement and external policy, including international cooperation and humanitarian assistance, the EU has developed a proactive policy to promote a fully-fledged civil society, including through targeted measures. The EU is also one of the world's major donors of development aid and humanitarian assistance, an approach which receives staunch backing from the European public¹¹.
- 4.3 However, as regards internal policy there has been no further reappraisal of relations between the EU and CSOs (in particular under Article 11 of the TEU) since 2000, when an initial Commission discussion paper was published, as part of the administrative reform process, highlighting the need to maintain a high level of public funding for the role of NGOs, devise a consistent approach across Commission departments and improve management of grants.
- 4.4 Funding for CSOs comes in the main from the areas of humanitarian assistance and international cooperation. According to 2015 figures, the sum of EUR 1.2 billion was allocated to funding NGOs (roughly 15% of the "Europe in the world" heading)¹², while appropriations for CSOs in

¹⁰ [European Year of Volunteering 2011](#)

¹¹ See in particular the 2017 survey http://ec.europa.eu/echo/eurobarometer_en.

¹² [EuropAid - Directorate-General for Development and Cooperation](#)

other areas remained somewhat meagre: 0.08% under the "Sustainable growth: natural resources" heading, 2.5% under "Security and citizenship" and less than 0.009% under "Smart and inclusive growth". It is therefore high time to assess these amounts, in addition to the effectiveness of the measures in place.

5. The availability of public funding and shrinking civic space

- 5.1 Recent studies and surveys, along with measures developed in some EU countries, also show that the status of civic space is deteriorating at national level in some EU Member States¹³. The review of the post-2020 financial framework, and the ongoing revision of some funding programmes, cannot fail to take this new fact into account.
- 5.2 The recent Hungarian law on the transparency of organisations receiving overseas funding, passed in June 2017, was condemned by the European Commission, the European Parliament and the Council of Europe. This demonstrates why the Commission needs to ensure that measures to combat terrorism financing and money laundering cannot have unintended consequences for CSOs when it comes to accessing funding and loans.
- 5.3 In many European countries, we are seeing the emergence of measures designed to introduce conditionalities into CSO subsidies, which limit their advocacy role and their capacity to be party to legal proceedings¹⁴.
- 5.4 In many countries, the financial and economic crisis has meant that public funding for CSOs has been cut back and/or made available in the form of short-term grants. Funding schemes that operate primarily on a project basis may force CSOs to adapt their priorities and distance themselves from their original mission and from societal needs. In some countries, governments have backed organisations that follow their strategic line (to the detriment of others) and fostered an atmosphere of political connivance, and we are seeing an increasing lack of transparency in how grants are awarded.
- 5.5 The EESC calls on the Commission to carefully monitor the implementation of ex ante conditionalities when assessing the programmes, as well as with regard to partnership agreements, in particular on employment, social inclusion and non-discrimination, the environment, gender equality and the rights of persons with disabilities, the involvement and enhancement of civil society organisations' institutional capacity¹⁵ and the transparency of procedures to award contracts, and to suspend payments when these are not respected. The EESC also reminds the Commission to monitor the implementation of Article 125 on the obligation for managing authorities to apply selection procedures and criteria that are transparent and non-discriminatory.

¹³ "[Civic Space in Europe 2016](#)", [Civicus Monitor](#).

¹⁴ See the Lobbying Act in the UK which prevents NGOs from voicing their views during electoral campaigns or the recent Referendum on the EU membership and current reviews of the Electoral (Amendment) Act 2011 in Ireland, which aims to prevent third parties from influencing electoral campaigns but where interpretation of "political aims" and thresholds for individual donations to NGOs has fuelled controversy, including in connection with the financing of a campaign in support of abortion.

¹⁵ [OJ L 347, 20.12.2013, p. 320](#)

The EESC calls on the European Court of Auditors to assess compliance with these provisions as regards selection procedures for NGOs in its upcoming report.

- 5.6 The rise in extremism and populism and all anti-democratic acts are a challenge to the entirety of the democratic acquis and create a hostile climate for intermediary bodies. Therefore, there is a need to confirm the importance of the role of CSOs and to increase the EU's financial support for them.
- 5.7 The EESC calls for the establishment of an EU Ombudsman on civic space freedoms to whom NGOs could also report incidents related to harassment or restriction of their work.

6. Possible responses at European level

- 6.1 In the EESC's view, a political and legal framework should be put in place at European and national level to nurture the development of a diversified European civil society, whose activities are an integral part of values anchored in fundamental rights.
- 6.2 The European institutions should promote a positive image of CSOs and preserve their independence, particularly by strengthening their capacity for action and engagement in social innovation and civic participation which is often linked to funding.
- 6.3 Taking their cue from some Member States that have adopted "charters of reciprocal commitment" or "pacts" to this end, the European institutions could take steps to recognise and establish partnerships with representative civil society bodies, thereby creating the conditions for a genuine European civil society dialogue and implementing Article 11 of the TEU and other relevant international commitments¹⁶.
- 6.4 There is also a pressing need to resume discussions on a statute for European associations – proposed by the Commission in 1992¹⁷ – together with a statute for European foundations. This would promote recognition of CSOs and cooperation between them at European level, complementing the European Company Statute adopted in 2004¹⁸.
- 6.5 The EESC believes that the EU should encourage Member States to maintain existing and develop further tax incentives for private donations and channel part of their tax revenue into CSOs, while removing obstacles to cross-border donations by coordinating tax laws and procedures, and investing in philanthropy across the EU.
- 6.6 Concerning the future multiannual financial framework (MFF), the EESC calls on the budget authorities to increase funding for CSOs, including in the form of operating grants and multiannual financing to ensure that initiatives flourish in the long term.

¹⁶ See for instance obligations under the SDGs and the UN CRPD for structured dialogue supported by adequate funding.

¹⁷ [OJ C 99, 21.4.1992, p. 1](#)

¹⁸ [European Company Statute](#)

- 6.7 Since the adoption of the Charter of Fundamental Rights, there has been no real support programme for civil society in terms of human rights in the EU Member States. The vital support given to civil society in the countries of Central and Eastern Europe at the time of their accession to the EU has not been kept up through other funding mechanisms. Recent events that have occurred with the rise of terrorism and extremist and/or populist movements have demonstrated the need to invest more in civil society and ensure cohesion among countries as regards the development of civil society.
- 6.8 The EESC calls on the Commission to propose a European fund for democracy, human rights and values within the EU¹⁹, equipped with an ambitious budget and directly open to CSOs across Europe, including human rights defenders aiming to promote and protect the EU's fundamental values. The fund should cover operational costs as well as litigation and watchdog activities, and be managed independently similarly to the European Endowment for Democracy²⁰, with the participation of EESC representatives.
- 6.9 The Europe for Citizens programme is the only European programme that specifically helps reduce the democratic deficit by allowing all Europeans to participate directly in building Europe, but its funding is too limited. At a time when European values and democracy are being called into question, the EESC believes that the programme should be endowed with a budget of EUR 500 million under the next MFF, as proposed by the European Parliament²¹. Similarly, Erasmus+ actions targeting civil society should be increased.
- 6.10 The majority of CSOs encounter difficulties in accessing the Structural Funds, primarily owing to the co-financing requirements. The technical assistance provisions, designed to boost capacity-building, are consequently under-utilised and frequently reserved for public administrations. The code of conduct on partnership with civil society which is the key instrument has not been properly applied in most countries²². Even when CSOs are invited to take part in supervisory committees, their role is limited.
- 6.11 The EESC calls on the European Commission to react promptly with relevant measures, including infringement procedures against Member States, when national administrative or legal provisions restrict the access of national civil society organisations to EU funds, including when funding conditions are imposed that restrict their advocacy.
- 6.12 Through their connections and ongoing contact with the public and grassroots activities, civil society organisations are aware of societal challenges and needs; nevertheless, they play a very marginal role in research. The EU Programme for Employment and Social Innovation (EaSI) also includes barriers to access by CSOs. The EESC calls for a more in-depth discussion on how to

19 This fund would pursue the same objectives as the European Instrument for Democracy and Human Rights: <http://www.eidhr.eu/whatis-eidhr/>.

20 EED is an independent, grant-making organisation, established in 2013 by the European Union and EU Member States to foster democracy in the European Neighbourhood and beyond. All EU Member States are members of EED's Board of Governors, together with Members of the European Parliament and civil society experts.

21 [European Parliament resolution on the Implementation of the Europe for Citizens programme](#)

22 [AEIDL - Thematic Network Partnership](#)

foster links between researchers and civil society and proposes a new strand on civic participation and democracy under the societal challenges pillar in the future research framework programme.

- 6.13 Youth unemployment is still very high, and is one of the most urgent problems facing the EU, with a growing number of young people at risk of social exclusion. Against this backdrop, European funding should do more to support CSOs investing in the development of young people's skills and competencies through non-formal education.
- 6.14 Most funding in the field of culture is not adapted to the needs of CSOs operating in this field, thus barring them from access to the various financial instruments available, such as loans. No real work is being done on the European dimension of culture, at a time when identity-based and populist views are being increasingly voiced. Drawing partly on Creative Europe, the EU should also provide stronger support for independent cultural productions and invest in the development and sustainability of local, non-profit community media.
- 6.15 As regards development cooperation, the EU should invest more in cooperation initiatives focused on populations, including the aspects of gender equality, governance, human rights, environmental rights, resilience to climate change, education and social protection, for instance through a thematic approach by country with close involvement of civil society.
- 6.16 When designing the future MFF, account should also be taken of the Sustainable Development Goals and gender equality priorities.
- 6.17 Strengthening civil society also means improving access to financing for the smallest organisations and the most disadvantaged sectors of society. With this in mind, the Commission should provide for a variety of financing arrangements and make a more concerted effort to simplify administrative formalities. More systematic recourse should be had to sub-granting mechanisms (or cascade funding), as used under the European Instrument for Democracy and Human Rights and in the framework of EEA funding. Grants should be awarded by an independent national operator on the basis of a tender procedure²³.
- 6.18 CSOs in the countries of Central and Eastern Europe still have proportionally less access to funds. The Commission should step up its information drives on the various funds available to CSOs and provide more support for partnerships between organisations.
- 6.19 It would also be useful to establish more systematic follow-up and support for beneficiary organisations, and for the different directorates-general responsible for implementing the Financial Regulation, in the form of training courses on contractual obligations and audits.
- 6.20 Databases containing descriptions of projects that have already been completed and examples of good practice should be available to potential applicants as a means of promoting innovation and partnerships. The Commission should continue its endeavours to reduce the administrative burden

²³ [Mid-term NGO evaluation released - EEA Grants](#)

imposed by the application process and financial management, including by introducing a single online application procedure for the different programmes.

- 6.21 The evaluation of programmes run directly by the Commission should be more transparent but also more detailed, in view of the large number of requests for European funding and the low success rate. Furthermore, feedback would enable CSOs that have been turned down to make improvements and would boost confidence in the selection process.
- 6.22 The deadlines for issuing notifications of contracts, signing contracts and making payments should be significantly shorter so as to limit the need to take out bank loans due to lack of cash.
- 6.23 The EESC also asks the Commission to re-evaluate co-financing amounts, particularly for very small organisations which find it very difficult to draw on other sources of funding and organisations engaged in advocacy, such as consumer protection organisations, environmental associations, human rights organisations and organisations working to promote citizenship. This is particularly necessary since co-financing rules increase the administrative burden on CSOs, with the attendant risks posed by the variations in contractual and financial rules on the part of donors.
- 6.24 The EESC warmly welcomes the suggestion made by the Commission in its proposed revision of the Regulation on the financial rules²⁴ to take into account as eligible expenses the hours spent by volunteers and facilitate the inclusion of contributions in kind as co-financing. This proposal is a direct response to the EESC's call, expressed in its opinion on "Statistical tools for measuring volunteering"²⁵. It also welcomes the Parliament's report and the Council's proposal to introduce an exception to the non-profit rule for not-for-profit associations. The EESC calls on the EU institutions to come to an agreement on the proposed text that will allow hours spent by volunteers to be fairly valued.
- 6.25 Transparency in access and financial control should be improved by drawing up clear guidelines on Commission checks and, in the case of funding by several donors, taking into account ex ante evaluations and selections of partners, as well as ex post checks and audits carried out by the other donors.
- 6.26 Moreover, public access to information on the amounts and purpose of funding should be facilitated by reforming the Commission's financial transparency arrangements. This should include annual payments instead of multiannual commitments, and should be made more reliable by standardising the databases of the various programmes. At the same time, NGOs should continue to apply the highest self-reporting transparency standards.

24 [COM\(2016\) 605 final](#)

25 [OJ C 170, 5.6.2014, p. 11](#)

6.27 Finally, the Commission should establish constructive dialogue and follow-up between the different directorates-general and CSOs for the purpose of assessing good and bad practice and developing a more consistent approach.

Brussels, 19 October 2017

Georges DASSIS
The president of the European Economic and Social Committee

SOC/563 – EESC-2017-01953-00-01-AC-TRA (FR) 12/12



European Economic and Social Committee

**The European Citizens'
Initiative (review)
Subcommittee SC/043**

Brussels, 13 July 2016

OPINION

of the
European Economic and Social Committee
on
The European Citizens' Initiative (review)
(own-initiative opinion)

Rapporteur: **Antonio Longo**

On 21 January 2016, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

The European Citizens' Initiative (review).

The subcommittee responsible for preparing the Committee's work on the subject adopted its opinion on 17 May 2016.

At its 518th plenary session, held on 13 and 14 July (meeting of 13 July), the European Economic and Social Committee adopted the following opinion by 107 votes to 1 with 1 abstention.

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1. **Conclusions and recommendations**

- 1.1 Four years after the ECI regulation entered into force, the European Economic and Social Committee (EESC) points out that Europeans are at the heart of the European venture and this mechanism could help overcome the democratic deficit by promoting active citizenship and participatory democracy.
- 1.2 In line with the views already voiced by the European Parliament, the Committee of the Regions and the European Ombudsman, the EESC considers that the European Citizens' Initiative has not achieved its full potential because of a regulation that should be revised.
- 1.3 The EESC has pinpointed significant technical, legal and bureaucratic problems, along with a clear excess of powers attributed to the Commission, preventing full distribution, implementation and follow-up of successful initiatives.
- 1.4 When it comes to the review of the regulation, the EESC proposes the following:
 - 1.4.1 that citizens' committees be allowed to begin collecting statements of support on the date of their choice;
 - 1.4.2 that legal recognition be accorded to citizens' committees so as to limit the criminal liability of organisers to fraud and serious negligence, in line with the model provided by Directive 2008/99/EC on the protection of the environment through criminal law;
 - 1.4.3 that a bricks-and-mortar and online one-stop-shop be set up where Europeans can obtain information and be steered through the process of presenting initiatives;
 - 1.4.4 that the proposals to lower the minimum age for supporting and taking part in an ECI be discussed, as proposed by the Parliament and the Committee of the Regions;

- 1.4.5 that the clear conflict of interest within the Commission be resolved by separating the roles of institutional mentor and judge. With this goal in mind, the EESC reiterates that it is willing to continue to support initiatives already under way and would be a natural candidate for the role of facilitator and institutional mentor;
- 1.4.6 that appropriate follow-up be guaranteed for successful initiatives, calling upon the Commission to prepare a legislative proposal within 12 months of the end of the campaign or supplying appropriate justification for the decision not to present a proposal. Should no proposal be presented, the EESC would hope that the European Parliament would bring pressure to bear on the Commission under Article 225 of the TFEU;
- 1.5 The EESC would point out that some problems could be resolved without reviewing the regulation and so should be tackled rapidly to avoid discouraging potential organisers. With a view to making the mechanism more effective and user-friendly, the EESC calls for the following initiatives to be implemented:
- 1.5.1 in order to make the registration process more transparent, the Commission must adopt clear and straightforward procedures and provide detailed answers and possible solutions when initiatives are declared inadmissible, enabling the committees to amend and present them again;
- 1.5.2 the Commission must keep up negotiations with the Member States on simplifying, reducing and harmonising the system of national standards laid down for the collection of data. The EESC would propose in particular limiting requests for personal identification documents and enabling all Europeans to sign the initiatives from their countries of residence;
- 1.5.3 the free OCS system¹ should be established on a permanent basis in order to simplify the collection and cataloguing of statements of support as well as the checking of these statements by the national authorities. The Committee also calls for this tool to be made available to people with disabilities.
- 1.6 More generally, with a view to distributing and establishing the ECI, the EESC recommends:
- 1.6.1 providing the public with more information and raising awareness of the ECI mechanism through ad hoc campaigns, enabling citizens' committees to inform signatories about the results achieved and, above all, through greater commitment by the Commission to publicising the follow-up to successful initiatives;
- 1.6.2 guaranteeing multilingualism and exploring new methods of linking up the online collection of signatures with social and digital media in order to reach out to an ever larger audience;

¹ OCS is the acronym for Online Collection Software, which is a tool provided free of charge by the European Commission for collecting signatures online. This tool simplifies both the collection of data and the checking of those data by the national authorities. OCS complies with Regulation (EU) No 211/2011 of the European Parliament and of the Council and Implementing Regulation (EU) No 1179/2011 of the Commission. <https://joinup.ec.europa.eu/software/ocs/description>.

1.6.3 in principle, enabling every EU citizen to organise an ECI by guaranteeing the option of covering a campaign's unavoidable expenses for registered ECIs.

1.7 The EESC proposes to set up an institutional forum on the participation of European citizens, to become a permanent platform for discussion and debate at the Committee along the lines of the European Migration Forum, building on European Citizens' Initiative Day. The Committee could draft a specific, more detailed proposal in an own-initiative opinion.

2. Introduction

2.1 The European Citizens' Initiative was instituted by the Treaty of Lisbon² as an innovative instrument for transnational participatory democracy. It allows 1 million Europeans from a minimum of seven Member States to ask the European Commission to propose legislation on areas within EU competence. The intention of this is to involve European citizens actively in the European decision-making process, by providing them with an indirect form of the right to initiate legislation.

2.2 The rules and procedures that govern the ECI are set out in an EU regulation adopted on 16 February 2011 and in force since 1 April 2012³.

2.3 An ECI can be organised or signed by all Europeans who have reached the legal age to vote in the European Parliamentary elections⁴. Initiatives cannot be arranged by organisations. However, organisations may promote or support initiatives, provided they do so with full transparency.

2.4 The ECI procedure involves three steps:

2.4.1 The launch phase, which involves setting up a citizens' committee⁵, registering the initiative⁶ subject to an eligibility assessment by the Commission⁷ and certifying the system for online collection of signatures⁸.

² Article 11(4) of the Treaty on European Union (TEU), and Article 24(1) of the Treaty on the Functioning of the European Union (TFEU).

³ Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative, <http://ec.europa.eu/citizens-initiative/public/welcome>.

⁴ The legal voting age is 18 years old in all Member States except Austria, where it is 16.

⁵ A citizens' committee must be composed of at least seven EU citizens, residing in seven different EU Member States.

⁶ The initiative must be described in no more than 800 characters (100 for the title, 200 for the description and 500 for details of objectives).

⁷ Article 4(2) of Regulation (EU) No 211 /2011. Before the initiative is officially registered and posted on the Commission's website, the Commission has two months to check: 1) if the citizens' committee has been set up and spokespersons appointed; 2) that the initiative does not fall manifestly outside of the Commission's powers to propose legislation in application of the EU treaties; 3) that the initiative is not manifestly offensive, futile or vexatious; 4) that the initiative is not manifestly contrary to the values laid down by the EU treaties. The decision to register an initiative or not is based on legal grounds and so can be challenged. If the Commission refuses to register the initiative, it informs the promoters of the reasons for the refusal and of all possible judicial or extrajudicial means of appeal available to them. These include the option of referring the matter to the Court of Justice of the EU or lodging a complaint with the European Ombudsman (on grounds of maladministration).

⁸ Article 6 of Regulation (EU) No 211/2011. The regulation stipulates that this process is the responsibility of the competent authorities of each Member State in which statements of support are collected.

2.4.2 During the collection phase, a minimum of 1 million "statements of support" (signatures) must be collected over a maximum period of twelve months and from at least seven EU countries⁹. The signatures must be certified by the competent national authorities¹⁰.

2.4.3 During the submission phase, the initiative is examined by the Commission, prior to a meeting with the organisers and a public hearing at the European Parliament. The Commission has three months in which to respond with an ad hoc communication and decide whether to adopt the proposal beginning the legislative procedure.

3. The first four years of the European Citizens' Initiative

3.1 To date, more than 6 million Europeans have signed an ECI. Although 56 initiatives have been submitted, only 36 have been registered by the Commission, of which three collected at least 1 million signatures¹¹. No successful initiative has led to a new legislative proposal, although in some cases the Commission has taken account of public opinion on some aspects.

3.2 The significant technical, legal and bureaucratic difficulties encountered by promoters and the limited legislative impact of successful initiatives have undermined the credibility of the ECI tool. This is illustrated by the drastic decline in initiatives registered (from 16 in 2012 to 5 in 2015¹²) and statements of support (from over 5 million in 2012 to a few thousand in 2015¹³).

3.3 Over the course of these four years, many organisers and representatives of civil society organisations¹⁴ reported flaws and areas of inflexibility in the ECI, which was supposed to be clear, simple and user-friendly. This trend was confirmed during a public hearing organised by the EESC on 22 February 2016.

3.4 In February 2015, three years after the regulation entered into force, the European Parliament produced a study¹⁵ on the state of its implementation, calling for a review. The conclusions of this study were taken up in October 2015 in a resolution¹⁶ in which the Parliament formally forwarded this request to the Commission with clear, specific proposals.

⁹ The regulation stipulates that a minimum number of signatures must be collected per country commensurate with the number of inhabitants <http://ec.europa.eu/citizens-initiative/public/signatories?lg=en>.

¹⁰ Article 15 of Regulation (EU) No 211/2011.

¹¹ The following proposals were successful: *Water and sanitation are a human right! Water is a public good, not a commodity!*; *Stop vivisection*; and *One of us*: <http://ec.europa.eu/citizens-initiative/public/initiatives/successful>.

¹² The number of initiatives registered has gradually fallen over the years with 16 in 2012, 9 in 2013, 5 in 2014 and 5 in 2015.

¹³ The data for the signatures collected supporting an ECI in the last three years clearly show a drop in participation and interest by citizens. 5 402 174 signatures were collected in 2013, 628 865 in 2014 and only 8 500 in 2015.

¹⁴ C. Berg, J. Tomson, *An ECI that works! Learning from the first two years of the European Citizens' Initiative*, 2014. <http://ecithatworks.org/>

¹⁵ European Parliamentary Research Service, "[Implementation of the European Citizens' Initiative. The experience of the first three years](http://www.europarl.europa.eu/thinktank)", 2015. www.europarl.europa.eu/thinktank.

¹⁶ European Parliament resolution of 28 October 2015 on the European Citizens' Initiative (2014/2257(INI). Rapporteur: Schöpflin.

- 3.5 Following an own-initiative inquiry into the proper functioning of the ECI procedure and the Commission's role and responsibility, in March 2015 the European Ombudsman drew up 11 guidelines for further improvement¹⁷.
- 3.6 In October 2015, the Committee of the Regions also adopted an opinion in favour of a rapid and substantial revision of the regulation¹⁸.
- 3.7 In response to the many requests to amend the regulation and as required by the regulation, the Commission published a progress report¹⁹ in April 2015 and a follow-up report²⁰ in February 2016 on the proposals put forward by the Parliament. In both cases, while acknowledging the difficulties encountered by ECI promoters and accepting the possibility of making improvements to the implementation of the current legislative framework, the Commission repeatedly rejected any possibility of revising the current regulation in the near future.
- 3.8 It is now widely accepted by the European institutions, organisers and representatives of organised civil society that, despite achieving some positive results, the ECI is still far from reaching its full potential in terms of policy proposals and enabling Europeans to participate actively.
- 3.9 The main problems identified consistently by both institutions and stakeholders are as follows:
- 3.9.1 there is a lack of knowledge and awareness of the ECI tool among Europeans and national institutions²¹;
- 3.9.2 the citizens' committees encountered many technical, legal and bureaucratic obstacles during the registration and collection phases, jeopardising the outcome of their initiatives;
- 3.9.3 citizens wishing to sign an initiative encountered many difficulties relating to individual national data processing laws;
- 3.9.4 the few successful initiatives were not taken into account by the Commission when drawing up new legislative proposals, merely when drawing up legislative initiatives which were indirectly linked.
- 3.10 In detail, the main difficulties encountered by citizens' committees are:
- 3.10.1 the fact that they are not legally recognised. This has a negative impact on important practical aspects of the ECI, such as fundraising or even the simple opening of a current account. Moreover,

17 Case: OI/9/2013/TN. Opened on 18 December 2013; Decision on 4 March 2015.
<http://www.ombudsman.europa.eu/en/cases/decision.faces/it/59205/html.bookmark>.

18 Committee of the Regions; opinion on the *European Citizens' Initiative*, OJ C 423, 17.12.2015, p. 1.

19 *Report on the application of Regulation (EU) No 211/2011 on the citizens' initiative*, COM(2015) 145.

20 *Follow up to the European Parliament resolution on the European Citizens' Initiative*, adopted by the Commission on 2 February 2016.

21 Eurobarometer survey *The promise of the EU*, September 2014, p. 51.

the fact that promoters are personally liable for "any damage they cause in the organisation"²² of an ECI acts as a deterrent;

- 3.10.2 excessively rigid application of ECI eligibility criteria. Around 40% of initiatives were declared inadmissible by the European Commission during the first – registration – phase of the process²³. The European Parliament, would like to see further examination of the conflict of interest within the Commission, which is obliged to inform the organisers and make an assessment on the admissibility of the initiative, while also being the recipient of that same initiative²⁴;
- 3.10.3 overlapping activities in the ECI timetable. The time needed to certify online collection systems in each Member State reduces still further what is already a tight 12-month period for collecting signatures;
- 3.10.4 lack of appropriate support from the Commission, particularly during the launch phase and in managing the initiative. Particular focus should be given to the hosting service and OCS provided free of charge by the Commission, and to the difficulties faced by organisers drawing up and disseminating multilingual versions of documents;
- 3.10.5 managing an ECI is an expensive process. This is demonstrated by the fact that the three successful initiatives were backed by major civil society organisations which provided them with technical, organisational and financial support. Many organisers have highlighted the need – in order to avoid distorting the founding principle of the European Citizens' Initiative – for greater support by the EU to launch the campaign;
- 3.10.6 excessive inflexibility when collecting and handling personal data. In some Member States, legislation in this area has further discouraged the organisation of and support for new initiatives. Moreover, in some countries laws on the collection of data stipulate that only the signatures of citizens residing in the country should be taken into consideration, thereby depriving 11 million people of their right to take part²⁵;
- 3.10.7 a lack of involvement of organisers during follow-up activities. The lack of follow-up on successful initiatives would seem to suggest that meetings and hearings are not enough to spur the Commission to take actual legislative action.

²² Article 13 of Regulation (EU) No 211/2011. For example this may include the risk of errors when handling personal data.

²³ Interpretation of the notion that "the initiative does not fall manifestly outside the competences of the Commission to propose legislation in application of the EU treaties" seems to have been particularly restrictive. As such, all initiatives to amend the treaties have systematically failed. The only exception was *Let me vote*, which aimed to link the rights of European citizens listed in Article 20(2) TFEU to the right to vote in all political elections in the Member State of residence, under the same conditions as apply to citizens of that country.

²⁴ European Parliamentary Research Service, *Implementation of the European Citizens' Initiative. The experience of the first three years*, 2015. Chapter 3.1.4.

²⁵ European Parliamentary Research Service, *Implementation of the European Citizens' Initiative. The experience of the first three years*, 2015. Chapter 6.

European Parliamentary Research Service, *Disenfranchisement of EU citizens resident abroad*, Executive Summary.

3.11 2016 is a decisive year in the process that could lead to a review of the ECI. This own-initiative opinion is the EESC's contribution to this process and recognises the enormous untapped potential of this important and innovative tool in the European decision-making process, in the spirit of true European citizenship.

4. The EESC and the European Citizens' Initiative

4.1 The EESC, as the bridge between the European institutions and organised civil society, has been involved since the beginning of the debate on the ECI. This is demonstrated by the opinions adopted to date²⁶ and by the establishment of an ad hoc group to monitor the development and implementation of this right²⁷.

4.2 Moreover, the Committee is actively involved in the ECI process²⁸ in the dual role of facilitator and institutional mentor. EESC initiatives and competences include:

4.2.1 European Citizens' Initiative Day, organised every year to assess the state of implementation and the effectiveness of the ECI with all the players involved. The event also facilitates the exchange of best practice and networking among organisers and other stakeholders;

4.2.2 an ECI helpdesk office, set up to provide, *inter alia*, translations of descriptions of initiatives validated by the Commission into the official languages of the EU;

4.2.3 making rooms available to help promote campaigns;

4.2.4 drawing up a practical guide – now in its third edition – to raise awareness and promote the ECI²⁹. The ECI also takes centre stage in another Committee publication, the European Passport to Active Citizenship³⁰, which aims to inform Europe's citizens of their rights and to promote transnational participatory democracy;

4.2.5 setting up a public archive in 2016 of academic and scientific documentation on the ECI, open to all citizens to consult free of charge;

4.2.6 presenting the most successful registered initiatives that do not contradict official Committee policy as outlined in its opinions at the plenary session or, alternatively, at section meetings. This allows the EESC to give them sufficient exposure while taking a neutral position;

²⁶ EESC opinion on the *Citizen's initiative*, [OJ C 44, 11.2.2011, p. 182](#).

EESC opinion on *The implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative (Article 11)*, [OJ C 354, 28.12.2010, p. 59](#).

²⁷ The ad hoc group on the ECI was set up in October 2013, and its mandate was renewed in 2015.

²⁸ <http://www.eesc.europa.eu/?i=portal.en.members-former-eesc-presidents-henri-malosse-speeches-statements&itemCode=35383>.

²⁹ <http://www.eesc.europa.eu/resources/docs/qe-04-15-566-en-n.pdf>.

³⁰ <http://www.eesc.europa.eu/resources/docs/qe-04-15-149-en-n.pdf>.

4.2.7 EESC delegates take part in European Parliamentary hearings on successful initiatives, thus contributing to the Commission's analysis and exploration process.

5. **General comments**

5.1 The EESC strongly reiterates its support for the European Citizens' Initiative. Four years after the ECI regulation entered into force, there are encouraging data in terms of participation as well as vast untapped potential. The EESC considers that proper and complete implementation of the ECI could help bridge the growing gulf between Europeans and the EU.

5.2 The EESC agrees with the views already expressed by the European Parliament, the Committee of the Regions and the European Ombudsman to the effect that the partial and limited implementation of the ECI is the result of a number of factors. There are technical, legal and bureaucratic limitations, as well as a clear institutional short circuit owing to excess powers and responsibilities being attributed to the Commission.

5.3 The EESC also considers that the Commission has successfully resolved some of these problems, for instance by providing a free OCS system, while others unfortunately cannot be resolved unless the regulation is revised.

5.4 The EESC therefore calls on the Commission to take action on two fronts: it should act swiftly to resolve and/or simplify the most straightforward and obvious technical and bureaucratic problems, and present a proposal to reform the regulation as rapidly as possible in order to tackle the more complex institutional, legal and organisational issues.

6. **Specific comments**

6.1 The EESC would suggest the following proposals for reforming the regulation with a view to making the ECI mechanism simpler and more effective:

6.1.1 citizens' committees should be allowed to begin collecting statements of support when they so choose. This is fundamental to making the 12 months for collecting signatures really count;

6.1.2 citizens' committees should be accorded legal recognition, if necessary special status, so as to limit the criminal liability of organisers to fraud and serious negligent, in line with the model provided by Directive 2008/99/EC on the protection of the environment through criminal law;

6.1.3 a bricks-and-mortar and online one-stop-shop should be set up where Europeans can obtain information and be steered through the process of presenting initiatives. It is crucial to provide citizens' committees with appropriate technical and legal support in order to facilitate the presentation of proposals and increase the percentage of proposals deemed admissible;

6.1.4 the proposals to lower the minimum age for supporting and taking part in an ECI should be discussed, as proposed by the Parliament and the Committee of the Regions, in order to offer young people the chance to take an active part in building the European Union;

6.1.5 the roles of institutional mentor and judge, both of which are currently performed by the Commission, should be separated. This is crucial for resolving the clear conflict of interest in the Commission and enabling the ECI mechanism to be implemented fully and effectively;

6.1.5.1 The EESC confirms its willingness to continue to support initiatives already under way and would be a natural candidate for the role of facilitator and institutional mentor.

6.1.6 appropriate follow-up for successful initiatives must be guaranteed. With due respect for the Commission's right of initiative, the EESC would ask the Commission to prepare a legislative proposal within 12 months of the end of the campaign or supply appropriate justification for the decision not to present a proposal. Should no proposal be presented within the timeframe set, the EESC would hope that the European Parliament would bring pressure to bear on the Commission under Article 225 of the TFEU. The Commission must also establish closer ties with the supporters of these initiatives, going beyond mere hearings held at the European Parliament, in order to guarantee that the proposal meets its supporters' expectations.

6.2 Furthermore, the EESC notes that the Commission should:

6.2.1 make the registration process more transparent and effective. Specifically, the Commission should be more proactive, providing detailed answers and possible solutions when initiatives are declared inadmissible, enabling the committees to amend them to meet the criteria laid down by the rules in force;

6.2.2 keep up negotiations with the Member States in order to simplify, reduce and harmonise the system of national standards laid down for the collection of data that is necessary to sign a statement of support. The EESC would propose in particular limiting as far as possible requests for personal identification documents and enabling all Europeans to sign the initiatives from their countries of residence³¹;

6.2.3 establish the free OCS system on a permanent basis, since it simplifies the collection and cataloguing of statements of support as well as the checking of these statements by the national authorities. The Committee also calls for this tool to be made available to people with disabilities.

6.3 The EESC recommends in particular:

6.3.1 stepping up procedures for informing people and raising awareness about the ECI. This must be done primarily through ad hoc campaigns promoted by the Commission and the Member States. With this goal in mind, the EESC also proposes enabling citizens' committees to inform interested supporters about developments in and achievements of the campaign (provided that they have authorised this). The same applies to the Commission, which must publicise the follow-up of successful initiatives more effectively, first informing the citizens' committees;

³¹ UK and Irish citizens resident in Bulgaria, France, Austria, the Czech Republic and Portugal are so far deprived of this right.

- 6.3.2 guaranteeing multilingualism as a prerequisite for achieving a high rate of participation and exploring new methods of linking up the collection of signatures online with social and digital media in order to reach out to an ever larger audience;
- 6.3.3 in principle, enabling every EU citizen to organise an ECI by guaranteeing the option of covering a campaign's unavoidable expenses for registered ECIs.
- 6.4 Lastly, the EESC proposes to set up an institutional forum on the participation of European citizens, to become a permanent platform for discussion and debate at the Committee along the lines of the European Migration Forum, building on European Citizens' Initiative Day. In order to guarantee the participation of highly qualified speakers, the EESC would also invite institutional representatives with a stake in this issue, one representative per citizens' committee with a registered initiative and all interested stakeholders. The Committee could draft a specific, more detailed proposal in an own-initiative opinion.

Brussels, 13 July 2016

The President
of the
European Economic and Social Committee

Georges Dassis



European Economic and Social Committee

NAT/678
**A European Sustainable
Development Civil Society
Forum**

Brussels, 26 May 2016

OPINION

of the
European Economic and Social Committee
on
A European Sustainable Development Civil Society Forum
(exploratory opinion requested by the Dutch presidency)

Rapporteur: **Brenda King**
Co-rapporteur: **Roman Haken**

NAT/678 – EESC-2016-00575-00-00-AC-TRA (EN) 1/12

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EN

On 16 December 2015, the upcoming Dutch Presidency decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on

A European Sustainable Development Civil Society Forum
(exploratory opinion).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 26 May), the European Economic and Social Committee adopted the following opinion by 148 votes to one with no abstentions.

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1. **Conclusions and recommendations**

- 1.1 The Committee welcomes the UN 2030 Agenda for Sustainable Development. It regards the adoption of this agenda together with the Paris COP 21 agreement on climate change as a big breakthrough in setting a global course of action to end poverty, promote prosperity for all and protect the planet's natural resources in an integrated way.
- 1.2 The Committee recommends the creation of a European Sustainable Development Forum (The Forum) in partnership with the Commission and representatives from civil society as a platform involving a broad range of civil society organisations and stakeholders in setting the framework for the implementation of this agenda in the EU, and its ongoing monitoring and review.
- 1.3 The new agenda with its 17 Sustainable Development Goals (SDGs) applies universally to developing as well as to developed countries and will require transformational changes on all sides. The EU and the Member States will have to align all their policies – not solely in development – in a balanced and coherent way.
- 1.4 As one of the driving forces in the preparation of the UN 2030 Agenda, the EU and its Member States should lead by example in putting the 2030 Agenda into practice and setting up the governance framework. The Committee therefore welcomes the Commission's intention to issue a new initiative in 2016 *Next steps for a sustainable European future* because of its new and most urgent approach to ensure Europe's economic growth and social and environmental sustainability beyond the 2020 timeframe and to implement SDGs in European internal and external policies in an integrated manner¹. The Committee calls on the Commission to give

¹ COM(2015) 610 final.

high priority to this initiative, also incorporating a participatory governance framework. It regards this initiative as a necessary step to strengthen the concept of sustainable development throughout Europe by introducing an integrated strategy for a sustainable Europe in a globalised world with a time horizon of at least 2030 which would frame national implementation.

- 1.5 The Committee commits to contributing to the full implementation of the 2030 Agenda for Sustainable Development in the EU. Based on its longstanding experience in outreach to civil society, the Committee feels particularly suited to contributing to a strong involvement of civil society in this context.
- 1.6 At EU level, arrangements for participatory governance need to be further developed in order to strengthen democratic and inclusive decision making and to allow civil society a stronger role.
- 1.7 The Sustainable Development Forum, recommended by the EESC, will facilitate the dialogue and communication between the European institutions and non-governmental stakeholders and between non-governmental stakeholders from different constituencies on progress towards sustainable development in the EU. It will raise awareness of the 2030 Agenda, provide an informed debate and foster ownership on all sides involved.
- 1.8 The Committee is convinced that organising the Forum would be practically feasible and beneficial for the various parties involved. This is based on an in-depth investigation in this opinion, including hearings and meetings where stakeholders expressed support to the idea of establishing the Forum, and considering the very successful example of the European Migration Forum.
- 1.9 Since the management of SDGs at different levels is a new policy area, appropriate governance frameworks still have to be established and consolidated in the coming years. Therefore, the Forum's set up should allow flexibility in order to align it with the evolving overall governance framework.
- 1.10 The Forum should involve representatives from a broad range of organised civil society and stakeholder associations, including the private sector and trade unions. The composition should be as inclusive as possible without compromising the possibilities to manage and operate the Forum efficiently. It should also be open to grassroots initiatives in sustainable development. The participation of academia and research should contribute to a fact-based debate.
- 1.11 The participation of the European Commission at a high level is crucial, representatives from the Council of the EU and the Parliament will be invited and cooperation with the Committee of the Regions is anticipated. National Sustainability Councils and National Economic and Social Councils should be represented, along with similar national bodies devoted to making progress in sustainable development.

1.12 The Forum should be managed by a board composed of a majority of members coming from civil society and stakeholder organisations and other members from the Commission and the EESC.

1.13 The Forum must be well embedded in the processes of SDG implementation, monitoring and review. It should be organised as a continuous working process, meet at least once a year and address inter alia the EU preparation for the annual UN High-Level-Political-Forum on Sustainable Development. The Forum should serve as a platform to discuss the design, set-up and modalities of the EU framework for SDG implementation. Furthermore, the Forum should facilitate the involvement of its constituency in intergovernmental SDG reviews of Member States.

2. **Introduction**

2.1 At the United Nations Sustainable Development Summit, 25–27 September 2015, world leaders adopted the 2030 Agenda for Sustainable Development, including a set of 17 Sustainable Development Goals (SDGs) to be achieved by 2030.

2.2 For the European region, the EU will have a key role in integrating the new agenda into European policies, communicating it, defining milestones, coordinating and providing guidance, as well as monitoring progress and ensuring the quality of (national) peer reviews.

2.3 In order to implement the SDGs, appropriate governance mechanisms have to be put in place at global, regional, national and local level. Based on a participatory approach, and building upon the principles of transparency, accountability and empowering citizens, local communities, businesses, trade unions, NGOs and other civil society players must take an active role at all policy levels.

2.4 In its information² report the Committee has investigated models for civil society involvement in the implementation of the 2030 Agenda in the EU and put forward recommendations for strengthened participatory governance. The suggested Forum builds on key recommendations of this report.

2.5 Following the presentation of the report at the Commission, the UN HLPF, working groups of the Council and other conferences, the Dutch Presidency of the Council requested that the Committee draw up an exploratory opinion on how a mechanism for civil society involvement at EU level could be practically set up, managed and financed in order to make it an effective tool for participatory governance of the 2030 Agenda. The recommendations from this opinion should facilitate the following political decisions about the introduction of such an instrument.

² [Information report](#), EESC-2015-1169 of 17.9.2015, The report was accompanied by a research study from Stakeholder Forum, [Building the Europe We Want - Models for civil society involvement in the implementation of the Post-2015 agenda](#), commissioned by the Committee, June 2015.

3. Civil society and stakeholder involvement in sustainable development

- 3.1 The process leading to the UN 2030 Agenda has been based on a broad participatory dialogue with civil society and stakeholder organisations contributing substantially to the development of the SDGs in the UN Open Working Group. This inclusive approach must be pursued since civil society has a key role to play in each stage of the sustainability policy cycle (i.e. setting goals and targets, establishing implementation strategies and policy programmes, implementation and monitoring). Progress on sustainable development will only be made when it comes directly from committed and innovative businesses, local communities and citizens.
- 3.2 One of the key findings of the previous EESC information report was that stakeholder engagement in sustainable development works best if it is organised as a structured and continued process rather than being conducted on the basis of solitary topical or ad-hoc consultations. A structured process enables stakeholders to plan ahead and make well-researched contributions.
- 3.3 The existence of diverging definitions of civil society in this context has to be acknowledged. While from some sides a distinction is made between civil society organisations, engaging in the protection of collective goods, and the private sector the Committee has a broad understanding of "organised civil society" as comprising all groups and organisations in which people work cooperatively and express their positions, including organisations of the private sector, trade unions and other interest groups³. The recommendations in this opinion are based on a broad understanding of civil society, covering all non-governmental stakeholders in an inclusive and wide-ranging way since an involvement of all groups and sectors is needed in order to address the challenge of SDG implementation.

4. A European Sustainable Development Forum - an added value

- 4.1 The Committee has long experience in reaching out to civil society organisations from all sectors and creating value through dialogue and concrete action with European policymakers. The Committee has been promoting an ambitious 2030 Agenda with several opinions and a series of conferences and workshops, organised in conjunction with the Commission and various UN bodies. On the occasion of the negotiation of the 2030 Agenda these have provided a platform for civil society dialogue at EU level. The Committee proposes now to further develop this practice into a permanent and more stable structure.
- 4.2 Based on the report's assessment, the Committee intends to set up a European Sustainable Development Forum (the Forum) in partnership with the Commission and representatives of organised civil society and stakeholders.

³ Art. 300 para. 2 TFEU

4.3 The Forum should provide a regular, stable, structured and independent platform for civil society dialogue on sustainable development at EU level. It should focus on the following tasks:

- Providing a frame for dialogue on sustainable development and facilitating cooperation between the EU institutions and non-governmental stakeholders as well as between non-governmental stakeholders from different constituencies;
- Creating a space for non-governmental stakeholders, players and grass root initiatives to share suggestions, best practice and solutions for a meaningful implementation of the 2030 Agenda;
- Ensuring strong involvement of non-governmental stakeholders in the ongoing monitoring and review of the 2030 Agenda;
- For this purpose organising a continued dialogue process with meetings complemented by other means of communication, such as an e-platform.

4.4 The added value of this Forum will be

- **Outreach:** as the facilitator of the Forum the EESC brings its capacity to reach out to various interested parties and to ensure cross-sectoral integration.
- **Information and advice:** the Forum would show both policy successes and policy shortcomings and failures on the implementation of SDGs in an informed way and foster success through expertise from various stakeholders, exchange on best-practice as well as through safeguarding the long-term horizon and bringing in new perspectives.
- **Raising awareness and creating ownership:** the Forum will raise awareness of the 2030 Agenda and strengthen ownership through the involvement of various stakeholders in the process.
- **Partnership:** the Forum could facilitate multi-stakeholder partnerships for the implementation of SDGs at EU level.

4.5 The Forum offers an opportunity for enhanced dialogue, for building consensus and for scanning controversies. It does not speak on behalf of CSOs nor does it replace advocacy campaigns by participating organisations. The Committee appreciates the effective work of NGOs and other alliances advocating an ambitious implementation of the 2030 Agenda in the EU. It invites all these to participate in the Forum, using it as a platform to promote their messages and engage in a dialogue with a broader range of stakeholders and the EU institutions.

4.6 With its proposal the Committee also builds on the positive experiences of several EU Member States with the effective input of National Sustainability Councils (NSCs) into domestic decision making by government, local communities and corporations, reflecting on the broader debate on sustainability. Members of NSCs represent civil society, advocacy groups and stakeholder associations along with corporate and trade union associations. Appointed by government, their institutional design may vary according to national specificities. Without replacing legitimate advocacy approaches those Councils connect with top level decision makers and operate on a broad base of activities and tasks:

- providing advice to the government;
- bringing stakeholders together, connecting with target groups and expanding vertical integration;
- monitoring progress;
- facilitating policy learning, in particular through Peer Reviews;
- setting the agenda and
- stimulating the outreach of the concept of sustainability.

4.7 The example of the European Migration Forum (EMF) demonstrates the benefits of a platform similar to the Forum, organised by the EESC. The EMF was established as the European Integration Forum in 2009 by the European Commission in cooperation with the EESC⁴. Given the success of the Forum, it was decided to expand its scope to include topics related to immigration and asylum. It brings together around 200 participants, including ca. 120 civil society organisations, 20 representatives of local and regional authorities, representatives of EU Member States and EU institutions.

4.8 In 2012 DG DEVCO very successfully set up a "Policy Forum for Development" at EU level as a space for multi-stakeholder dialogue with CSOs and local authorities from EU and partner countries to ensure their effective consultation and contribution to the EU development policies and programmes. Participants include development NGOs, trade Unions, cooperatives, foundations and philanthropies, local authorities, chambers of commerce, human rights organisations, relief/humanitarian organisations, environment organisations and youth organisations. However, the Policy Forum only covers aspects of the EU external and development policy, in particular by providing a thorough dialogue with civil society on development policy and projects. This is an ideal complement to the wider sustainable development agenda the European Sustainable Development Forum is aiming at and its imperative for integrating internal and external aspects of SDGs. In practical terms, a great part of the discussion in this Forum will be dedicated to the EU internal implementation of SDGs. The work of the Forum will have to be closely coordinated with the Policy Forum for Development in order to create synergies.

5. Main features/building blocks of a European Sustainable Development Forum

5.1 As the SDGs are unprecedented and governance frameworks are still in the process of development, the Forum's setup should focus special attention on the work-in-progress governance aspects and be kept flexible. The Forum will have to integrate itself into the full policy cycle of sustainable development. For this purpose it will need a detailed review once EU and Member State governance frameworks for the 2030 Agenda take shape.

⁴ EESC opinion on *Elements for the structure, organisation and functioning of a platform for the greater involvement of civil society in the EU-level promotion of policies for the integration of third-country nationals*, [O.J.C 27 of 3.2.2009, p 95-98](#).

5.2 Having investigated the main features of the Forum in the preparation of this opinion, the Committee is convinced that its initial launch should consist of the following elements.

5.3 **Participants**

5.3.1 As regards the participation of non-governmental stakeholders the objective is to be as inclusive as possible, as pointed out in 3.3, and include representatives from

- development, social, environmental, human rights and non-discrimination NGOs,
- the private sector, including industry, SMEs and micro-businesses, services, and sustainable investment,
- trade unions,
- farmers, forestry,
- consumers,
- the cultural dimension of sustainability
- youth,
- urban and rural development,
- and other relevant sectors.

5.3.2 Civil society groups whose interests are normally not well represented at EU level need to be involved. Participants should also include not only representatives of organisations, but genuine initiatives and players in sustainable development who can bring in experience from best practice.

5.3.3 The composition should ensure that different sectors and stakeholder groups are represented in a balanced way and all dimensions of sustainable development are covered appropriately. On the other hand, the varying specific thematic focus of each meeting will also have to be considered. This will lead to core groups for sustainable development policies being represented permanently while the participation of others will depend on the specific thematic focus. Core groups are those that follow up on all 17 SDGs and focus on overarching governance issues. Participation of special focus groups will be based on an open call that sets out the agenda of each meeting.

5.3.4 Membership of the Forum should reflect cross-level governance, as well as continuity and flexibility in expertise. The prime focus will be on organisations working at European level. From the national and subnational level SD Councils, ESCs and local and regional communities should be represented in the Forum. Cooperation with the Committee of the Regions should be anticipated.

5.3.5 On the institutional side the Commission, in particular the Vice-President in charge of sustainable development policy coordination should be present in the meetings and be invited to provide presentations and engage in a dialogue with stakeholders. Representatives of the Council of the EU and the European Parliament should be invited.

- 5.3.6 Research and science should be represented in the Forum. Involving the scientific pillar could also facilitate the science-policy interface in the implementation of the 2030 agenda at EU level.
- 5.3.7 Funding for travel and accommodation will have to be provided for civil society organisations with a limited capacity to participate.
- 5.3.8 In order to balance continuity and flexibility, the selection of non-permanent participants should be made in advance of each Forum meeting, taking into consideration the thematic focus of the meeting and on the basis of an open call. A similar procedure is successfully applied for the European Migration Forum.
- 5.3.9 To ensure inclusiveness and trust, the conditions for participation will be transparent and participants will be required to sign-up to the EU Transparency Register and appropriate principles, such as the Istanbul Principles for CSO Development Effectiveness⁵.

5.4 **Organisation and management**

- 5.4.1 The multiple functions of the Forum have to be taken into account in order to define its institutional status and organisational design appropriately. Independence and credibility of the Forum are of high value. The governance of the Forum will have to be as clear and transparent as possible, avoiding any blurring of responsibilities.
- 5.4.2 The Forum should be hosted and coordinated by the EESC as the body dedicated to facilitating civil society participation at EU level.
- 5.4.3 The preparation of meetings should be managed by a board with a mixed composition of representatives from civil society and stakeholder organisations, who will form the majority of board members, as well as representatives of the Commission and EESC. As is the case with the European Migration Forum, board members could be elected by the participants of the SD Forum, based on a rotation principle.

5.5 **Working process and meetings**

- 5.5.1 The Forum should be designed as a continuous working process. Each year there will be regular meetings accompanied by preparatory meetings, be it as "open space meetings", working groups and continuous cooperation based on online platforms using innovative methods of organising communication processes and events.

⁵ <http://cso-effectiveness.org/InternationalFramework>.

5.5.2 The composition and the Forum's way of working should respect the right of the civil society organisations involved to define their contributions in an independent and self-organised manner.

5.5.3 The Forum will strive for a meaningful connection with the SDG implementation process at European level, and at UN and Member State level correspondingly. At Member State level national governments are expected to adapt to the universal goals and to report back to the UN where the UN High-Level-Political Forum (LPP) for Sustainable Development has been established to guide and monitor the implementation of the UN 2030 Agenda. The Forum should meet in plenary at least once a year ahead of the annual HLPF summer meeting so that the outcome can be brought to bear.

5.5.4 For timing of other meetings reference should be paid to the European Semester, budgetary negotiations, and the EC work programme. The Forum shall facilitate the participation of peers from civil society and stakeholders in emerging peer review schemes of Member States governments which are currently explored by the European Sustainable Development Network.

5.5.5 Another important reference point for involving stakeholders in the monitoring is given by the monitoring reports on the implementation of the 2030 Agenda in the EU, particularly Eurostat's monitoring reports which for the debates in the Forum may provide a solid knowledge base.

5.6 **Agenda setting**

5.6.1 The plenary meetings' agenda must regularly focus on progress and modalities of the 2030 Agenda in a comprehensive way. In addition the agenda could focus on a specific theme, reflecting a cluster of SDGs or a theme of horizontal importance for many SDGs (e.g. halving poverty and inequality simultaneously). The agenda should be designed in a way that encourages cooperation of stakeholders from different backgrounds.

5.6.2 Since the Forum should act as an independent and transparent body, participants will be consulted in the process of agenda setting via the Forum's management board.

5.7 **Knowledge base**

5.7.1 In order to be effective and meaningful the Forum's debates have to build upon an excellent knowledge base. It is to be expected that Eurostat will proceed with its bi-annual reports⁶ monitoring the implementation of the UN 2030 Agenda in the EU. These reports will form part of the knowledge base for the discussion in the Forum.

5.7.2 Information from independent sources must be included in the process, such as reports and initiatives from organised civil society, national Economic and Social Councils and

⁶ <http://ec.europa.eu/eurostat/en/web/products-statistical-books/-/KS-GT-15-001>.

Sustainability Councils, academia, research bodies, such as the IISD knowledge management system on SDGs, and European agencies as well as citizens' monitoring activities. Information input could be supported by web-based platforms. To obtain expertise through inviting experts or initiating research, the Forum should strive to link to existing research capacities.

- 5.7.3 Using good practice experiences from national Councils for Sustainable Development the Forum should establish links to research funding institutions and initiate transdisciplinary research into the transformation towards sustainable development throughout Europe.

5.8 **Outcome**

- 5.8.1 The outcome of the Forum meetings and discussion processes should be summarised in reports or other suitable documentation methods. All representatives should see their views and recommendations reflected in the outcome documentation. Resolution of conflicts of interest lies with the Board. The outcome should provide also opportunity for participating organisations to present their results and reports.
- 5.8.2 If regular progress reports on sustainable development are produced by Eurostat or the Commission, the Forum will suggest taking its findings on board as a shadow report from a civil society perspective.
- 5.8.3 It must be ensured that the outcome feeds into the work of the Commission and the other European Institutions on the 2030 Agenda and any feedback will be closely monitored.
- 5.8.4 Another outcome might be a series of European dialogues with special interest groups or other target groups of people, e.g. young people as members of the next generation of decision takers who will reach retirement age in the year 2050.
- 5.8.5 Furthermore, the Forum may choose to establish new forms of interaction. The establishment of a European Sustainability Award is conceivable and could be awarded for extraordinary action and leadership on the part of civil society.



European Economic and Social Committee

Brussels, 16 September 2015

OPINION

of the

European Economic and Social Committee

on

**Improving the functioning of the European Union building on the potential of the Lisbon Treaty
and on**

Possible evolutions and adjustments of the current institutional set-up of the European Union

Rapporteur: **Mr Luca Jahier**

Co-rapporteur: **Mr José Isaías Rodríguez García-Caro**

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EN

On 19 May 2015, the European Parliament decided to consult the European Economic and Social Committee, under Article 304(1) of the Treaty on the Functioning of the European Union, on

Improving the functioning of the European Union building on the potential of the Lisbon Treaty

and on

Possible evolutions and adjustments of the current institutional set-up of the European Union

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September), the European Economic and Social Committee adopted its opinion by 185 votes to 4 with 4 abstentions.

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1. Introduction

- 1.1 This opinion is drafted at the request of the European Parliament, within the context of the two reports of the Committee on Constitutional Affairs, namely: *Improving the Functioning of the European Union Building on the Potential of the Lisbon Treaty* (rapporteurs Ms Bresso and Mr Brok) and *Possible Evolutions and Adjustments of the Current Institutional Set-up of the European Union* (rapporteur Mr Verhofstadt).
- 1.2 The EESC welcomes the initiative of the European Parliament. It is expected that it will constitute a significant contribution towards relaunching the debate on the future of the European Union. The EESC has already adopted several opinions on the subject and is committed to contribute further to the work of the European Parliament.
- 1.3 The EESC is the institutional representative of organised civil society¹ at the European level and its members are "*completely independent in the performance of their duties, in the Union's general interest*"². As a consultative body of the European institutions, the EESC has assured, since its creation, effective, wide and consistent participation of organised representative European civil society in EU policy-shaping and decision-making. Therefore, it contributes to ensuring that decisions are taken as openly as possible and as closely as possible to the citizen³,

¹ Organised civil society can be defined as the sum of all organisational structures whose members have objectives and responsibilities that are of general interest and who act as mediators between the public authorities and citizens.

See opinions on *The role and contribution of civil society organisations in the building of Europe* of 22 September 1999 ([OJ C 329, 17.11.1999, p. 30](#)) and on *Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper* of 25 April 2001 ([OJ C 193, 10.7.2001, p. 117](#)).

² See Article 300 (4) TFEU.

³ See Article 1 TEU.

thus contributing to the implementation of the principles of subsidiarity and proportionality, which govern the use of Union competences⁴.

2. **Europe at a Turning Point: seizing the opportunity**

- 2.1 Almost six years since the entry into force of the Lisbon Treaty, the European Parliament has raised the question as to whether the European Union can overcome its challenges by fully exploiting the existing provisions of the Lisbon Treaty, and/or whether it would be necessary to review certain policy areas and the current institutional set-up of the European Union.
- 2.2 The crisis which was triggered in 2008 revealed serious failings in the architecture of the Eurozone and in the institutional set-up of the EU, which spurred on rapid steps to adapt and innovate. These changes have demonstrated the resilience of the European institutions and their capacity to overcome the threat of a general break-up of the Eurozone. Moreover, the result has been the introduction of mechanisms of solidarity and assistance which have no precedent in the history of the EU. Nevertheless, the EU needs to regain a sufficient level of growth to improve the environment for enterprises and maintain jobs, to reduce unemployment, social inequalities and the asymmetric development between the Member States and regions. To date, the growth supporting measures have been insufficient to attain these objectives.
- 2.3 However, the economic problems have led to a concentration of urgent economic and fiscal initiatives designed to tackle the deep financial and economic crisis. These measures have generated serious concerns about democratic accountability and their social impact, which have not been sufficiently taken into consideration. Crucially, the response to the crisis has highlighted concerns over the transparency, accountability and sustainability of European decision making, due, inter alia, to the repeated recourse to inter-governmentalism.
- 2.4 During the crisis, a large majority of EU Member States resorted to the signature of intergovernmental treaties, which are legal instruments concluded outside the procedures of EU Treaties. These are the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG) and the Treaty on the European Stability Mechanism (TESM). These Treaties have been enacted without significant transparent or public debate. Such an intergovernmental approach, represented by the European Council, can be explained by the financial dimension of the crisis and the urgency to quickly put in place significant instruments to overcome this crisis. This raises the issue of potential conflicts between the intergovernmental nature of these Treaties and the EU's own "rule of law".
- 2.5 Today, the EU is forced to overcome increasing fragmentation, a very divisive economic, social and political crisis, coupled with increasing civic unrest, all of which are creating growing divergences. Today's Europe is one of revived prejudices, national stereotypes and increasing divisions between people and countries, with the rise of populist and anti-European movements.

⁴ See Article 5 (1) TEU.

Thus, there is an urgent need to promote what unites the people of Europe as opposed to what divides them. This will be a long process and should begin immediately.

- 2.6 It is also a Europe where citizens have limited trust in the European institutions and where mainstream democratic politics are under severe scrutiny. This is principally reflected at the *national* level, as we have seen from recent election results. However, the impact is felt very much at the *European* level. In the 2014 elections to the European Parliament, approximately one-quarter of all seats were won by candidates of parties that were sceptical either of the European project, or of some EU policies. For despite national responsibilities for the crisis, citizens feel either that "Europe" is responsible for the socio-economic problems or that EU institutions are not doing enough to improve their daily lives. Nevertheless, there is still a significant majority of voters who favour further European integration.
- 2.7 The risk of a British withdrawal from the EU through a referendum in or before 2017 and the continued instability in Greece further compound the fact that the EU is at a political crossroads. Indeed, one could argue that Europe has lost its sense of direction in relation to the deepening of European integration and that there are considerable question marks with regard to its current and future evolution and identity. Whereas in the past European integration was driven by a vision (peace, reconciliation, prosperity, etc.), today we have an EU which is "reacting" to threats and challenges, instead of driving the process.
- 2.8 In contrast, as was stated by Mr Van Rompuy, former President of the European Council, today the EU needs to strive for the right balance between an "enabling" Europe capable of opening new opportunities and a "caring" Europe able to support its citizens⁵. It is precisely this synergy, reinforced by a new participatory dimension, that will encourage European citizens and by consequence politicians, to regain confidence in the European project, in the spirit of the Preamble of the Treaty on the European Union.
- 2.9 To the internal difficulties facing the EU must be added an increasing number of crucial external challenges. These include mounting fears and insecurities relating to terrorism, migratory pressures, energy security and territorial cohesion, in addition to a growing instability along the EU's Eastern and Southern borders.
- 2.10 Within this deeply challenging context, it is now urgent to re-open the debate on the efficient functioning of the EU and on the role of the Treaties within this process. It is an opportune moment to examine how to deliver better results for the citizens of Europe and to adapt and reinforce the current institutional set-up.
- 2.11 Equally important is the necessity to rebuild trust by concentrating more on explaining to citizens the advantages of the EU and, also, by listening to them and to representative civil

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Speech by Herman Van Rompuy "*Is there a need for a 'New Pact for Europe?'*", Brussels, 17 June 2015.
<http://www.newpactforeurope.eu/documents/eventsdocs/speech.vanrompuy.17june2015.pdf>.

society organisations. The prevailing perception is that the EU has not been successful neither in formulating nor in implementing sustainable, inclusive and balanced strategies focussed on investment and growth, and the reduction of inequalities. Moreover, the EU has failed to deliver concrete results to its citizens, for which Member States carry part of the responsibility. The end result is an increasing lack of confidence by citizens in the EU, a sense of inappropriate intrusions by EU institutions in local affairs and a widening gap of misinformation. Rebuilding trust and confidence in the EU is crucial. The EU is at a turning point and acceptance by its citizens will be crucial to moving forward in this respect.

3. **Better exploiting the existing European Treaties**

- 3.1 Without doubt, the existing European Treaties provide unexploited opportunities which could be employed to improve policies and thus to strengthen the EU internally and externally. Whether exploring deeper policy action or improving implementation, there is a wide scope of policy areas and technical instruments which could be tapped into. This should be the current priority of the European Union and its institutional architecture.
- 3.2 Despite the necessity to review certain elements of the existing institutional framework of the European Union through specific Treaty changes, it must be considered that the conditions for doing so are not met today. Thus, the EESC will only address the issue of changes and adjustments to the Treaties as and when appropriate.
- 3.3 Central to regaining the confidence of citizens in the EU is the necessity to ensure coherence and consistency between all EU policies and activities, as stipulated in Article 7 TFEU, thus improving the implementation of the existing treaties. This would imply balancing territorial cohesion with the economic and social dimensions of the Treaties. In particular, it would necessitate the full application of Article 3 TEU, which states, inter alia, that the EU must be based on a "*... highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment ... (which) shall promote economic, social and territorial cohesion, and solidarity among Member States*".
- 3.4 Further examples of under-used existing provisions within the Treaties include the five horizontal clauses of the TFEU, which relate in particular to promoting equality between men and women (Article 8), ensuring a high level of employment, the guarantee of adequate social protection and the fight against social exclusion (Article 9), combatting discrimination (Article 10), environmental protection (Article 11) and consumer protection (Article 12). In the future these clauses should be used to promote greater inter-connectivity between European policies and more accountability with regard to EU citizens.

- 3.5 Moreover, there is a large range of policy areas which have been insufficiently used. The main instrument for integration of the 28 Member States has been the **internal market**⁶. It should be complemented by further integration, to drive growth, competitiveness, employment and benefits for all EU citizens and regions. In order to achieve this, substantial EU initiatives are needed primarily in product markets, energy, transport, services, labour markets, public procurement, intellectual property and the digital economy. Moreover, national reforms should be more transparent in the tax area, address unfair tax competition and be complemented by a greater breadth of EU policy action⁷.
- 3.6 Two main sectoral clusters to be subject to reinforced European policies should be the **Energy Union** and the **Digital Single Market**. The latter is the subject of a specific EESC opinion in preparation and hence will not be dealt with in detail in this opinion.
- 3.7 In order to overcome the external threat of energy insecurity, the EU could apply the existing provisions of Article 194 of the TFEU and move towards an Energy Union. The EESC has consistently advocated "More Europe" in energy policy and has called for solidarity to become the driving force for developing a European energy policy. Article 194 would enable the establishment of an effective and transparent governance system for the Energy Union, which would make EU energy policy more efficient, reduce costs, bring value to citizens and raise the EU's profile vis-à-vis its international partners. Promoting renewable energy and supporting businesses in their energy transition are integral to this process.
- 3.8 In addition, real progress to drive inclusive growth, competitiveness, employment and benefits for all EU citizens and regions could be achieved via the next mid-term review of the **Europe 2020 Strategy**. This would require reforms to be focussed on EU investments, in order to enhance competitiveness in innovation, employment, resource efficiency, sustainable re-industrialisation, more and decent jobs, equality in the labour market, social and regional cohesion, inclusion and a well-functioning internal market. The EESC underlines that the EU does not need a completely new strategy, but a much more effective Europe 2020⁸, including an increasingly efficient, balanced and democratic design of the European Semester.
- 3.9 A contribution to achieving economies of scale and realising the political objectives of the EU could be reached through the reform of the EU **own-resources** system, simplifying the current system of contributions and payments for Member States, presenting a new own resource system and reforming the corrections system. A change to own resources would mean that the original Article 201 of the Treaty of Rome, now Article 311 of the TFEU, would be properly and fully implemented for the first time. For the EESC, it is crucial that the own resources system meets a number of criteria. These should include fairness, efficiency, stability,

6 Titles I to IV TFEU.

7 Opinion on *Completing EMU – The role of taxation policy* of 10 December 2014 ([OJ C 230, 14.7.2015, p.24](#)).

8 Opinion on *Progress made on implementing the Europe 2020 strategy and how to achieve its targets by 2020* of 19 February 2015 ([OJ C 251, 31.7.2015, p. 19](#)).

transparency, simplicity, accountability, a budgetary discipline, a focus on European added value, subsidiarity and fiscal sovereignty. In order to achieve these objectives, it is proposed to seize the opportunity of the next mid-term revision of the EU budget, in order to adopt the relevant proposals of the Monti High Level Group. The principal objective must be to reinforce the autonomy of the EU budget, to enable it to have leverage and greater complementarity to national budgets. This will directly contribute to achieving economies of scale and realising the political objectives of the EU⁹.

- 3.10 The EU also needs reforms to reinforce the sense of **common citizenship** at the European level. But the sense of common European citizenship will not be created without citizens' involvement in decision-making at the European level. This implies creating the sense of participation in the joint process for the common cause in all Member States across Europe. One possibility to achieve this would be to give citizens the opportunity to elect Members of the European Parliament from transnational lists, i.e. from several Member States but from European parties, instead of voting for national parties only. However, this may require Treaty change by amending Article 223 TFEU.
- 3.11 Within this context, the EESC has highlighted the necessity to implement effectively the **EU Charter on Fundamental Rights**, by means of new, targeted initiatives¹⁰. The Committee stresses the need to ensure equality for all, with specific focus on vulnerable groups. It underlines that, at the EU level, the Charter's obligations apply to all institutions, agencies and bodies. The EESC urges Member States to build a protection- and promotion-oriented fundamental rights culture at all government levels and across all policy and legislative areas. In addition, it should examine and identify the specific impact on fundamental rights during the transposition process. The EESC strongly encourages the Commission to act effectively in its role as guardian of the Treaties and to use the infringement procedure without taking political considerations into account. In addition, the EESC has called on all EU institutions, agencies, bodies and Member States involved in enacting fundamental rights to promote them with civil society participation. Any regulation related to economic governance and the functioning of the internal market must take into account the provisions of the EU Charter, via a specific assessment¹¹.
- 3.12 Ultimately, over the last ten years, the EU of 28 Member States has faced key challenges and socially divisive issues, which no individual Member State can face effectively alone. It is only through coordinated policies and common action at the European level that positive results can

⁹ Opinion on the *Amended proposal for a Council Decision on the system of own resources of the European Union (COM(2011) 739 final - 2011/0183 (CNS))* and the *Amended proposal for a Council Regulation laying down implementing measures for the system of own resources of the European Union (COM(2011) 740 final - 2011/0184 (APP))* of 29 March 2012 ([OJ C 181, 21.6.2012, p. 45](#)) and Opinion on *A European tax as an EU own-resource* of 17 September 2015 (ECO/377) (See page XX of OJ).

¹⁰ Opinion on the *Communication from the Commission – Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union* of 21 September 2011 ([OJ C 376, 22.12.2011, p. 74](#)).

¹¹ In the event of a revision of the Treaties, the EESC has already suggested including a Social Progress Protocol. See Opinion on the *Communication from the European Commission – Single Market Act II – Together for new growth* of 17 January 2013 ([OJ C 76, 14.3.2013, p. 24](#)).

be attained. This is particularly the case in the areas of **migration and asylum policies**, and the **Common Foreign and Security policy (CFSP)**. In both of these policy areas, the existing EU Treaties provide a large spectre for manoeuvre and many provisions have not been exploited due to the absence of a common and converging political will¹². To this end, Articles 21 to 46 of the TEU and Articles 76 to 81 of the TFEU should be exploited further.

- 3.13 In order to move forward there has to be a combination of ambition, pragmatism and innovation. The EESC is of the opinion that there is today an opportunity to leverage the EU's challenges and to work towards a new phase in the EU's development. It is an opportunity to devise a new pact, between Member States and between the EU and its citizens, for a Europe which will reinforce cooperation, competitiveness and growth, integration and solidarity.
- 3.14 Without doubt, an under-used tool is "Enhanced Cooperation" (defined in Article 20 TEU). This procedure was used for the first time in the area of divorce and legal separation and subsequently for the creation of unitary patent protection in the EU, as well as the proposed introduction of a financial transaction tax. Secondly, the "Passerelle" (bridges) clause (i.e. Article 48(7) TEU), may be used. However, such revisions would require unanimity among the governments of Member States in the European Council or Council, which may be difficult to implement. Both these tools could, in principle, simplify and speed-up European decision-making.
- 3.15 Hence, it is of foremost importance to build on the conclusions of the European Council, which at its meeting on 26 and 27 June 2014 agreed that: "*... the concept of ever closer union allows for different paths of integration for different countries, allowing those that want to deepen integration to move ahead, while respecting the wish of those who do not wish to deepen any further*"¹³. This statement provides the basis for a differentiated European Union where all 28 Member States participate, if necessary to varying extents, thus facilitating reinforced cooperation in strategic fields, but which remains open to all Member States to participate fully.
- 3.16 In addition, the EESC believes that macro-regional strategies have an increasing role to play in the future of the EU. Strengthening and extending them could help develop a European intermediary level able to bring EU convergence and to achieve the systematic involvement of organised civil society, including the economic and social partners.

4. **Reinforcing the Eurozone and Completing EMU**

- 4.1 Improving the failing architecture of EMU and strengthening economic governance have been at the heart of the EU's crisis strategy over the last few years. Urgency measures to keep EMU

¹² Opinions on *European immigration policies* of 11 September 2014 ([OJ C 458, 19.12.2014, p. 7](#)), on *European immigration policy and Relations with third countries* of 9 July 2014 ([OJ C 451, 16.12.2014, p. 1](#)), and on *The new foreign and security policy of the EU and the role of civil society* of 27 October 2011 ([OJ C 24, 28.1.2012, p. 56](#)).

¹³ Paragraph 27 of the conclusions.

afloat have led to a number of developments, but these have resulted from an intergovernmental process of decision-making. It is now important to ensure that these intergovernmental solutions do not become a permanent additional legal framework to the EU Treaties.

4.2 Within this context, it is imperative to move rapidly from the current system which is based on rules to ensure budgetary discipline, to a process of greater convergence between the countries of the Eurozone.

4.3 In the first instance, given that the euro is the currency of the EU, Member States which are members of the Eurozone need to accelerate and to deepen integration via the completion of EMU, **a process which must stay open to all EU Member States**. This could be achieved by robust governance and the strengthening of the institutional framework of the euro area, to be based on:

- a **monetary and financial pillar**, which is largely in place and which should include the implementation of a fully-fledged EU-driven Banking Union to bring about a pan-European capital market, while also protecting taxpayers from excessive risk-taking and disorderly defaults;
- an **economic pillar**, to strengthen the decision-making process in economic policy, thus fostering growth, employment, competitiveness, convergence and European solidarity;
- a **social pillar**, inseparable from economic progress and efficiency, so as to ensure the full implementation of the European Treaties, in the light of Article 3 TEU, and improve social and territorial cohesion;
- a **political pillar**, including greater accountability and democratic legitimacy, to foster credibility and confidence.

4.4 Moreover, steps should be taken towards introducing a budget for the Eurozone, which would contribute towards absorbing shocks that may occur in the future, as long as this potential fiscal capacity is designed as a conditional help for striving for reforms. As stated in the EESC Own-initiative opinion on Completing EMU¹⁴, such a euro area budget could be financed by a financial transaction tax covering the whole Euro area, a carbon tax, a temporary levy or by issuing joint bonds. However, an agreement is still required on any of these options.

4.5 Progress in European economic governance will be possible by enhancing the social dimension of the EU. This should be based on more balanced application of Article 3 TEU, which stipulates that the EU must find equilibrium between economic efficiency, social and territorial cohesion. Moreover, Articles 151 and 153 of the TFEU aim to support a harmonisation of social systems of Member States, an issue explored by the EESC in 2013¹⁵.

14 Opinion on *Completing EMU - The proposals of the European Economic and Social Committee for the next European legislature* of 9 July 2014 ([OJ C 451, 16.12.2014, p. 10](#)).

15 Opinions on *For a Social Dimension of European Economic and Monetary Union* of 22 May 2013 ([OJ C 271, 19.9.2013, p. 1](#)) and on the *Communication from the Commission to the European Parliament and the Council - strengthening the social dimension of the economic and monetary union* of 17 October 2013 ([OJ C 67, 6.3.2014, p. 122](#)).

4.6 At the same time, we need to strengthen the EU democratic legitimacy in order to reinforce its political framework, and in particular the role of the European Parliament. To that end, concrete steps can be undertaken within the framework of the current Treaty and rules. In the medium to long term, a possible revision of the Treaty should bring the institutional provisions in line with the indispensable requirements of a real political Union. The EESC has already approved a very detailed roadmap for the realisation of the political pillar of EMU, which outlines a wide range of possible actions¹⁶.

4.7 The EESC takes note of the Five Presidents' Report of 22 June 2015 to the European Council on *Completing Europe's Economic and Monetary Union* and it expects that it will serve as a basis for more decisive action, as indicated above¹⁷.

5. **Consolidating civil participation, democracy and accountability: the way forward**

5.1 The citizen should be at the centre of the entire debate on the future of the EU. Democracy and accountability are fundamental concepts for European citizenship. In order to implement these principles, a key role has to be played by the European Commission, which is the guardian of the Treaties. The Commission, as the institution which has the monopoly of legislative initiative, also plays a pivotal role of balancing the various forces and interests that make up the EU. This balancing act must be carried out in parallel with the more effective implementation of the principles of subsidiarity and proportionality, in pursuit of more democratic and participatory governance of the EU.

5.2 The Lisbon Treaty entails a more significant role for the European Parliament and a proactive attitude by Member States via a strengthened Council. However, in the future, it will be necessary to extend the competences of the European Parliament further, for instance through an increased role in European economic governance and the European Semester, and to put in place a more balanced share of responsibilities and interinstitutional cooperation between the three institutions, which would ensure a more solid EU Method. In that context, an issue of particular interest is the extensive use that is made of "trilogues" for the adoption of acts in first and second reading of the ordinary legislative procedure¹⁸. "Trilogues" have to a large extent become the norm, thus going against the democratic principles of transparency and accountability and the necessary balance to be maintained between the three institutions in the framework of the ordinary legislative procedure. Therefore, the EESC advocates a return to the spirit, if not the letter, of the ordinary legislative procedure, "trilogues" remaining exceptions.

¹⁶ Opinion on *Completing EMU: the political pillar* of 27 May 2015 (ECO/376) (OJ C 332, 8.10.2015, p. 8).

¹⁷ http://ec.europa.eu/priorities/economic-monetary-union/docs/5-presidents-report_en.pdf.

¹⁸ "Trilogues" are provided for in the Joint Declaration of the European Parliament, the Council and the Commission of 13 June 2007 on *Practical arrangements for the codecision procedure (Article 251 of the EC treaty)* (OJ C145, 30.6.2007, p. 5).

- 5.3 Moreover, the EU Method will also be more effectively applied via "horizontal" subsidiarity. This term, as well as that of "vertical" subsidiarity, is not explicitly defined in the Treaties. Nonetheless, it gives recognition to the public role of private players e.g. citizens and representative civil society organisations and to their participation in policy-shaping and decision-making processes, through their specific consultative role, as well as the autonomous legislative role of social partners in the context of European social dialogue.
- 5.4 In fact, this concept of "horizontal" subsidiarity, sometimes also called "functional" subsidiarity, is already implicitly recognised by the Treaties under Articles 152, 154 and 155 TFEU on social dialogue and the role of social partners.
- 5.5 Article 11 TEU, as well, embodies the principle of participatory democracy as a key complementary component to representative democracy, as expressed in Articles 10 and 12 TEU¹⁹, which is the fundamental basis of democracy. Article 11(1) and (2) TEU²⁰, as the EESC has stressed on numerous occasions, opens up significant prospects for the development of European democracy by laying the foundations for the long-term establishment of a structured civil dialogue at European level, alongside political dialogue between the EU institutions and the Member States.
- 5.6 In addition, this EU Method must be complemented by enhanced "vertical" subsidiarity with a reinforced role for national parliaments in EU policy-making and increased cooperation between the former and the European Parliament.
- 5.7 Crucially, all of the above could already be attained within the existing Treaties. In particular, as regards civil participation, democracy and accountability, a great deal could be achieved by further developing European policies, improving processes and implementation. However, as already indicated in two EESC opinions^{21 22}, there has been limited progress in implementing the provisions of Article 11 effectively and in giving full substance to the concept of participatory democracy.
- 5.8 This is also true in relation to the European Citizens' Initiative (ECI) under Article 11 (4). The ECI should be a pivotal instrument for participative democracy and active citizenship, but in its current format it is largely ineffective and its modalities of implementation have to be substantially revised.

19 On the role of national parliaments and the European Parliament, respectively.

20 Article 11 (1) and (2) states that:
"The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action."

"The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society."

21 Opinion on *Principles, procedures and action for the implementation of Articles 11(1) and 11(2) of the Lisbon Treaty* of 14 November 2012 ([OJ C 11, 15.1.2013, p. 8](#)).

22 Opinion on the *Evaluation of European Commission stakeholder consultations* of 2 July 2015, [OJ C 383, 17.11.2015, p. 57](#).

- 5.9 The concept of "horizontal" subsidiarity must be reinforced and extended to wider policy areas in the future, via structured civil dialogue, for instance in the fields of environment and consumer protection. This would enhance the role of representative civil society organisations in European processes, by enabling them to contribute fully to policy areas that concern them, thus giving substance to the principle of participatory democracy. To achieve this objective and as the EU institutional representative of organised civil society, the EESC has a key role to play in realising the full potential of participatory democracy and in developing and strengthening civil dialogue, in partnership with the EU institutions.
- 5.10 As the institutional representative of organised civil society at the European level, its role is threefold: (i) to facilitate and support dialogue between representative civil society organisations and with the European institutions, (ii) to ensure the lasting involvement of organised civil society in the EU political processes, and (iii) to monitor the implementation of Article 11 TEU.
- 5.11 Thus and as a consultative body to the EU institutions²³, the EESC has the opportunity to fully act as (i) a catalyst and a coordinator in dialogue between and with civil society organisations, (ii) as a key intermediary between civil society organisations and the EU's decision-making bodies, and (iii) as an effective bridge between the national and European levels. Should the Treaties come to be revised, the EESC would ask that this role be explicitly acknowledged²⁴.
- 5.12 The relaunch of the "Better regulation" agenda reflects the new Commission's desire to put a strong emphasis on its assessment work, involving other institutions, national authorities and civil society at large in the process. As an advisory body, EESC involvement in policy evaluation is fundamental because it is based on its legitimate role in the EU institutional set up: (i) to protect what the EU has achieved to meet the needs of European citizens, and (ii) to warn of impediments to the implementation of EU policies and legislation or possible shortcomings.
- 5.13 As part of the role assigned to it under Article 13(4) TEU, both the EESC Protocol on cooperation with the European Commission of 22 February 2012 and the EESC Cooperation Agreement with the European Parliament of 5 February 2014 acknowledge the significant added value the EESC can bring to "Better law-making", by feeding civil society's input

²³ Paragraph 4 of Article 13 TEU on the Union's institutional framework provides that *"The European Parliament, the Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity"*.

²⁴ This proposal was already made by the Committee to the European Council in an opinion in 2006, during the period of reflection which followed the failure to ratify the Constitutional Treaty.
See opinion on *Contribution to the European Council of 15-16 June – Period of reflection of 17 May 2006* ([OJ C 195, 18.8.2006, p. 64](#)).

throughout the EU policy cycle²⁵. Thus, the EESC demands that its institutional role be clearly recognised in any future revision of the Interinstitutional Agreement on Better Regulation²⁶.

5.14 In order to contribute effectively to all this, the EESC itself should fully use its potential and reinforce its role, its operating and working methods, and its operational links with the main European civil society organisations and networks. The EESC is also increasing the relevance of its work by focusing more on clusters of EU priority policies, in the context of the consultative function assigned to it by the Treaties.

5.15 In so doing, the EESC can make a significant contribution to building on the potential of the Lisbon Treaty in policy areas of direct concern to citizens and to identifying possible shortcomings that would require changes and adjustments to the policies concerned in order to better meet their needs.

Brussels, 16 September 2015

The President
of the
European Economic and Social Committee

Henri Malosse

²⁵ Paragraph 18 of the Protocol on the cooperation with the Commission stipulates that "*the Committee contributes to the process of evaluating the implementation of Union legislation, in particular in relation to the horizontal clauses, as provided for under Articles 8 to 12 TFEU.*"

The Cooperation Agreement with the European Parliament stipulates that the EESC shall systematically provide the Parliament with "*impact assessments on European legislation*", alongside "*information and relevant materials from civil society on how existing legislation and spending programmes are effectively working and what are the deficiencies to be taken into account in making and revising legislation and EU policy*".

²⁶ Opinion on *Delegated Acts* of 16 September 2015 (INT/768) (See page XX of OJ).



European Economic and Social Committee

SC/41
Better Regulation

Brussels, 16 September 2015

OPINION

of the European Economic and Social Committee
on the

**Communication from the Commission to the European Parliament, the Council, the European
Economic and Social Committee and the Committee of the Regions - Better regulation for
better results - An EU agenda**
COM (2015) 215 final

Rapporteur: **Bernd Dittmann**

SC/41 – EESC-2015-03697-00-03-AC-TRA (DE) 1/14

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EN

On 1 June 2015, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Better regulation for better results - An EU agenda
COM(2015) 215 final.

The Subcommittee on Better Regulation, set up under Rule 19 of the Rules of Procedure, which was responsible for preparing the Committee's work on the subject, unanimously adopted its draft opinion on 2 September 2015.

At its 510th plenary session, held on 16 and 17 September 2015 (meeting of 16 September), the European Economic and Social Committee adopted the following opinion by 174 votes to 3, with 9 abstentions.

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1. **Conclusions and recommendations**

- 1.1 Better and smart regulation is a common task for all the European institutions and the Member States, the main aim being to improve the quality of European legislation to the benefit of the public, business, consumers and employees. Better regulation does not, however, replace political decisions. Better regulation is a process under constant development. In this way much has been achieved, but there is still room for improvement.
- 1.2 The EESC has been closely concerned with the issue of better regulation for some considerable time, as can be seen from the list of the main opinions on better regulation¹. It therefore has a special responsibility for securing civil society's support for and acceptance of European law and better regulation.
- 1.3 The EESC notes that the role and function assigned to it in the EU Treaties and the cooperation agreements with the European Commission and the European Parliament (EP) have not been given sufficient consideration within the better regulation agenda. It calls for the EU's consultative bodies to be included in the Interinstitutional Agreement on Better Regulation (IIA).

¹ <http://www.eesc.europa.eu/?i=portal.en.int-opinions&itemCode=36193>.

- 1.4 The EESC supports the comprehensive involvement of stakeholders through consultations throughout the lifecycle of a political initiative and therefore refers to its opinion on the evaluation of consultation guidelines. It wishes to stress that, in its view, selecting the right target groups and taking account of the representativeness of stakeholders are key elements of better regulation which should be improved.
- 1.5 In selecting experts for the Regulatory Scrutiny Board, REFIT Platform and for all other bodies, hearings, workshops and other situations, the EESC believes that the greatest possible independence, impartiality and transparency should be ensured.
- 1.6 The EESC calls for the inclusion of self- and co-regulation in the IIA, which should be considered on an equal footing alongside regulatory measures in order to resolve political issues.
- 1.7 The EESC calls for informal trilogues to be reserved for particular emergencies and for the majority of legislation to be decided via the ordinary legislative procedure.
- 1.8 The EESC calls for a stronger Commission focus on shortcomings in the transposition and application of EU law by the Member States and urges the use of regulations instead of directives.

2. **The Better Regulation agenda – a general assessment**

- 2.1 The EESC is convinced that better regulation measures and instruments should help to improve the quality and effectiveness of European legal acts and to establish simple, easily understandable and consistent rules that contribute to the achievement of the objectives set out in the EU Treaties and, in particular, to strengthening and completing the European single market, while providing added value for the public, businesses, consumers and employees in Europe.
- 2.2 Europe is a common legal area, which must guarantee an effective, reliable and applicable legal framework. The concept of better regulation, which is intended to focus both on ex-ante measures at EU level and on the consistent transposition and application of EU law in the Member States, and which provides for better regulation measures throughout the entire life cycle² of a legal act, will be of value to European integration and to the public, as long as not only new technocratic procedures and instruments are introduced but in addition all European institutions and Member States commit to establishing a better regulation culture.

² The life cycle embraces the emergence of an initiative at the Commission from the preparatory stage, through the drafting stage, the adoption of the proposal by the Commission, the legislative procedure, the entry into force of the legal act, transposition and application by the Member States, evaluation by the Commission, scrutiny under the REFIT programme and, if appropriate, the updating, revision, withdrawal and resubmission of a proposal.

- 2.3 The Commission is presenting its Communications and the related documents as a new beginning. The proposals can certainly be described as ambitious. The Committee would like to point out, however, that better regulation is not a new issue, but has been discussed and developed for many years. Improvements achieved through it have helped to ensure that EU law is generally of high quality, to the benefit of the public, business, consumers and employees in Europe. The EESC considers that, in comparison with the national legislators or the international level, the mechanisms and established procedures at EU level work well in ensuring high-quality legislation³. As this opinion will show, however, there continues to be room for improvement. The EESC acknowledges, however, that, with the help of better regulation, much has already been achieved.
- 2.4 Against the background of increasing criticism of the concept of better regulation, the EESC stresses that, in its view, it is not intended to be about "more" or "less" regulation in the EU, or about deregulating specific policy areas or giving other areas greater priority and thus calling into question the values for which the EU stands: social protection, environmental conservation and fundamental rights⁴. Better regulation is first and foremost a tool for ensuring that evidence-based political objectives can be achieved effectively, in the light of these values, without environmental or consumer rights or social standards being restricted or the shifting of responsibilities within the institutional structure by the establishment of new bodies. Better regulation cannot and must not be substituted for political decisions.
- 2.5 The EESC is actively cooperating in the area of the democratic shaping and implementation of EU law. The EESC has for many years done extensive work on the subject of better regulation and has drawn up a series of opinions that contain specific recommendations for the further development of this concept. A list of these recommendations is available⁵ and is intended to be used as a source of ideas and inspiration for the further improvement of the better regulation agenda. This shows that the EESC has a special responsibility for securing civil society's support for and acceptance of the objectives of better regulation. The Committee is also willing to make its contribution to transparent, democratic and consistent better regulation.
- 2.6 The EESC finds it regrettable that the Commission Communication and the entire better regulation package take insufficient account of the role, function and representative nature of the EESC, as enshrined in the Treaties, and thus fail to exploit the potential for making use of the expertise and knowledge of the Committee's members and doing justice to the EESC's function. The EESC is involved in the better regulation agenda only in the context of the REFIT platform (ex-post), which inadequately reflects the Committee's tasks and its responsibility for strengthening the democratic legitimacy and effectiveness of the institutions.

³ *European Court of Auditors Report 2010: Commission's system represents EU and international best practice in terms of its transparency and its comprehensiveness.*

⁴ COM(2015) 215 final.

⁵ <http://www.eesc.europa.eu/?i=portal.en.int-opinions&itemCode=36193>.

2.7 The EESC therefore asks to be appropriately taken into account in the better regulation agenda. This opinion contains proposals as to how and in which areas the EESC should be involved.

3. **Interinstitutional Agreement – towards a common culture of better regulation**

3.1 The Commission Communication looks at the planned IIA measures. The EESC considers the proposal for an IIA to be one of the key elements of the better regulation agenda. The European Commission should be supported in its efforts to constantly promote the objectives of better regulation, involving the whole of civil society. But for this, the support of the legislative authorities, the Council and the EP, is in particular required. The proposal for an IIA is ambitious and can only succeed if there is a clear commitment on the part of all institutions to the objectives and content of better regulation and to consistent application of the proposals contained in the IIA in the light of the EU Treaties. Failure of the negotiations would be a major setback, potentially undoing even the commitments of the IIA of 2003.

3.2 Although the role and importance of the EESC is recognised by the EP⁶, no account is taken in the IIA of the EESC or the CoR or of the function and role assigned to them by the Treaties. This is unacceptable.

3.3 Provided it is consulted in good time by the Commission, the Committee is ready to support the EU institutions with measures for improving regulation, to develop new ideas, to comment extensively on planned initiatives within its remit, to ensure they are of high quality and, where appropriate, to follow up the EU initiatives or, in specific cases, to act as a testing body for planned initiatives.

3.4 The EESC therefore calls for both EU consultative bodies to be included in the IIA in relation to the better regulation measures assigned to them in the EU Treaties and in the cooperation agreements with the Commission and the EP.

3.5 The specific substantive content of the IIA will be assessed in an own-initiative opinion once the IIA has been adopted by the Council and the EP.

4. **Assessment of the Communication on the better regulation agenda**

4.1 Change in the way of working at European level

4.1.1 With its new internal configuration and the gearing of its measures to political guidelines, the establishment of a consistent EU-level work programme and greater interaction with the institutions, the Commission is seeking to achieve better regulation and better results.

⁶ Report on the Regulatory Fitness and Performance Programme (REFIT): State of Play and Outlook (2014/2150 (INI); Rapporteur: Sylvia Yvonne Kaufmann, point 19.

4.1.2 The EESC is pleased that the Commission has entered into a structured exchange with the Council and the EP on the annual work programme and multi-annual programming and, in accordance with the cooperation agreement, is consulting the EESC prior to the publication of the annual work programme. The exchange should cover the entire programming cycle and, through a regular dialogue between the EESC, the EP, the Commission and the Council, generate synergy effects, by ensuring that the work programme's measures can be monitored after their adoption and general cooperation improved. The EESC suggests that the planning of new initiatives and priorities should also take account of existing strategies and integration plans (such as, for example, the Europe 2020 strategy, the annual growth programme and the European Semester/country-specific recommendations) and include detailed information on how the planned measures are to be integrated into the existing strategies and can reflect their objectives. This will prevent certain policy areas and objectives being assigned higher or lower priority than existing strategies.

4.2 Better consultation, more openness and transparency

4.2.1 The Commission is planning to involve stakeholders throughout the entire life cycle of a policy measure through consultations. Road maps, initial impact assessments, legislative acts adopted by the Commission, ex-post evaluations and fitness checks, as well as draft delegated legal acts and implementing acts, should be the subject of consultation with stakeholders. Statements of the reasoning behind legal acts are also to be improved.

4.2.2 The objective of greater transparency and a stronger involvement of stakeholders throughout the whole lifecycle of a legal act is in principle welcomed by the EESC. The EESC has consistently stressed the importance of intensive and comprehensive consultation of all stakeholders⁷, which can contribute to the quality and suitability of legislation and make it possible to find a middle way between the achievement of political objectives on the one hand and streamlining administration on the other. Better consultation will raise awareness and so improve application⁸.

4.2.3 In July 2015, in an opinion on Evaluation of European Commission stakeholder consultations⁹, the EESC put forward proposals for improving arrangements for consulting stakeholders, which are referred to in detail in this opinion. The EESC acknowledges, in this connection, that the guidelines are on the whole a good basis for carrying out high-quality consultations. As the opinion referred to above clearly shows, however, there are still many (also current) cases in which the new guidelines are not being consistently applied by the Commission's responsible departments. The EESC therefore urges that the application of the guidelines as quality standards for the consultation of stakeholders be made mandatory within the Commission.

⁷ [OJ C 48, 15.2.2011, p. 48.](#)

⁸ EESC opinion on the Evaluation of European Commission stakeholder consultations, [OJ C 383, 17.11.2015, p. 57.](#)

⁹ EESC opinion on the Evaluation of European Commission stakeholder consultations, [OJ C 383, 17.11.2015, p. 57.](#)

- 4.2.4 Properly determining the target group of a consultation is essential to obtaining the necessary information. Within the limits of its remit and by cooperating effectively with the organisations concerned and the Commission, the EESC could help identify representative organisations within certain target groups¹⁰. The EESC considers that the enhanced mechanisms for consultation of stakeholders make it necessary to ensure transparency in the selection of experts in forums, conferences, workshops, etc. Similarly, there must be greater emphasis on the representativeness of the stakeholders and qualitative and quantitative weighting in the assessment of findings, depending on whether a response comes from an individual or an organisation representative of civil society. A correspondingly higher weighting should be given to feedback from an organisation.
- 4.2.5 The quality of questions (often suggestive), their selection and the Commission's feedback mechanisms often leave much to be desired¹¹. The EESC has tabled a comprehensive set of proposals on how these shortcomings can be remedied¹². When questionnaires for consultations are being drawn up, it could, for example, influence the questions by submitting proposed questions, or be used regularly as a testing body to check whether the questions are relevant. Examination and monitoring of consultations and the development of an appropriate observatory by the EESC¹³ could make a suitable contribution to enhancing the quality of consultations.
- 4.2.6 Appropriate timeframes for consultations are also important. The regulatory process should not be unnecessarily lengthened by consultations; otherwise periods of four, eight or twelve weeks for consultations on complex or very technical initiatives could be too short to collect relevant feedback. Structured and constantly updated planning of consultations (in the Commission's roadmaps) and the publication of their objectives, including a reliable timeframe, could help stakeholders to prepare their participation.
- 4.2.7 In order to further increase transparency and clarity for stakeholders, the EESC suggests that all current consultations by EU institutions, agencies and downstream bodies¹⁴, including consultations on delegated and implementing acts, be presented in a clear and uniform way on the central Commission website for consultations¹⁵ and be more effectively publicised throughout Europe in the framework of a comprehensive communication strategy.

10 EESC opinion on the Evaluation of European Commission stakeholder consultations, [OJ C 383, 17.11.2015, p. 57](#).

11 EESC opinion on the Evaluation of European Commission stakeholder consultations, [OJ C 383, 17.11.2015, p. 57](#).

12 EESC opinion on the Evaluation of European Commission stakeholder consultations, [OJ C 383, 17.11.2015, p. 57](#).

13 EESC opinion on the Evaluation of European Commission stakeholder consultations, [OJ C 383, 17.11.2015, p. 57](#).

14 In particular, for example, the European supervisory authorities (EIOPA, ESMA, EBA).

15 http://ec.europa.eu/yourvoice/consultations/index_en.htm.

- 4.2.8 Consultation on delegated acts (Art. 290 TFEU) and implementing acts (Art. 291 TFEU) is particularly welcomed. Lack of transparency, obvious legal uncertainty and inadequate political control of the system of prior consultation on regulatory acts are quite rightly often criticised¹⁶. The EESC also calls for the introduction of a register of delegated acts, on the model of the comitology register. The use of delegated and implementing acts must be strictly limited and properly justified. Downstream measures must be consistently guided by the basic legal act. Political decisions must not be undermined by delegated and implementing acts.
- 4.2.9 Care should also be taken to ensure that there is no overlap between consultations or content of delegated and implementing acts and consultations on guidelines of EU agencies or their content.
- 4.2.10 In principle, consultations of the social partners – in accordance with the procedures on social dialogue laid down in the EU Treaties (Art. 154, 155 TFEU) – should be distinguished from public consultations of all civil society stakeholders under Article 11(3) TEU. Both have their specific roles and different forms of legitimacy.
- 4.2.11 It is true that the text of the better regulation toolbox points out that social partner consultations must not fall below the minimum standards for consultations and thus the requirements for public consultations. The EESC would, however, like to emphasise that the Communication must under no circumstances be used as a pretext for consultations of European social partners or their results being subject to ex-ante or ex-post checks by public consultations. Social dialogue is a special procedure provided for in the TFEU¹⁷, which must be respected. Public consultations cannot therefore be a substitute for social partner consultations¹⁸. The implementation of the results of the social partner agreements must be ensured in accordance with the requirements of Article 155 TFEU¹⁹.
- 4.3 Better tools for better solutions
- 4.3.1 The Commission will apply the new integrated guidelines on better regulation²⁰ to new measures, commits itself to testing non-legislative measures, such as co- and self-regulation, and will pay particular attention to the "Think Small First" principle, the "SME test" and the possibility of exempting micro-enterprises from certain European requirements.

16 EESC opinion on Delegated Acts (see page XX in the Official Journal).

17 Articles 154(2) and (3) TFEU.

18 Report of the EP Committee on Legal Affairs on the Regulatory Fitness and Performance Programme (REFIT): State of Play and Outlook (2014/2150 (INI), point 10.

19 Negative example: Hairdressing Agreement.

20 SWD (2015) 111.

- 4.3.2 The EESC welcomes the fact that the better regulation guidelines have been drawn up, revised and clarified in a consolidated version, complemented by a toolbox. The EESC considers that these instruments could make a significant contribution to better regulation, provide broad support to, and enable consistent application by, Commission staff through their uniform presentation in a document. The secretariat-general should ensure compliance by all the Commission's departments.
- 4.3.3 The Commission reiterates that the guidelines on better regulation should ensure that "keeping the EU competitive and the EU's sustainable development remains a priority in all we do"²¹. EU action should strike a balance between the overarching objectives of the EU and promoting competitiveness. For its part, the EESC calls for any legislative or non-legislative proposal to be subject to effective and consistent scrutiny, in line with the objectives of Article 3 TEU, and for regular "competitiveness checks" to be carried out.
- 4.3.4 The EESC has always called for the procedure to be made more transparent and for economic, social, environmental and consumer considerations always to be considered in a more balanced way²². This should be consistently checked in the context of each impact assessment. The EESC could contribute to a balanced assessment of these instruments and procedures in the context of its competences.
- 4.3.5 Legislation should in principle be drawn up in such a way that it may be applied to all businesses equally. The Commission's renewed commitment to the "Think Small First" principle and taking account of SME interests (including micro-enterprises) is to be welcomed.
- 4.3.6 It is beyond dispute that regulation by legislation is necessary for businesses of any size but it often causes problems when setting up and managing small companies, especially micro-enterprises. The EESC points out that micro-enterprises should not be given blanket exemptions. Rather, a case-by-case approach should be adopted to legislative proposals, following on from a thorough impact assessment exercise²³. The interests of micro-enterprises must be respected in this process, and the rights of employees and consumers must not be restricted.
- 4.3.7 The EESC welcomes the replacement of the *Impact Assessment Board* by a Regulatory Scrutiny Board and urges that the greatest possible transparency, impartiality and independence of the experts be ensured. The presence of external experts is a step in the right direction. This will make the body more impartial; at the same time, the extension of its remit to include evaluations and fitness checks should make for greater coherence and synergy in impact assessments. But the aim must still be to establish a single independent impact assessment body acting for all EU

21 COM(2015) 215 final, point 3.1.

22 [OJ C 230 14.7.2015, p. 66.](#)

23 [OJ C 327, 12.11.2013, p. 33.](#)

institutions, engaging in exchange with the established consultative bodies, the EESC and the CoR. This independent body should make use of external experts, have an external chair and carry out checks on Commission proposals²⁴. The Commission should make it clear that its goal is an independent, external body and that the current composition should be regarded only as a further interim step. This could ensure transparency and expertise and prevent EU legislation from being driven by special interests.

- 4.3.8 The EESC has highlighted the importance of self-regulation and co-regulation and their specific features in studies²⁵ and opinions²⁶ as a case of "horizontal subsidiarity"²⁷. The 2013 IIA on better law-making contained a specific chapter on this issue. The Committee also considers that, in some cases, self-regulation or co-regulation might prove to be an effective means of prevention or useful complement to legislation duly framed in a broad legislative framework that is clear, well-defined and rooted in the principles of transparency, independence, efficiency and accountability²⁸.
- 4.3.9 More transparency through the application of better regulation measures is needed, particularly in the light of the huge increase in the use of informal trilogues²⁹. This could be achieved if the results of a trilogue meeting were published before adoption by the Council and the EP. Whilst recognising that the legislative process is intended to be accelerated by the use of trilogues, this gives rise to the fundamental problem of the current legislative practice, the fact that "negotiating boxes" containing different legal acts are repeatedly put together by the Member States in the Council in order to obtain majorities for individual directives. Too often, this happens in a non-transparent way under great time pressure and without sufficient involvement of experts from the Member States, the EP or the Commission, and without adequate analysis of the effects of key elements of these "negotiating boxes". This is not without implications for the quality and transparency of legislation.
- 4.3.10 Therefore, in the context of the better regulation procedure, it needs to be ensured that informal trilogues are reserved for particular emergencies and that the great majority of legislation takes place via the ordinary legislative procedure. Only this will ensure full democratic legitimacy and participation.

24 [OJ C 327, 12.11.2013, p. 33.](#)

25 [http://www.eesc.europa.eu/?i=portal.en.int-opinions.32948.](http://www.eesc.europa.eu/?i=portal.en.int-opinions.32948)

26 [OJ C 291, 4.9.2015, p. 29.](#)

27 [OJ C 327, 12.11.2013, p. 33.](#)

28 [OJ. C 230, 14.7.2015](#), p. 66, point 5.10.

29 This applied to 80% of legislation during the last EP term of office.

4.4 Strengthening of ex-post evaluation, the REFIT programme and the REFIT platform

4.4.1 The Commission also suggests placing an increased focus on evaluation and assessment of legislative acts throughout their whole life-cycle, making the REFIT programme more goal-orientated, embedding it in the work programme and carrying out fitness checks. The transposition of legislative acts is to be improved and a REFIT platform established, on which the EESC will have a seat.

4.4.2 The EESC welcomes the Commission's proposal to place emphasis on evaluations and to involve other EU institutions and civil society in this process. Ex-post evaluations, in which the stated objectives are compared with the observed results, are important analytical tools, especially in the light of the fact that, in accordance with the life-cycle model of a legal act, the conclusions drawn from evaluations can flow directly into a possible impact assessment of the revision of a legislative act. It welcomes the fact that the representatives of organised civil society, representatives of business, employees and consumers, who are normally the addressees of legislative acts, are to be involved in this process through targeted public consultations. The EESC points out, however, that evaluations should only be carried out after a reasonable period of implementation of a legal act to enable relevant data and information on its effect to be collected³⁰.

4.4.3 The EESC's involvement in this process is essential. The cooperation agreements with the Commission and the EP provide for involvement of the EESC in this respect, which could moreover lead to synergies in cooperation with the EP. In the light of the life cycle model of a legal act described above, this would ensure that the EESC's input is taken into account at an early stage. The EESC could, where necessary, carry out its own assessments, present the results in the REFIT platform with other stakeholders and the Member States, as well as the Commission, and thus improve its cooperation with the institutions and provide suggestions for evaluations for the REFIT programme. The inclusion of the REFIT programme in the Commission's successive annual work programmes would ensure a further EESC contribution to programming.

4.4.4 The EESC welcomes the Commission's efforts to improve the procedures and instruments of the REFIT programme. In this connection it refers to its previous opinions³¹.

4.4.5 It is already everyday practice for the Commission to repeal certain obsolete legal acts, and this should be continued. The carrying-out of fitness checks is also endorsed in principle³². The Commission should present and publish all completed, ongoing and planned fitness checks on a website in a transparent way.

30 [OJ C 230 14.7.2015, p. 66.](#)

31 [OJ C 230 14.7.2015, p. 66.](#)

32 [OJ C 327, 12.11.2013, p. 33.](#)

- 4.4.6 The establishment of a REFIT platform involving the EESC is expressly welcomed. The platform is to collect and analyse proposals on streamlining administration arising from Union rules and their transposition and application in the Member States. The EESC calls for balanced composition of the group of stakeholders; the success of the platform will depend on this. The EESC is represented by a high-level expert in the stakeholder group. However, the Commission should clarify how the representative mandate of the EESC and the CoR will relate to the REFIT platform. The specific institutional role of the EESC and the CoR should be taken into account, in comparison with other stakeholders. The participation of Member States in this body is in principle welcome; this should make it possible to engage in an exchange with the Member State representatives at any given moment. The EP should be regularly informed of the work of the REFIT platform and have the possibility to participate in the annual meeting of the platform.
- 4.4.7 In the view of the EESC, one of the main weaknesses of the European better regulation agenda is that the Member States are not sufficiently involved. This is not only a problem for the Member States but also for the EU; it is therefore hardly surprising that the Member States, in the absence of careful, evidence-based transposition measures and plans, as well as measures for effective application, sometimes transpose legislation hesitantly, late or not at all.
- 4.4.8 It is regrettable that the Commission communication does not address this issue or make proposals as to how these problems can be remedied. In 2013, for example, 1 300 Treaty infringement proceedings were brought against Member States. Currently infringement proceedings for late implementation are less of a problem (at the end of 2013 there were 390 cases pending); rather, as in 2012, most infringements (62 % of all cases) concerned non-compliance with EU law in the areas of the environment, taxation, transport and the single market and services³³.
- 4.4.9 One option would be for the Commission to place more emphasis on public information, as ultimately it is the governments of the Member States, which are transposing legislation incorrectly, late or not at all, which also adopted this same legislation in the Council. They are responsible for the universally poor application of the Community *acquis*, which is confirmed anew every year in the reports on the application of EU law. The Commission should also examine systematically what measures are essential for effecting a radical change in the current situation and should take account of earlier EESC proposals³⁴.
- 4.4.10 Where there is a need for regulation, it should be assessed on a case-by-case basis (depending on the relevant content and background) whether directives or regulations are more suitable. In

33 31st Annual Report on Monitoring the Application of EU Law (COM(2014) 612 final).

34 [OJ C 230 14.7.2015, p. 66.](#)

order to avoid differing transposition measures or gold plating³⁵, for example, greater use should be made of regulations as opposed to directives³⁶. This would make for greater legal clarity and certainty.

4.4.11 The transposition and application of EU legislation are key indicators for its later evaluation, which should be carried out by the respective governments. The requirement for the Commission to draw up implementation plans for major directives³⁷, where supporting Commission measures are intended to facilitate transposition in the Member States, is a welcome aspect of the new better regulation package. This includes the possibility for the Commission to ask Member States to submit explanatory documents on the national transposition strategy and to carry out a two-stage conformity assessment. The EESC considers that this is definitely a step in the right direction. How successfully these measures will function in practice remains to be seen.

Brussels, 16 September 2015

The President
of the
European Economic and Social Committee

Henri Malosse

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N.B.: Appendix overleaf.

³⁵ The EESC is finalising its own study on the subject, which deals with it in a comprehensive manner.

³⁶ Compared with the 2000-2004 legislative period, when more directives than regulations were used (155 regulations: 191 directives), in the last legislative period (2010-2014) there was a clear shift towards the use of regulations (383) in place of directives (136).

³⁷ Better Regulation Guidelines (SWD(2015) 111 final), Chapter IV: http://ec.europa.eu/smart-regulation/guidelines/docs/swd_br_guidelines_en.pdf.

**Appendix
to the opinion**
of the European Economic and Social Committee

Text of the Committee's draft opinion which was rejected in favour of an amendment adopted by the plenary assembly:

Point 4.3.10

The EESC acknowledges the initiative whereby relevant amendments tabled in the Council and the EP would be subject to impact assessments (an element of the 2003 IIA), as this could significantly improve quality of legislation. At the same time, it regrets that the Commission communication does not sufficiently address this issue. Therefore, in the context of the better regulation procedure, it needs to be ensured that informal trilogues are reserved for particular emergencies and that the great majority of legislation takes place via the ordinary legislative procedure. Only this will ensure full democratic legitimacy and participation.

Outcome: rejected by 106 votes to 59, with 19 abstentions.



European Economic and Social Committee

SC/040
**Evaluation of European
Commission
stakeholder consultations**

Brussels, 2 July 2015

OPINION

of the
European Economic and Social Committee
on the
Evaluation of European Commission stakeholder consultations
(own-initiative opinion)

Rapporteur: **Ronny Lannoo**

On 20 January 2015, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on the

Evaluation of European Commission stakeholder consultations.

The subcommittee on the *Evaluation of European Commission stakeholder consultations*, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 9 June 2015.

At its 509th plenary session, held on 1 and 2 July 2015 (meeting of 2 July 2015), the European Economic and Social Committee adopted the following opinion by 179 votes to 1, with 4 abstentions.

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Preliminary remarks

The aim of this own-initiative opinion is to assess the existing methods of stakeholder consultation carried out by the European Commission in accordance with Article 11(3) TEU. On the basis of this assessment, the opinion sets out proposals that are intended to be constructive and realistic, with a view to structurally enhancing and monitoring the consultation process in the interest of all parties.

1. Conclusions and recommendations

- 1.1 In this opinion, the EESC sets out recommendations on stakeholder consultation, as provided for in the Treaties, with a view to enhancing the quality of these consultations and bridging the gap between the EU and its people. This exercise has also been undertaken by the European Commission by means of a broad consultation of stakeholders on the consultation procedures, and translated into the Better Regulation package put forward by Commission vice-president, Frans Timmermans. At the request of the Commission, the EESC will later issue an opinion on the entire Better Regulation package.
- 1.2 The EESC is concerned about the way in which stakeholder consultations are carried out and therefore also about the quality of the results of such consultations. It is therefore calling for consultations to be consistent and representative and to ensure added value for the organisations and interest groups concerned.
- 1.3 On the basis of a sample of consultations assessed in the first half of 2014, the Committee concluded that there is an uneven qualitative approach across the various DGs concerned, and found an insufficient volume of responses and thus a lack of representativeness, as well as

shortcomings in the use of appropriate language and terminology for the target groups concerned and in the reporting of results and follow-up. Overall, it can therefore be concluded that the existing guidelines here are not being sufficiently implemented.

- 1.4 Conscious of the difficulty entailed in appropriately consulting the diverse range of citizens and organisations in the EU Member States, the EESC has put forward below a number of structural, practical and realistic proposals and asks the European Commission to cooperate constructively in developing and implementing new measures.
- 1.5 The Committee calls on the Commission to make the guidelines and quality standards for stakeholder consultation binding on all of its directorates-general. To ensure that these guidelines are applied, the Committee proposes that a coordination unit be set up at the level of the general secretariat to provide support to the DGs in stakeholder consultation.
- 1.6 A more strategic approach to the consultation process, from preparation to assessment, with systematic involvement of the relevant existing structures (organisations representing the target groups and advisory and consultative bodies) should ensure a greater, high-quality response. Setting out a clear timetable for consultations and explaining their purpose would enable stakeholders to increase their capacity to participate in consultations.
- 1.7 The Committee points out that accurate stakeholder mapping is essential to a quality consultation process. To this end, the EESC recommends that the Commission make use of existing structures, such as the Committee and representative organisations, and draw on the transparency register. New structures are, therefore, not required.
- 1.8 In the Committee's view, a fresh effort needs to be made to streamline the methods and tools used for stakeholder consultation. Initially, there are two possible methods of consultation: written/online or oral/discussion. The methods and tools selected should depend on the stated aim, target group, etc., in the framework of the strategic approach to the consultation process. Furthermore, it would be advisable to make effective use of the new technologies, particularly with a view to better reaching certain target groups, such as young people.
- 1.9 Under this approach, a distinction should be drawn between consultations of civil society organisations and of the general public. The difference between the two is not only a matter of methodology, but also of objective, since for the former group the aim is to ensure representativeness, while for the latter, it is about promoting inclusion and participation.
- 1.10 Where the written questionnaire method is chosen, the Committee feels that such questionnaires should be made available in all official EU languages. In addition, the EESC advocates that the questionnaire be submitted in advance to the organisations representing the target groups concerned in order to prevent overly specialised jargon making the questionnaire difficult for the target groups to understand.

- 1.11 When the results are being processed, the Committee would stress the importance of giving a quantitative and qualitative weighting to the various responses, depending on whether they come from individuals or civil society representative organisations, or depending on the representativeness and involvement of that organisation. The response submitted by a representative organisation would then receive a greater weighting.
- 1.12 In order to increase participation in consultations, the EESC emphasises the importance of a summary report of the responses received being drawn up for each consultation, and of explanations being given as to why certain responses were, or were not, taken into account in the further stages of drafting the proposal.
- 1.13 In view of its role set out in the Treaties, the Committee would like to act as facilitator to ensure the success of stakeholder consultations. It can participate and cooperate in all of the key phases of the process (identifying the stakeholders, drafting the questionnaires, summarising and following up the results). In order to bring structure, stability and representativeness to the process, the Committee could, as in the past, hold hearings and conferences and establish platforms and forums for dialogue.
- 1.14 When it comes to stakeholder consultation, the European Commission should make more use of the potential offered by closer cooperation with the Committee, as recommended in the protocol on cooperation between the Committee and the Commission signed on 22 February 2012¹. In the interests of optimising resources, and taking the approach of inter-institutional cooperation, this would enable maximum benefit to be derived from both the specific skills and knowledge of the stakeholders and the expertise, experience and competence of the Committee in consultation practices.
- 1.15 With regard to interactive meetings, the EESC could act as organiser, in conjunction with the Commission, as it already does regularly in the framework of structured dialogue platforms (for example on immigration, on consumption, etc.).
- 1.16 Finally, the EESC calls for a sustained campaign to raise awareness of the consultation process and the individual consultations. The Committee would like to take an active part in this through the organisations represented within it.
- 1.17 Furthermore, the EESC, as a promoter of structured civil dialogue and an essential instrument of participatory democracy, encourages the Commission to step up its use of structured dialogue platforms. This would not only enable stakeholders to play a continuous part in all stages of the policy process, but would also have a positive impact in terms of cost and time.

¹ <http://www.eesc.europa.eu/?i=portal.en.eu-cooperation.22469>.

2. The state of play in stakeholder consultation

2.1 Provisions

- 2.1.1 In accordance with Article 11(3) of the Treaty on European Union, "the European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent".

Such consultations are aimed at ensuring the active involvement of stakeholders from organised civil society and the general public, so that the general European interest can be sought when framing policies, to ensure their democratic relevance and the broadest possible public support.

- 2.1.2 "Consultation" is a process whereby the Commission gathers the opinions and views of the public and stakeholders. This complementary process takes place without prejudice to the structured civil dialogue (Article 11(2) TFEU) and consultations carried out within specific frameworks, such as consultation of the social partners as part of social dialogue (employers' organisations and trade unions) (Article 154 TFEU) or of advisory bodies, such as the European Economic and Social Committee (Article 304 TFEU)², which it may on no account replace.

- 2.1.3 In addition to their involvement in consultations under Article 154 TFEU, the social partners, employers' organisations and trade unions participate fully in the consultation mentioned in points 2.1.1 and 2.1.2, in the fields of consumer law, environmental law, trade policy, etc.

The European Economic and Social Committee has been assigned an advisory role by the Treaties vis-a-vis the European Parliament, the Council and the Commission. Furthermore, a cooperation protocol³ specifies the practical arrangements for cooperation between the Committee and the Commission.

2.2 Guidelines for stakeholder consultations

- 2.2.1 In 2002, the European Commission established minimum standards⁴ for stakeholder consultations, which apply on a mandatory basis to stakeholder consultations on any proposal, legislative or non-legislative. Under REFIT, the Commission has also announced that

² Article 304 of the Treaty on the Functioning of the European Union.

The Committee shall be consulted by the European Parliament, by the Council or by the Commission where the Treaties so provide. The Committee may be consulted by these institutions in all cases in which they consider it appropriate. It may issue an opinion on its own initiative in cases in which it considers such action appropriate.

The European Parliament, the Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time limit which may not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time limit, the absence of an opinion shall not prevent further action.

The opinion of the Committee, together with a record of the proceedings, shall be forwarded to the European Parliament, to the Council and to the Commission.

³ <http://www.eesc.europa.eu/?i=portal.en.eu-cooperation.22469>.

⁴ COM(2002) 704 as supplemented and amended by COM(2012) 746 and SWD(2012) 422.

consultations are to be carried out for evaluations, fitness checks and the drafting of implementing measures and delegated acts⁵.

2.2.2 In its 2002 guidelines for DGs on carrying out stakeholder consultations, the European Commission provides for, inter alia, publication of the explanatory memorandum on the topic in question, its content and the purpose of the consultation. Afterwards, the number of responses, the nature of the respondents and a summary of the findings should be published.

2.2.3 As regards multilingualism, there are currently no formal rules in force.

2.2.4 The 2002 guidelines with minimum standards for stakeholder consultation lay down 10 steps in the consultation process, divided into 3 phases: define strategy⁶, run consultation⁷, analyse results⁸.

2.2.5 The European Commission has had 12 different methods for its policy-preparation consultations depending on the objectives and the target group. The 12 methods are as follows: open on-line public consultation; studies; Eurobarometer; conferences; public hearings, meetings with stakeholders; meetings, workshops, seminars with those directly involved; focus groups; personal interviews; European Commission expert groups; SME panels; consultation of local or regional authorities; questionnaires; and online discussion forums.

2.3 *Implementation of the guidelines in practice*

2.3.1 Despite these guidelines and the large number of methods and tools available, many stakeholders are critical of the effectiveness of the current consultation system. Specific obstacles include difficulties in being informed of consultations (information being easy to find on the EU websites and publicising the consultations), the language and terminology, information on the results and, finally, the follow-up.

2.3.2 In addition, the quality and the approach of consultations vary significantly depending on the DG concerned and they lack coordination and a uniform methodological approach.

2.3.3 Based on a sample, the EESC has carried out a check of the application of the guidelines in the first 25 consultations held in 2014. On the basis of this sample, the following comments can be made:

⁵ COM(2014) 368.

⁶ 1. define the objectives of the consultation; 2. stakeholder mapping; 3. select methods and tools; 4. define the timing of the consultation and its duration.

⁷ 1. prepare consultation webpage; 2. advertise consultation; 3. acknowledge receipt of contributions.

⁸ 1. analyse the responses; 2. report on the results and provide feedback; 3. evaluate the consultation exercise.

- **participation in the online consultations** varies hugely⁹;
- where there are few respondents, **representativeness** is de facto poor, both geographically and in terms of the category of respondents. With a higher number of answers, geographical representativeness is better but is often unbalanced with regard to the quality of the responses. However, a clear trend emerges towards a predominance of respondents from large Member States. Also, the replies from organisations based in Brussels are classified as input from Belgium, while in many cases they are European federations or organisations that have no link to Belgium as a Member State;
- as regards **transparency and feedback of the results**, in only six of the sample of 25 consultations was a summary of the results published, which is less than a quarter. In less than half of the consultations were the responses also published. In none of the consultations was further information provided on the follow-up to the issue.

In conclusion, there is generally a lack of representativeness and quality, and scant information is provided on the outcome and follow-up.

3. **The current Commission: new working methods and prospects**

- 3.1 In the political guidelines of the new European Commission, a more democratic European Union is one of the 10 priorities. The objective of creating a mandatory register of all organisations and individuals that lobby the European Commission and the European Parliament is at the heart of that priority.
- 3.2 On 19 May 2015, the Commission published a package of measures aimed at better regulation, the Better Regulation package¹⁰, on which the Committee will issue an opinion, at the request of the Commission. The measures envisaged are structured around 4 strands: more transparency and consultation, keeping existing laws under review, better impact assessment and quality control, and a new inter-institutional agreement.
- 3.3 As part of this, revised guidelines for stakeholder consultations have also been proposed. In preparation for these, a consultation¹¹ on the "Stakeholder consultation guidelines" was organised. The findings¹² from this consultation have been taken into account in this opinion.

⁹ In only 13 consultations out of 25 is the number of participants stated. The number of respondents ranges from 14 to 1 114. Half of them had fewer than 100 responses.

¹⁰ http://ec.europa.eu/smart-regulation/index_en.htm.

¹¹ Consultation on the Commission's stakeholder consultation guidelines from 30.6.2014 to 30.9.2014: http://ec.europa.eu/smart-regulation/guidelines/consultation_2014/stakeholder-consultation/index_en.htm.

¹² http://ec.europa.eu/smart-regulation/impact/docs/contributions/summary_responses_stakeholder_consultation_guidelines_public_consultation_en.pdf.

4. **Making consultations more effective: recommendations**

The Committee sees consultations as one of the means of bridging the gap with the European citizen, provided that the procedures are structured, continuous, and ensure good stakeholder representativeness. Only then will consultations help to effectively involve the public and civil society in the European project.

The Committee has already made specific proposals here, inter alia in its opinions on consultation under the Better Regulation programme, Article 11 TEU and REFIT¹³.

4.1 *Key elements of the consultation process*

4.1.1 The Committee asks the European Commission to impose the existing internal guidelines as binding on DGs and to penalise non-compliance (for example, where there is no transparency regarding the responses or no assessment report), just as the quality of impact assessment is subject to sanctions by the Impact Assessment Board.

4.1.2 The Committee thus calls for a coordinating unit within the Commission's general secretariat, under the direct management of the relevant Commission vice-president. This unit would also provide support to all DGs as regards the overall approach and strategy of consultations, the drawing up and implementation of quality requirements and procedures, quality guidance, information and follow-up.

4.1.3 The coordination unit would be assisted by an expert group, supplemented by representatives of the target groups at which the consultation is aimed. The EESC calls on the Commission to harness the Committee's expertise here, particularly when it comes to selecting the target groups, validating the questionnaires, and summarising and following up the results.

4.1.4 A more systematic approach to consultations, with clear timetables and advance notice, should make it easier for stakeholders to prepare for their participation. In this regard, a reliable and regularly-updated provisional timetable of consultations is essential. More generally, the Committee proposes that the Commission put these consultations on a more structured institutional and representative foundation by taking advantage of the resources of the consultative bodies or their equivalents at national, regional and local levels.

4.1.5 The EESC asks the Commission to publish an annual evaluation of its approach to consultations and the results thereof.

¹³ EESC opinion on *Better Regulation*, [OJ C 48, 15.02.2011, p. 107](#).
EESC Opinion *Principles, procedures and action for the implementation of Articles 11(1) and 11(2) of the Lisbon Treaty* [OJ C 11, 15.01.2013, p. 8](#)
EESC Opinion *The Regulatory Fitness and Performance programme (REFIT): state of play and outlook.*, [OJ C 230, 14.07.2015, p. 66](#).

The Committee advises the Commission to draw up an inventory of best practices in the Member States, as a source of inspiration. The OECD studies on this topic may be very useful here¹⁴. The Committee also recommends encouraging any other form of civic engagement and participation. The Council of Europe's *Code of good practice on civil participation in the decision-making process* could serve as a good model here¹⁵.

4.2 *Stakeholder mapping*

4.2.1 Properly determining the target group of a consultation is essential to obtaining the necessary information. Professional tools of proven reliability are needed here. Effective cooperation with the existing structures, the Committee and legitimate and representative civil society organisations is also vital in this regard. Within the limits of its remit and by cooperating effectively with the organisations concerned and the Commission, the EESC could help identify representative organisations within certain target groups.

4.2.2 The work carried out by the EESC¹⁶ on establishing criteria for the representativeness of civil society organisations could be used as a basis for the aforementioned process of identifying representative organisations. The EESC would thus like to further bolster the impact of and cooperation with such organisations in the consultation process.

4.2.3 A good geographical and target-group distribution should systematically be a particular focus. It must also be ensured that particular attention is given to under-represented and less-resourced groups in "stakeholder mapping".

4.2.4 The EESC stresses the importance of introducing a substantiated weighting system in the analysis of consultation responses, giving priority to organisations that are representative and directly concerned.

4.2.5 With a view to increasing the participation of stakeholders in consultations, the content of feedback after consultations is very important. Stakeholders should see results from their input and thus feel that they have had a real influence on the policy proposals, or receive an explanation as to why certain elements were not taken into account.

4.3 *Methods and tools*

4.3.1 The EESC could act as a "network of networks" in order to disseminate the written (online) consultation to the various stakeholders (just as the Committee of the Regions does as regards

14 <http://www.oecd.org/gov/regulatory-policy/governance-regulators.htm>.

15 http://www.coe.int/t/ngo/code_good_prac_en.asp.

16 EESC Opinion, [OJ C 88, 11.04.2006, p. 41](#).

local authorities). With regard to interactive meetings, the EESC could act as organiser, given its contacts and expertise in this area.

4.3.2 Questionnaires used in (online) consultations should be submitted for comments to civil society organisations representing the target group(s) concerned and in the language of the target audience. Furthermore, questionnaires should be tested in advance by a sample group of stakeholders. To this end, preliminary stakeholder mapping and the transparency register could be used as tools to target these organisations (see point 4.2). The EESC should act as facilitator here.

4.4 *Establishing the timing of the consultation and its duration*

4.4.1 Under the guidelines, a time limit of at least 12 weeks should be set for responses to online consultations, and for interactive meetings 20 working days' notice should be given. The Committee advises against launching consultations during the summer. Furthermore, the provisional timetable (advocated in point 4.1.4) should be adhered to as far as possible.

To give stakeholders an opportunity to prepare for their participation in consultations, the EESC deems it appropriate to provide them with sufficient information on the entire preparation process and the schedule of the (various) consultations. All effective means of encouraging stakeholders to participate should be deployed.

4.5 *Publicising the consultation: accessibility and visibility*

4.5.1 The EESC calls on the Commission, including its delegations in the Member States, to put in place an effective and sustained information campaign to publicise the consultations and encourage stakeholders to participate. The Committee could definitely also play a role here, and ask its members to disseminate information within their own networks.

4.5.2 Each consultation should be announced in a clear, appropriate and timely manner in the media of the Commission and the Member States and to the relevant civil society organisations. The representatives of the Commission in the Member States should also be involved in this overall approach.

4.6 *Analysing the results*

4.6.1 The Committee deems it very important that the Commission take account of the points of view expressed during consultations and justify the extent to which it has done so.

4.6.2 In the substantiated weighting system used in processing the results (see point 4.2.3), organised civil society stakeholders should proportionately be the most represented.

4.7 *Reporting on the results and providing feedback*

4.7.1 The Committee is in favour of the publication of a summary report, accompanied by an overview of all the responses received. This will foster transparency.

4.7.2 In addition, the EESC advocates providing information – not least to the respondents – on the follow-up to the issue, such as amendments to the proposal and the next steps in the decision-making process.

5. **The role of the European Economic and Social Committee**

5.1 *In the consultation process*

5.1.1 In the interests of optimising resources, and taking the approach of inter-institutional cooperation, the Committee could thus make available to the decision-making process both its knowledge of stakeholders active in the various EU policy areas, and also its expertise, experience and competence in consultation practices.

5.1.2 In accordance with its work priorities and with the cooperation of the Commission, the Committee wishes to monitor and assess certain consultations, draw up an opinion on this matter, and if appropriate, organise a public hearing.

5.1.3 In close cooperation with the organisations concerned, the Committee would like to provide input and expertise to the Commission during the key stages of the consultation process, in particular the selection of the target group, the questionnaire, the summary and the follow-up.

5.1.4 Moreover, the EESC could act as a "network of networks" and a facilitator in order to disseminate the written (online) consultation to the various stakeholders (just as the Committee of the Regions does as regards local authorities).

5.1.5 With regard to interactive meetings, the EESC could act as organiser, in conjunction with the Commission, as it already does regularly in the framework of structured dialogue platforms (for example on immigration, on consumption, etc.).

5.1.6 As part of an effective and sustained information campaign, the Committee could contribute by calling on its members to disseminate information within their own networks.

5.2 *Under the cooperation protocol between the European Commission and the EESC*

5.2.1 At different stages in the preparation, implementation and follow-up of a consultation, the EESC could act as an information channel between the European Commission and organised civil society.

5.2.2 For certain activities, such as interactive meetings, joint initiatives of the Commission and the Committee could be organised.

Brussels, 2 July 2015

The President
of the
European Economic and Social Committee

Henri Malosse

Roadmap for the implementation of Articles 11(1) and 11(2) of the Treaty on the European Union

*Towards better EU civil dialogue and involvement of citizens for better policymaking.
Adopted by the NGO Forum, Riga 2-3.3.2015, under the Latvian Presidency of the Council of the EU*

Article 11(1) and 11(2) of the Treaty on the EU

- "1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.*
- 2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society."*

1. Introduction

This roadmap outlines a vision, a structure and the actions needed for the implementation of better civil dialogue¹ in the EU and the involvement of citizens and their associations. It reflects citizens' calls for better decisions, better policymaking and better governance responding to citizens' needs.

Article 11 of the Treaty on European Union provides the legal basis for this. EU institutions, Member States and civil society — both individuals and representative associations — must work together to put Article 11 into practice. Civil dialogue has the potential to extend and strengthen the European model of democracy and is a key tool in securing ownership, completion and modernisation of the model.

The roadmap sets out a vision of what the dialogue should seek to achieve and how it could be implemented in an effective, constructive and realistic manner with the widest range of supporters and stakeholders. It lays the groundwork for civil dialogue in which representative associations play a key role while, at the same time, the full potential of individuals is harnessed.

2. A vision for civil dialogue

Multi-level

Civil dialogue reaches out to, involves and includes representative associations and civil society² at all levels — local, regional, national and European.

Open, transparent and inclusive

Civil dialogue supplements direct participation methods; citizens, organised in associations representing their interests, will be able to participate in and contribute to civil dialogue at the level that best suits them. Digital tools such as e-platforms and other new-tech approaches should be used for collaboration along with traditional ones.

Building on, not duplicating, existing dialogues or consultations

Civil dialogue gives an overarching structure to existing dialogues, as well as those yet to be developed, between EU institutions and civil society focusing on particular themes. Any confusion between dialogue, consultation and communication should be avoided.

¹ The European Economic and Social Committee defines civil dialogue as a democratic and public opinion-forming process which can take various forms, depending on the players involved.

² The term civil society covers both active individuals and organised civil society here.

Better policymaking — ideas for a new Europe

Civil dialogue is a process for exchanging expertise and connecting with innovation in grassroots citizens' organisations. It is a space for identifying and reflecting and building on the values, principles and objectives of the European project, creating a European public sphere by closing the gap between policymakers and citizens and also harnessing the potential for direct participation by citizens. It will lead to better policy development for the common good which is closer to citizens' needs and expectations, generating a greater sense of common ownership. The role of civil dialogue is crucial in the drafting of legislation, as it allows the impact of the legislation on the citizens to be assessed.

Joint actions on agreed EU priorities

A place for civil society and the EU institutions to cooperate and build joint projects for better implementation of EU policies, contributing to better understanding amongst citizens of the added value of the European Union and evaluating the impact that policies have on civil society and citizens. The value of cross-sector and cross-thematic initiatives should be borne in mind.

European integration through civil society

Civil dialogue is an opportunity to create links between the citizens themselves and their elected representatives from across the EU. It can lead to EU-wide cooperation, exchange and projects for change that encourage the development of stronger ownership and a stronger sense of European identity.

3. Action towards dialogue at different levels

The roadmap outlines three levels of dialogue reflecting Article 11 (1) and (2):

3.1. Dialogue with representative associations and civil society at national level ³

Structure (Article 11(2))

Although national traditions and legal frameworks differ considerably, EU decisions are, to a large extent, prepared by national departments and have the greatest impact at national, regional and local levels. Treaties are binding upon Member States and joint commitments and aims (such as the Europe 2020 Strategy) cannot be achieved without broad ownership and participation by the citizens. The thematic dialogues that often already exist at national level need better EU recognition and support measures so that they can be extended to other Member States. National dialogues should form part of the debate in the annual EU dialogue.

Building on

Existing dialogues on EU issues at national level e.g. health, youth, sport, trade etc. EYC 2013 Citizens' Dialogues (adapted and restructured).

Partners

Member States, European Council, European Commission DGs, Eastern Partnership and EU accession countries, civil society representatives involved in the dialogues (also via Economic and Social Councils or other national-level structures (where existing)).

Next steps

- Gathering information about existing successful dialogues at national level. Consultation with stakeholders from sectors and fields with need for improvement regarding regular dialogue.
- A recommendation from the Council to establish national dialogues across the Member States, including on the implementation of the EU 2020 strategy.
- Establishing mechanisms for exchanging and disseminating good practices, creating spaces for reflection and critical thinking, promoting some level of coordination between existing dialogues, while respecting their differences. Starting a discussion on quality assurance standards, criteria

³ See some examples of best practices in Annex 1.

and guidelines for participation, compulsivity, including the time necessary for proper, effective participation. Promoting civic education on common European values; Establishing open consultation processes (both offline and online) on EU topics at national level with EU Presidencies to deliver annual report on civil dialogue developments in MS.

- Member States should find appropriate means to finance civil dialogue and strengthen the capacity of CSOs to take part; the EC should review its instruments/programmes to support CSOs operating in the field of participation, democracy and rule of law at national level; the EC should include citizen participation/democracy among the horizontal priorities of its national programmes, building on good examples of strengthening NGOs during the pre-accession period.
- Supporting new projects, both in terms of information and practical contribution to better decision-making and revitalising and reforming EU Citizens' Dialogues across EU Member States (which began again in Latvia in January 2015), ensuring broader outreach to civil society through common conclusions and feedback from each dialogue.

3.2. Dialogue with representative associations and civil society at EU level⁴

Structure (Article 11(2))

Appropriate regular and structured dialogue forums to link every EU institution with civil society while creating synergies between the institutions where possible. Existing best practice should be extended and strengthened to ensure effective impact on policymaking. Among other tools, this would include a yearly event bringing together EU institutions represented at the highest levels and representative associations/civil society as well as representatives from sectoral dialogues and local, regional, national and macro-regional (transnational and neighbourhood policy) dialogues.

This annual meeting could be structured along the lines of the Committee of the Regions' Open Days, with workshops and thematic meetings feeding into a comprehensive closing session and a final joint declaration or annual work plan and follow-up on this roadmap. Wider engagement employing innovative techniques and methods could be developed over time. Any declaration would be forwarded to all the EU institutions, which would all be required to issue a formal reaction.

Building on

The European Economic and Social Committee NGO Liaison group, EESC Civil Society Day and the informal EPSCO meetings which since 2000 have integrated a wider involvement of civil society through consultation – at the same level as the social partners – ahead of decision-making at the formal EPSCO meetings.

Partners

European Economic and Social Committee, European Commission, European Parliament and European Council, Committee of the Regions, EPSCO.

Next steps

- Appropriate measures should be taken to identify, extend and strengthen existing best practice and make the changes in EU decision-making resulting from civic engagement visible. Policy areas with improvement potential should be identified and a mechanism supporting and coordinating these actions and existing dialogues should be set up.
- Make use of the rich experience and in-depth evaluations e.g. made in Commission-funded pilot projects to test citizen participation approaches under the programmes Plan D, Debate Europe and Europe for Citizens and develop intensifying strategies that clearly link participatory processes to decision-making processes and other mechanisms such as crowdsourcing for policy ideas etc. Improvement of online participation possibilities is needed. Agreeing on the Statute for European Associations and appropriate and sustainable funding opportunities from EU sources.
- Establishing a civil dialogue group/committee and observatory with representatives from all interests involved to measure and monitor civil dialogue and levels of citizen engagement with

⁴ See some examples of best practices in Annex 2.

the EU institutions and adopt a yearly report on this. The Europe 2020 Strategy review offers great potential for planning/piloting these processes.

- Entrust without delay a specific Commissioner responsible for coordinating civil dialogue and allocate the relevant human resources to be able to implement it. Each DG should have staff responsible for dialogue and appropriate finances for supporting participation in decision-making. Also, establishing a specific unit and political position and specific staff responsible for dialogue in the Parliament and the Council.
- Building on the EESC Civil Society Day, giving it broader outreach beyond sectoral dialogues and local/regional/national dialogues.

3.3. Opportunities for citizens and representative associations to make known and publicly exchange views in all areas of Union action (Local, Regional, National and EU Dialogues) (Article 11(1))⁵

Structure

All citizens, through the associations representing their interests or as individuals, will be able to access civil dialogue at the level that suits them best – be that local, regional, national or EU level. These dialogues should be self-organised by the citizens and their representative associations/civil society organisations, with the support of the relevant public authority, thus getting as close to the citizens as possible and helping to reduce feelings of isolation and distance.

The format, agenda and topics for discussion would be decided by the citizens and their representative associations/civil society organisations themselves. The approved reports and representatives would feed into the national and EU-level dialogue process.

Building on

NGO networks, councils, initiatives, EYC 2013 National Alliances.

Partners

Public authorities from different levels, Member State European Affairs Departments, Economic and Social Councils (where existing), civil society platforms.

Next Steps

- Relevant public authorities should establish an encouraging environment to facilitate civil dialogue at EU, national and subnational levels.
- Appropriate resources and tools should be available with a special focus on coalition building, consensual approach and sustainability as a basis for high-quality input for better decision-making, ensuring quality of access.
- Special focus on the potential of new media. In this respect both organisations and individuals can develop necessary synergies in their work and find appropriate opportunities for participation, e.g. by launching an EU participation 2.0 Strategy to enable the exchange of promising examples between all levels (local, regional, national and European), set up the objectives and envisage the steps for the creation of a digital system for citizens' engagement using respectful discourse within a strictly defined ethical framework.
- Based on the Charter of Fundamental Rights and by recognising the Freedom of Association, promote participation in decision-making by regularly monitoring the existing situation, reporting on it and spreading best practice.
- Increasing awareness of the European dimension with regard to situations at national and sub-national level and increasing motivation for access to exchanging views.

⁵ See in annex 3 two examples of best practices.



ANNEXES

BEST PRACTICES AND EXAMPLES

Below are listed some good practices relevant to the different dialogues mentioned in point 3.1 to 3.3 of the Roadmap.

Annex 1 concerns "Dialogue with representative associations and civil society at national level", Annex 2 is about "Dialogues with representatives associations and civil society at EU level" and Annex 3 relates to examples of "Opportunities for citizens and representative associations to make known and publicly exchange views in all areas of EU action (Local, Regional, National and EU dialogues)".

Annex 1

CIVIL SOCIETY CONSULTATION PROCESSES IN EUROPE AND EXAMPLES OF GOOD PRACTICES -FOCUS ON DENMARK, POLAND, THE UNITED KINGDOM AND SPAIN-

1.1. DENMARK: Including Civil Society as a Means for Continuous Democracy

Denmark has a long (informal) tradition of consulting civil society – citizens and their organisations – which was enhanced upon EU accession in 1973. Since then, it has shared its good practices at European level and influenced the quality of processes in other Member States.

Indeed, the idea is that “decisions relating to public life (labour relations, environmental protection, public services, education, etc.) are a matter of civil society itself. Hence, responsive matters must be supported by the addressees thereof. Otherwise, society might lose confidence in public institutions”⁶.

What’s more, Denmark’s commitment to consultation, whether among Institutions or between Institutions and civil society (organised or directly with citizens), rests on the belief that it increases communication as well as transparency, which is a principle that has become a fundamental element of Democracy.

With regard to Denmark’s relations with the EU, Danish society is still highly Eurosceptic, and consultation processes have therefore been significantly strengthened in order to maintain the highest level of transparency possible, an internal practice which serves EU democracy itself.

So even if Danish Law does not allow an individual citizen or group of citizens to submit an initiative for legislation, it can be taken as an example of good practices on including civil society in decision-making. Although the relation between public administration and civil society was originally informal, there are a number of formal practices too.

Civil society consultation is not the rule, but an often implemented exception. Indeed, civil society consultation is provided for in particular cases and defined in laws. Civil society is consulted both formally and informally.

First of all, it holds dialogues with Parliament thanks to its representation in Parliament committees. In this context, it participates in developing drafts via *ex ante* impact assessments, the dialogues and hearings it has with and by Committees discussing the potential of the draft. Informal discussions between CSOs and government are also common.

CSOs also participate in government-established advisory bodies. These are created on specific matters in order to ensure a continuous dialogue between citizens and government via their representatives⁷.

With regard to local democracy, citizens and CSOs are called to join in debates held by Municipal Councils where they informally participate in decision-making.

⁶ D. Chabanet and A. H. Trechsel, *EU Member States’ Consultation with Civil Society on European Policy Matters*, Robert Schuman Centre for Advanced Studies, European University Institute, October 2011, p. 43.

⁷ Cf. for instance the DANIDA Project launched by Danish civil society and the Ministry of Foreign Affairs in 2014 and in light of the upcoming European Year for Development 2015, for Danish support to civil society in Developing countries, http://amg.um.dk/en/~media/UM/Danish-site/Documents/Danida/Samarbejde/Civil-org/Dokumenter/Strat/Civilsamfundspolitik_UK_web.pdf

1.2. POLAND: A Dialogue based on Civil Society Organisation Expertise

For many reasons, mainly historical, the notion of consultation appears in Poland “with regard to general acts prepared by government, as well as local acts prepared by municipalities”⁸.

Contrary to Denmark, Polish civil society and its organisations intervene more to support government policymaking rather than contribute to real decision-making. Indeed, it is mostly asked to contribute a source of expertise and knowledge on specific issues rather than be a political voice representing civil society.

Civil society consultation is not the rule, but the exception. When civil society intervenes, it does so in the framework of Advisory Bodies, along with national and/or local government representatives and experts.

Civil society consultation is provided for in particular cases and defined in laws. Indeed, the “government conducts public consultations when it is required to or when it seeks to demonstrate that they considered public opinion, but these consultations rarely influence policy decisions. Some departments or local governments consult with only those organizations unlikely to be critical of the government’s policies. At the local level, consultation processes are often formalities because most authorities continue to perceive CSOs mainly as service providers”⁹.

Local authorities, on the other hand, are more open to contributions from civil society, and therefore change in practices in Poland might come from the bottom up. Beyond the fact that local authorities have realized that CSOs have a capacity to perform services normally provided by the latter authorities, it is at this level that civil society has a chance to intervene more directly in policy drafting. This step has been reached via the 2011 amendment of the Act on Public Benefit Activity and Voluntary Work which introduced public benefit councils at local and regional levels. These councils consist of representatives of public administration and CSOs and provide CSOs an opportunity to express their opinions on various legislation or policy projects.

⁸ D. Chabanet and A. H. Trechsel, *EU Member States’ Consultation with Civil Society on European Policy Matters*, Robert Schuman Centre for Advanced Studies, European University Institute, October 2011, p. 43.

⁹ 2013 CSO Sustainability Index for Central and Eastern Europe and Eurasia, 17th Edition, June 2014, p. 170-177. This part of the Index was researched and written by the Institute for Public Affairs, European Civic Forum Member in Poland.

1.3. THE UNITED KINGDOM: A Structured Dialogue for Overarching Input from Civil Society

Since 2011, the UK has made great steps forward in enhancing civil society consultation and participation from policy drafting to decision-making, an evolution which mirrors the Danish model according to which consultation is a key element to transparency and accountability, both fundamental to democracy¹⁰.

Such an approach was recognised in the Open Government Partnership UK National Action Plan 2013-2015. In this partnership, the government aims to:

- Work with civil society to develop an OGP national action plan;
- Implement OGP commitments in accordance with the action plan timeline;
- Prepare an annual self-assessment report;
- Participate in the independent reporting mechanism research process;
- Contribute to peer learning across the OGP¹¹.

The first report was issued in 2013 and called for government to encourage more civil society participation, a conclusion which was accepted by the government in power.

The Compact

The UK's legal order provides a consultation mechanism for CSOs to observe, submit evidence and set agendas for consultation procedures. This mechanism is to be found in the UK Government Compact, made in 1998 and renewed in 2010.

It was developed by a Working Group that included representatives from leading voluntary and community sector umbrella bodies, representatives from community groups and organisations, volunteer organisations...who consulted over 25,000 organisations about what the Compact should include and the text was agreed in 1998¹².

Although the Compact is not legally binding, it has become a kind of custom, and it can therefore be expected that signatories will act according to its provisions.

It is also followed by an Accountability and Transparency Guide, "which outlines steps to take at national and local level if these principles are not followed, including dispute resolution, internal complaints procedures and ombudsmen functions"¹³.

Finally, it also creates a permanent representative body for the volunteer sector, the Compact Voice.

Other Formats for Civil Society Consultation

Civil society also plays an important role after legislation has been enacted, namely by participating in *ex post* impact assessments, in the framework of specialised Councils or committees.

Finally, civil society is successful in its lobbying activities, another way of influencing policymaking outside the strict confines of consultation.

¹⁰ Cf. quotes in *For a Democratic Europe Now*, Final Report of the "Real Civil Society Democracy in Europe", paragraph on the United Kingdom.

¹¹ *Ibid.* above.

¹² *Ibid.* above.

¹³ *Ibid.* above.

1.4. SPAIN: Weak and Formal Consultation of Civil Society

Having been ruled by a dictatorship for almost 40 years, Spain joined the union of democracies with very poorly developed civil society.

Akin to most other European countries, no legal text deals explicitly with relations and consultation between public administration and civil society. As for France, civil society consultation is organised by specific legal provisions on specific matters. In this vein, Spanish Law has created a number of bodies, or committees, in charge of voicing civil society's concerns, such as The Advisory Council on the Environment (Consejo Asesor de Medio Ambiente), The Consumers' and Users' Council (Consejo de Consumidores y Usuarios), The Council on Women's Participation (Consejo de Participación de la Mujer)¹⁴.

Their tasks include delivering opinions, issuing recommendations and producing reports falling under their area of expertise.

Even if these organisations exist, they remain in an official framework closely linked to the government.

However, civil society's role has evolved in local administration. Indeed, under a Law of 1985 "popular consultations" may be held by mayors on issues which fall under specific municipal competence, are of a local character and of particular importance for the interests of the inhabitants. Local finance is excluded. Approval by an absolute majority of the members of the Council, as well as authorisation by the national Government, is required. However, some ACs have in practice dropped the requirement for central authorisation and now provide in their own Statutes for the convening and regulation of local popular consultations in the form of polls, public hearings, consultation fora, citizens' panels and citizen juries¹⁵.

What's more, a number of significant reforms were introduced starting in 2003¹⁶, and have gained significant importance with citizens' attempts to respond locally to the difficulties they have been facing since the beginning of the economic crisis, which is particularly virulent in Spain:

- "Popular initiatives" may now be presented for agreements, actions or draft regulations in matters of municipal competence.
- City councils were obliged to create districts, with the explicit aim of promoting and developing citizen participation in municipal affairs.
- A City Social Council (Consejo social de la ciudad) had to be established, composed of representatives of economic, social, professional and neighbourhood organisations with the task of producing reports, studies and proposals. These legislative changes were followed in 2005 by a White Paper on Local Government and new initiatives by the Spanish Federation of Municipalities and Provinces (FEMP) to promote public participation at local level.
- Finally, Spain is one of the leading countries in Europe in implementing participatory budgeting.

¹⁴ D. Chabanet and A. H. Trechsel, *EU Member States' Consultation with Civil Society on European Policy Matters*, Robert Schuman Centre for Advanced Studies, European University Institute, October 2011, p. 192.

¹⁵ A. Del Rio Rosello, "Updating Policymaking and Participation in Europe", Thesis, University of Milan, July 2014.

¹⁶ *Ibid. above.*

1.5. GERMANY: Variety of Civil Actors and Medium-to-Strong Corporatist Political Structure

The lobbying/civil society landscape in Germany offers a great variety of different civil actors that are regularly consulted by public institutions. In literature Germany is considered to have a medium-to-strong corporatist structure, although consistent rules for civil consultation processes do not exist¹⁷. At federal level ("Bund") CSO engagement is focused on the executive body (government, administrations), whereas federal ministries give priority to selecting interest groups. Consultation procedures are normally regulated in the Common Rules of Procedure of the Federal Ministries. Though overall participation of CSOs in Germany is high, implementation varies across government institutions. Regarding EU issues, public consultations have an ad-hoc character and are not institutionalised. Dialogue forums (conferences, round tables, internet consultations) are appointed by the ministries to gain expertise in the policy-forming process whereas policy-specific networks connect different CSOs with political institutions¹⁸.

Civic involvement on European issues in Germany is highly valued, although the lack of involvement in concrete European policy issues is criticised regularly. The biggest network for European stakeholder engagement is the European Movement Germany (EM Germany)¹⁹ with 239 member organisations combining labour unions, economic and non-profit associations, political parties, companies and foundations. It aims to improve German coordination of European policy and communication on European politics in close cooperation with political institutions. It therefore organises regular hearings between national and EU-politicians/experts and its member organisations to stimulate the exchange of ideas and expertise. EBD debriefings (as a reviewing tool for European Councils and Council formations) and briefings can be seen as the only sustainable practice for structured dialogue with civil society and interest groups. Other formats like "Rapporteurs in Dialogue" focus on debating the European Parliament's position in the legislation process or on the pre-legislative process of the Commission ("green paper analysis" format) under close involvement of the respective line ministries.²⁰

EM Germany has extended this forum to other fields of European policy: aiming to bridge the gap between citizens, representative associations, and the EU; improve democratic governance in the EU; foster citizenship and citizens' participation and civil dialogue at all levels (Article 11 TEU); promote the consolidation of a European public sphere; promote transparency of decision-making procedures and lobbying activities at all levels.

In order to combine national-level engagement politics with European integration politics, EM Germany and the "National Network for Civil Society" BBE²¹ set up reciprocal membership to improve the general legal, organisational and institutional conditions for civic involvement in the multilevel European system. Thus, EM Germany adopted BBE's demand for a "Code of Good Practice for Civil Participation in the Decision-Making Process".

The close cooperation of EM Germany with the Federal Foreign office has been officially assigned since 2011. Not only is internal federalism a major challenge for German EU policymaking, but fragmented policy coordination also makes it difficult to strengthen an open and sustainable structured civil dialogue. This is not just an issue for European politics but also for national consultation standards, in accordance with Art. 11 TEU.

Above all, the extensive use of trilogues during the EU's legislation process makes it extremely difficult to balance the need for efficient law-making and transparency.

¹⁷ D. Chabanet and A. H. Trechsel, EU Member States' Consultation with Civil Society on European Policy Matters, Robert Schuman Centre for Advanced Studies, European University Institute, October 2011, p. 69ff

¹⁸ http://ec.europa.eu/youth/policy/implementation/dialogue_en.htm

¹⁹ <http://www.netzwerk-ebd.de/aktivitaeten/politik/civil-dialogue-in-germany/>

²⁰ <http://www.netzwerk-ebd.de/>

²¹ <http://www.b-b-e.de/> as an example for a network of "civic involvement" CSOs

1.6. ESTONIA: Innovative Policy Idea Crowdsourcing Process

As a result of a crisis in confidence in Estonian politics, in 2012 more than 10 Estonian NGOs and think tanks created the website rahvakogu.ee which was intended to be an action to crowdsource policy ideas that would lead to: a) improvements in the Estonian electoral system, b) increased competition between the political parties and strengthening of their internal democracy, c) a better model of financing political parties, d) more extensive civic participation, and e) stopping the politicisation of public offices. This civic action had great publicity and the support from the Estonian president and major political parties were invited to participate as observers.

More than 1500 ideas from Estonian people were collected during three weeks in January 2015. These ideas were then bundled, analysed and evaluated by experts. This evaluation allowed the initial 1500 proposals to be boiled down to the 20 most important ones. An event – Deliberation Day – was then held, where 320 randomly selected people participated and decided on 15 ideas to be presented to the Estonian parliament. The proposals were presented to the Parliament by the President of Estonia Toomas Hendrik Ilves. The proposals were discussed by the Parliament and some of them have already been transformed into law (example, the proposal to institutionalise agenda-setting civic initiatives).

1.7. LATVIA: Institutionalising E-participation

2011 was a year of political turmoil in Latvia. The anti-corruption agency asked the Latvian Parliament to lift the parliamentary immunity of one of its members. This request was refused by the Parliament. Then the president of Latvia called a referendum that resulted in the Latvian people deciding to hold new parliamentary elections in October 2011. During the election campaign several NGO representatives and other civic activists demanded new forms of public engagement and institutionalisation of public oversight – one of those demands concerned the agenda-setting e-petitions.

The newly-elected parliament did institutionalise the agenda-setting e-petitions. Latvian citizens have the right to receive a reasoned response from the Latvian Parliament if they manage to collect 10 000 signatures which can also be gathered online, verifying each signature via e-signature or internet banking authorisation.

This method of participation is widely used in Latvia, especially via the public participation website manabalss.lv. In the time period between autumn of 2011 and winter of 2015, 14 initiatives have gathered more than 10 000 votes, the Latvian Parliament has discussed them and seven initiatives have either directly led to amendments of laws/policies or have been one of the important factors behind their success.

Manabalss.lv is an internet portal (run by the Foundation for Public Participation – a non-profit organisation) that has been recognised as an open government success story all across the globe. It was mentioned by US President Barack Obama during the launch of the Open Government Partnership Initiative, it has been featured in publications such as the New York Times and The Guardian, as well as recognised as "one of the outstanding challengers from Eastern and Central Europe".

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Annex 2

2.1. Civil dialogue in matters covered by the "Europe for citizens" programme 2014-2020

2.1.1. Description

Following the adoption of the Council Regulation establishing the Europe for Citizens programme (2014-2020), a new Civil Dialogue group was convened in June 2014 to take over the "Structured Dialogue group" established in 2007 with the previous Europe for Citizens Programme.

The group's tasks are:

- To hold a regular dialogue on all matters relating to the Europe for Citizens programme, including "Remembrance" and "Democratic and civic engagement", and to implement it.
- To bring about exchanges of experiences and good practices in those fields.
- To contribute to the dissemination of the programme's results.
- To contribute to preparation and implementation of any event or activities organised under the programme.
- To monitor and discuss policy developments in related fields.

There are usually two meetings per year, depending on the Europe for Citizens programme agenda and on the European political agenda, including the annual priorities of the European Union.

The group, which may set up working groups to examine specific questions, is composed of 55 organisations:

- Organisations selected to receive an operating grant under the "Europe for Citizens" Programme, under strand 1, "Remembrance", and 2, "Democratic engagement and civic participation".
- Organisations which have received an operating grant under the former "Europe for Citizens" Programme 2007-13 and have expressed their continued interest to take part in the dialogue.
- Some organisations/think tanks which have expressed an interest in the Europe for Citizens programme and/or work in this policy area but were not necessarily supported by the programme.

Member organisations are invited to register on the Transparency Register.

2.1.2. Evolution/lessons learnt

The success of the Dialogue carried out under the previous Europe for Citizens Programme led the Commission to propose to enshrine the principle in the new Regulation, thereby highlighting its strategic importance. The group contributes actively to implementing the programme, notably the discussion on its annual priorities; it also gets involved in major political events, such as campaigning for the European elections and analysing their results. The contribution of their working groups on EU financial support in response to the public consultation on the review of the European financial regulation led to concrete improvements (for example as regards the non-profit rule).

2.1.3. Links

http://ec.europa.eu/citizenship/europe-for-citizens-programme/civil-dialogue/index_en.htm

2.2. European Migration Forum

2.2.1. Description

The European Migration Forum is a platform established jointly by the European Commission and the European Economic and Social Committee (EESC) which provides representatives of civil society a voice on issues related to migration, asylum and migrants' integration. This allows the European institutions to promote a comprehensive approach to migration, involving stakeholders at all levels. It developed from the European Integration Forum, of which eleven meetings took place between 2009 and 2014.

The Forum takes place at least once a year in the EESC and is attended by organisations representing civil society, both at EU and national level, EESC members, representatives from various EU institutions, from local and regional authorities and from EU Member States.

The agenda and organisation of the Forum are overseen by a Bureau composed of six members: a representative of the Commission, a representative of the EESC and four representatives from civil society, elected by the participants and each serving a mandate of two years.

2.2.2. Novelties

The first edition of the EMF took place on 26-27 January 2015 with a focus on mixed migration flows in the Mediterranean.

Following the enlarged scope of the Forum, civil society participants, who used to be nominated by National Contact Points on Integration (national ministries), are now selected by means of an open call for interest. As each Forum will have a new theme, a selection will be made for each meeting, with due respect for geographical balance and the need for specific expertise.

2.2.3. Evolution/lessons learnt

One of the political messages resulting from the most recent meeting is the need for maximum cooperation and coordination between the various actors in this field, which confirms the importance of the role played by civil society and the EESC in the Forum and, more generally, in the elaboration of migration policy at EU level.

Civil society organisations appreciated the participatory approach and will continue to be involved in the preparatory phase of future editions of the Forum. It will be important to avoid having too full a programme for a debate to which all participants can contribute.

2.2.4. Links

<http://www.eesc.europa.eu/?i=portal.en.events-and-activities-european-migration-forum-1>

2.3. Structured Dialogue on Youth

2.3.1. Description

The Structured Dialogue on Youth (SDY) is an ongoing process that brings together young people and policymakers across the European Union to jointly discuss, formulate and put forward proposals for the development of youth policy at national and European levels. It involves regular consultations of young people and youth organisations at all levels in EU countries, as well as dialogue between youth representatives and policymakers at EU Youth Conferences organised by the Member States holding the EU presidency.

The SDY focuses on a different thematic priority for each 18-month cycle (set by the Council of Youth Ministers). During the first six months, the National Working Groups are consulted on the Guiding Framework, endorsed by the youth representatives and policymakers at the first EU Youth Conference. During the second EU Youth Conference, a joint recommendation is debated and adopted based on these consultations. The recommendations are then discussed by youth ministers from the 28 Member States during the third EU Youth Conference before being endorsed.

2.3.2. Novelties

It reaches out to young people and youth organisations through 28 National Working Groups. In the current cycle, it is planned that the national consultations should be carried out using the central European Youth Portal website, for example.

The Recommendations are the basis for discussion for Member States in the preparation of the Council Conclusion on that topic addressed to European institutions and national authorities, which will be endorsed by youth ministers at the end of the 18-month cycle. These set the common practices and standards for youth policy in the EU.

2.3.3. Evolution/lessons learnt

Even though it is a challenging process and its proposals are not always taken into the final Council Conclusion, it is important to acknowledge its benefits, as it formalises the active participation of young people in reflecting about the policies that directly affect them.

2.3.4. Links

European Youth Forum: <http://www.youthforum.org/claims/empowered-youth/the-structured-dialogue/>

European Commission webpage: http://ec.europa.eu/youth/policy/implementation/dialogue_en.htm

European Youth Portal: http://europa.eu/youth/sd_en.

2.4. Participation of Social Platform in bi-annual informal EPSCO meetings

2.4.1. Description

Twice a year, under the auspices of the Presidency of the EU Council, an informal Employment, Social Policy, Health and Consumers Affairs Council (EPSCO) meeting is organised, convening the EU Ministers for employment and social affairs. At these meetings, Member States exchange ideas on employment and social policy priorities selected by the EU Presidency, such as "Youth and Employment", "Social Services under Pressure", "Improving access to the labour market" and "Economic recovery and social policies: the role of minimum income schemes". The main topic of the meeting is discussed in a plenary session with all Ministers while other topics are touched upon in different workshops.

Created in 1995, Social Platform is the largest civil society alliance fighting for social justice and participatory democracy in Europe. Social Platform campaigns to ensure that EU policies are developed in partnership with the people they affect, respecting fundamental rights, promoting solidarity and improving lives. In this capacity, Social Platform has been invited to the informal EPSCO meetings alongside the EU social partners²² since the Danish EU Presidency in 2002. This has led to a unique structured civil dialogue between the EPSCO Council and civil society organisations.

2.4.2. Novelties

In 2014, The Italian EU Presidency took a step forward on civil dialogue by inviting SP to participate in their informal EPSCO meeting on equal footing with the EU ministers and the social partners. SP participated in the exchange between ministers on the poverty target in the context of the upcoming review of Europe 2020 and contributed to the discussions on a common European unemployment benefit scheme and on the importance of the social economy, pointing out the added value of the social economy to the fight against poverty. SP was also given the opportunity to participate in the Informal Joint meeting of environmental and social ministers.

2.4.3. Evolution/lessons learnt

Since 2002, Social Platform was invited mainly to present its contribution on the topics covered at the meeting of the Presidency Troika (the Member State holding the EU presidency and the two following ones), the Commission, the chair of the European Parliament Employment and Social Affairs Committee, and the social partners. This meeting would take place ahead of the informal EPSCO meeting itself.

In 2008, Social Platform was invited to attend the plenary session of Ministers of Employment and Social Affairs and thus was able to hear the different positions of Member States regarding a selected topic. In the following years and alongside participating in the Presidency Troika meeting, Social Platform was invited to directly address all Ministers with a statement regarding social NGOs' position on Ministers' priorities.

2.4.4. Links

[How to establish an effective dialogue between the EU and civil society organisations](#)

²² European Trade Union Confederation (ETUC), Business Europe, the European Association of Craft, Small and Medium-sized Enterprises (UEAPME) and the European Centre of Employers and Enterprises providing Public Services (CEEP)

2.5. Deliberative citizen forums at European level

2.5.1. Description

The term 'deliberative forums' covers approaches used to convene groups of citizens to discuss a given or self-selected issue based on provided information and expert testimony. The aims range from gaining insights into citizens' views by formulating (consensual) recommendations for policymaking to helping to improve decisions on public policy. Forums of this type have spread around the globe and have become ready-made options for enhancing public participation. 'Deliberative forums' can be understood as an umbrella term for methods of public participation such as citizen juries, consensus conferences, 'planning cells' and many other similar initiatives. New steps to promote transnational citizen deliberation in the EU have brought initiatives based on larger groups of citizens and/or multiple-site deliberations such as Meeting of Minds, European Citizen Consultations, and EuropeWideViews (as part of the PACITA research project). These initiatives have been supported by DG Communication and DG Research. Forms of citizen involvement can be seen as an important complement to the involvement of civil society organisations at European level.

2.5.2. Lessons learnt

Deliberative forums are linked with the hope to give ordinary citizens the opportunity to make their voices heard. They also help to understand the diversity of views and opinions of European citizens and thus help to understand their various needs and concerns, thereby potentially contributing to more robust policymaking. European experiments so far have been criticised as lacking impact on European policymaking, and have also been contested in terms of the functions they highlighted (Boucher 2009). It is thus necessary to devise better ways of involving citizens at European level, e.g. by involving professionals, expert designers and contractors at an early stage of the process and clarifying purposes, values and interests in order to develop a reflexive, responsible and effective design. Negotiating designs and procedures for citizen deliberation and its role within democracy is not a purely technical or methodological process but also a political one. It implies negotiating the understanding, forms and processes of influencing political decision-making among a range of concerned actors. It defines which voices are to be heard and the degree of democratic legitimacy that can be claimed. This includes negotiations about different values, norms and interests that define the public and its role in the European Union as well as justification systems for political decision-making. It is equally important to find agents of change and champions who can take these initiatives forward.

2.5.3. Links

- <http://www.participedia.net> gives an insightful overview about various methods and case studies
- https://europa.eu/sinapse/sinapse/index.cfm?fuseaction=lib.attachment&lib_id=2FF96871-9617-84CB-19401CF971500B1F&attach=LIB_DOC_EN, report from Meeting of Minds – European Citizens Deliberation on Brain Science
- <http://ecc.european-citizens-consultations.eu/>, website documenting European Citizen Consultations
- <http://citizenconsultation.pacitaproject.eu/>, website documenting EuropeWideViews on Sustainable Consumption

2.5.4. References

Boucher, S. 2009. *If citizens have a voice, who's listening? Lessons from recent citizen consultation experiments for the European Union*. URL: <http://www.ceps.eu/book/if-citizens-have-voice-whos-listening-lessons-recent-citizen-consultation-experiments-european->

Annex 3

3.1. Policy Agenda on Volunteering in Europe (PAVE)

3.1.1. Description

The Policy Agenda on Volunteering in Europe (PAVE) provides policy recommendations for a more efficient and effective policy framework in Europe to support and promote volunteers, volunteering and organisations involving volunteers. PAVE aims to ensure a lasting legacy for the European Year of Volunteering 2011 (EYV 2011) by encouraging all stakeholders to address the shortcomings of current policies. Consequently P.A.V.E contributes to reaching the EYV 2011 objectives and securing the legacy it promised for volunteering in Europe.

The recommendations agreed on by the EYV 2011 Alliance Steering Group on 17 November 2011 and endorsed by the listed EYV 2011 Alliance member organisations are directed at all stakeholders: the European institutions, member state policy-makers at all levels, social partners (employers from any sector – profit, non-profit, public, private etc. and trade unions) and civil society, and are informed by the conclusions of the EYV 2011 Alliance working groups.

3.1.2. Innovation

A total of 100 European experts in volunteering from EYV 2011 Alliance member organisations, many of them volunteers themselves, participated in this unique initiative during 2011 to develop the recommendations included in P.A.V.E. Drawing on the experiences of the diverse EYV 2011 Alliance membership of European Networks Active in Volunteering in this way has allowed PAVE to be developed with a unique practitioner's perspective and to build on the policy statements made by the EYV 2011 Alliance and the European Institutions prior to the European Year. *

3.1.3. Evolution

PAVE has been used as an important resource for volunteering stakeholders since its presentation to Commissioner Georgieva in December 2011 at the EYV 2011 closing conference in Warsaw. Its legacy can be found in the European Volunteering Capital Competition launched by the European Volunteer Centre that rewards municipalities that demonstrate adherence to the PAVE recommendations. The European Alliance for Volunteering has also been established in order to actively coordinate and develop efforts aimed at appropriate follow-up by targeted stakeholders of the policy recommendations contained in PAVE.

3.1.4. Links

* <http://www.eyv2011.eu/resources-library/item/39-the-european-year-of-volunteering-eyv-2011-discussion-paper>,

<http://www.eyv2011.eu/resources-library/item/40-eyv-2011-alliance-position-paper-available-in-different-language-versions-2008>

[EYV 2011 Council Decision](#) (2009)

[EC Communication on EU Policies and Volunteering](#) (2011)

http://www.eyv2011.eu/images/stories/pdf/EYV2011Alliance_PAVE_copyfriendly.pdf

<http://www.cev.be/initiatives/european-volunteering-capital/>

<http://www.volunteering-alliance.eu/>

3.2. EYCA and Civil Society Europe

3.2.1. Description

During the “European Year of Citizens 2013”, 62 European networks of associations representing 4500 individual organisations and 20 national coordinators have collectively developed a common value-based vision on European citizenship articulated in the founding Manifesto: “Active European citizenship is about pursuing European collective goals and values enshrined in the treaties”. They were working in different areas such as education, culture, health and youth. It has also been active in the EU Member States and in six other European countries, directly involving more than 400 national and local civil society organisations and large umbrella organisations.

Debates, conferences, screenings, workshops, exhibitions, etc. have been organised at the local, national and European levels to raise citizens’ awareness of their rights and their means of participation in the EU decision-making process by member organisations and in partnership with other stakeholders involved in the European Year of Citizens. These actions and discussions on citizenship have also been fuelled and continued online through the EYCA website and social media (Facebook, Twitter, YouTube and Flickr: EYCA2013).

The main aim of the EYCA was to advocate for citizenship to become a transversal dimension of European policies and a key priority in all areas of the Union’s action so as to move toward a truly citizen-friendly European Union that would no longer be reduced to merely economic preoccupations. For the EYCA, EU citizenship should not be confined to an individual rights-based approach, as fundamental as this component is, but should have a strong value-based dimension so as to tackle Europeans’ sense of belonging to a common European project. In this respect, throughout the Year, the members of the EYCA have contributed to a transversal, multi-level and transnational reflection process on key themes linked to active citizenship in Europe via three working groups. Their recommendations have been gathered in the document “It’s about Us, It’s about Europe! Towards Democratic European Citizenship” which will be shared with European decision makers.

3.2.2. Evolution

It then seemed necessary to keep up the momentum, unite and coordinate these efforts to make this vision become a reality. **Civil Society Europe** (the European Coordination of Civil Society Organisations) launched at the end of last year and linked to civic movements at sub-national, national and European level aims to represent the values they claim should be at the heart of the European project. Civil Society Europe should create an encouraging environment for horizontal exchanges between civil society organisations and movements across Europe and be influential in shaping the agenda on transversal issues of common interest for organised civil society in Europe.

3.2.3. Links

www.ey2013-alliance.eu

3.3. Digital tools for a European Common Space

3.3.1. Description

Digital democracy tools can complement traditional participatory methods. E-platforms for collaboration and other new-tech approaches in the digital era allow outreach to and engagement of new audiences – e.g. young people. Civil society organisations should act as mediators to facilitate the use of digital tools along with traditional ones to transform the relationship between themselves and also between EU citizens and decision-makers into more of a partnership, thus contributing to the establishment of an engaged citizenship. Exchange of promising examples between all levels (local, regional, national and European), establishment of objectives and planning of steps towards the creation of a digital ecosystem for citizen engagement.

3.3.2. Development

- Define the role of CSOs as intermediaries that facilitate the process of both decision-makers and citizens using digital tools so as to enable broader participation in the policy-making process.
 - Design a comprehensive framework for combining on-line with off-line activities and devoting sufficient resources to ensure their smooth running and impact – EU Citizen 2.0 Strategy.
 - Identify and create a Knowledge Centre of successful examples of e-democracy platforms that are user-friendly with simple and effective designs.
 - Advocate and motivate policy-makers to engage in an open and transparent dialogue with citizens on line, using the knowledge and technology that is already available at national level.
 - Advocate at EU level for progress from Commission consultations towards true co-decision.
 - Shape a space for mutual learning, networking and synergy building between the different national, local and European e-democracy projects.
 - Develop a training curriculum for the use of the new digital tools to foster truly pan-European discussion and overcome technical challenges.
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European Economic and Social Committee

SOC/423
Articles 11(1) and 11(2)
of the Lisbon Treaty

Brussels, 14 November 2012

OPINION

of the
European Economic and Social Committee

on

Principles, procedures and action for the implementation of Articles 11(1) and 11(2)
of the Lisbon Treaty
(own-initiative opinion)

Rapporteur: **Mr Jahier**

SOC/423 - CES766-2012_00_00_TRA_AC

On 14 July 2011 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

Principles, procedures and action for the implementation of Articles 11(1) and 11(2) of the Lisbon Treaty.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 September 2012.

At its 484th plenary session, held on 14 and 15 November 2012 (meeting of 14 November 2012), the European Economic and Social Committee adopted the following opinion by 168 votes to 3 with 7 abstentions.

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* *

"Nothing can be done without citizens but nothing can last without institutions"
Jean Monnet

1. **Conclusions**

- 1.1 The Committee considers it vital to develop practical proposals for action to ensure that the various EU institutions act, within their respective remits, to frame suitable measures for implementing Article 11(1) and (2) TEU. This process should be seen as an opportunity to expand and bolster the structures for dialogue with civil society at European level as well as at national, regional and local levels.
- 1.2 Representative democracy remains at the heart of democracy. Participatory democracy is a complementary approach and never an alternative to representative democracy, on which all our societies are based. Similarly, civil dialogue is not in competition with social dialogue; rather, each has a very specific, distinctive role, under the provisions of the Treaty.
- 1.3 It is necessary to put in place an effective participatory democracy as enshrined in the TEU and reflecting the values and identity of the European Union. In view of the current economic, social and political crisis, full implementation of Article 11 is of paramount importance if the Union is to reinforce its democratic legitimacy vis-à-vis its citizens. Ultimately, it is only through greater transparency, ownership and participation by citizens and organised civil society at both national and European level, that Europe will be able to avoid extremism, defend its democratic values and establish a "community of destiny".

1.4 Implementation of Article 11(1) and (2) TEU should be viewed as a crucial opportunity to move beyond the existing processes for consulting and involving civil society which have been developed at European level since the 2001 White Paper on European Governance. A variety of practices have already been developed for civil society participation, some of which have moved beyond information sharing and could be considered as good examples on which to build a structured framework for European civil dialogue, pursuant to Article 11(1) and (2).

1.5 The EESC therefore puts forward the following recommendations:

- the European Commission should carry out a detailed study of existing processes for civil society participation in policy-making at European level. The study should assess the effectiveness of the current structured-cooperation system and recommend a general framework establishing how all EU institutions and bodies could implement Article 11(1) and (2). The EESC and relevant stakeholders should be asked to contribute to this study, as regards both the design and implementation and in the dissemination of results;
- the Transparency Register, which is operated jointly by the Commission and the European Parliament, should be extended to include the Council. In the future it could become a useful tool for identifying European civil-dialogue stakeholders;
- the European institutions should establish a single database with information on contacts, consultations and dialogue with civil society. An annual report should also be envisaged, as a useful communication tool to demonstrate the scale of participatory democracy within the EU;
- the EESC should conduct an internal evaluation of the effectiveness, relevance and perception of its cooperation with civil society organisations (CSOs), with a view to identifying effective improvements;
- the EESC should develop a database with detailed information on which civil society organisations have been involved in its work and in what capacity;
- the EESC should make full use of the new Protocol of Cooperation signed with the European Commission in February 2012, leading to greater involvement in the definition of European priorities, work programmes and key policies;
- the EESC should undertake to review and revitalise its Liaison Group with European civil society, with a view to extending participation and helping to secure better implementation of Article 11(1);
- the EESC should help to organise, along with all other relevant stakeholders and the EU institutions in particular, a large-scale annual event that would offer shared input to the agenda of EU priorities. The political impact of such an event could be enhanced by

holding it in parallel with a joint conference of the 27 national parliaments and the European Parliament. The first one could be held before the 2014 European elections, thereby consolidating the bridge between Europe's citizens, the electorate and the elected.

- 1.6 A substantial and increasingly strong commitment by the Committee to shaping a European public space could thus seek and promote an increasingly active role by the Commission, the Council and the European Parliament in the implementation of Articles 11(1) and (2). The resulting processes and output should thus be appreciated by all of the institutions and European CSOs.

2. Introduction

- 2.1 Over the past 12 years the EESC has made significant progress regarding the definition of European civil dialogue, its complementary role in relation to representative democracy, and its differentiation from social dialogue. Civil dialogue has been defined as a democratic and public opinion-forming process that can take various forms depending on the actors involved. The EESC has agreed on a definition of the actors and concepts of civil dialogue, and its connection with participatory governance¹.
- 2.2 The EESC has also reaffirmed the principle of subsidiarity at European level; it has proposed a grid setting out 14 specific quantitative and qualitative criteria for gauging the representativeness of civil society organisations selected to take part in the horizontal, vertical and sectoral civil dialogue; and it has defined precisely the differences between consultation (top-down process) and civil dialogue (bottom-up, or more circular process). In this way the EESC has contributed to the institutional achievements now enshrined in Article 11 TEU².
- 2.3 The Treaty on European Union (TEU), which entered into force in December 2009, gives formal recognition to the role of participatory democracy (civil dialogue, consultation, European citizens' initiative). Article 11³ builds on and bolsters the central institution of representative democracy (Articles 10 and 12)⁴, thus giving expression to an innovative European model of democracy.

¹ A good summary of these concepts is set out in the document, *Participatory democracy in 5 points*, drawn up by the EESC's Group III in March 2011, <http://www.eesc.europa.eu/?i=portal.en.publications.15525>.

² More details on this can be found in the Compendium entitled *Participatory democracy: a retrospective overview of the story written by the EESC*. See <http://www.eesc.europa.eu/?i=portal.en.events-and-activities-participatory-democracy-prospects-compend>.

³ Article 11(1). The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action. (2). The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society. (3). The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent. (4). Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission.

⁴ Article 10(1) stipulates that *the functioning of the Union shall be founded on representative democracy*; and according to Article 10(3): *Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.*

- 2.4 The task now is to work for a tangible implementation of Article 11. In particular, we must make a start on paragraphs 1 and 2, since the consultation practices provided for under paragraph 3 are by now widely developed and the European citizens' initiative has been regulated⁵. The history of the EESC has taught us that effective structures for dialogue require a precise regulatory framework and institutional continuity.
- 2.5 In March 2010, the Committee called on the Commission "to publish a Green Paper on civil dialogue, which would cover the practical implementation of Articles 11(1) and 11(2), consider existing practice, define procedures and principles more precisely, evaluate them and, together with civil society organisations, make improvements, in particular by creating clearly defined structures"⁶. One year on, in 2011, an extraordinary meeting hosted by the EESC's Group III entitled *What are the prospects for participatory democracy in Europe?* repeated this request and approved a Roadmap for Participatory Democracy⁷.
- 2.6 The Committee notes that, apart from the consultation practices and the regulation on the European citizens' initiative, which came into force on 1 April 2012, there has been no progress made within the various institutions on the provisions regarding civil dialogue (Article 11(1) and (2)) and that there has not yet been a positive response to the request for a green paper on this matter.
- 2.7 Moreover, a structural economic crisis has spread throughout Europe, calling into question the very foundations of EU integration and fuelling a twofold, dangerous phenomenon. On the one hand, a reversion to intergovernmental negotiations for finding solutions to the crisis, with a proliferation of EU summits; on the other hand, a growing distance between the people and their organisations and the EU institutions. This is coupled with a widespread perception that not only is the EU failing to find a way out of the crisis, but that it is imposing austerity policies that affect the lives of all Europeans, and engaging in virtually no dialogue with the various sectors of organised civil society about the choices made. The lack of understanding and distance thus seem to be growing, paving the way for a dangerous scenario in which the EU institutions themselves may lose their legitimacy.
- 2.8 The Committee believes that the dynamics generated by the TEU, as well as the range of issues and priorities now on the Union's political agenda, require a resolute revival of the Community method. The only way to achieve this is by strengthening and renewing it, while also strengthening parliamentary democracy – the cornerstone of the EU institutions – and ushering in a new era of direct involvement of civil society, designed to enhance the European identity and generate interest among citizens. Closer involvement of the public

⁵ <http://ec.europa.eu/citizens-initiative/public/welcome> At all events, it will be advisable to make a thorough assessment (also involving civil society organisations), within the next year, of the practical operation of the European citizens' initiative.

⁶ [OJ C 354, 28.12.2010, p. 59.](http://ec.europa.eu/press/2010/12/28/10122801.htm)

⁷ <http://www.eesc.europa.eu/resources/docs/roadmap-final-for-web.pdf>.

through civil dialogue, both in its direct forms and by means of representative organisations, as provided for under Article 11, is becoming a pivotal challenge for the whole future of the European project. It comes down to ownership, support, transparency and increasing the democratic legitimacy of the decision-making process.

- 2.9 Article 11 and its implementation thus provide a valuable tool for putting this participatory democracy into practice, and the Committee undoubtedly has all the experience required to act as a catalyst here for bolstering European democratic life, in close coordination with the various EU institutions and the main European and national networks of organised civil society.
- 2.10 The Committee is aware that it reflects only partially the diversity inherent in the term organised civil society⁸ and has thus for some time been taking pragmatic steps to place its relations with European organised civil society on an increasingly broad footing. At a time of crisis, the Committee believes that strengthening such a "bridge" between the institutions and civil society is more crucial than ever, with a view to accompanying the structural policy choices and institutional reforms that are incumbent on the EU if it is to have a future.
- 2.11 Article 11 as a whole is a clear signal of confidence in the added value of active citizenship, in the value of participatory democracy and the role it can play in bolstering people's sense of ownership of the European project, fostering an increasingly informed and significant European citizenry. Article 11, by placing the well-established tradition of consultation (paragraph 3) in the context of the participatory pillar (paragraphs 1 and 2) thus indicates a significant shift towards a more advanced model of structured dialogue.
- 2.12 After 15 years of theorising and producing important papers, which can be found in the aforementioned compendium⁹, **specific targeted actions and instruments are now needed for each EU institution**; however, at the same time, **there must be a coordinated and consistent overall strategy** to enable better implementation of the Article's overall objective.
- 2.13 The Committee warns against the temptation to transform the prescriptive foundation of Article 11 (in particular paragraphs 1 and 2) into something that is merely descriptive, like a photograph of what already exists. This would certainly not reflect the intentions of the legislator, nor correspond to the high expectations of European organised civil society.

3. **Building on existing good practice**

- 3.1 The Committee believes that in starting to develop practical measures for implementing Article 11(1) and (2), it would be useful to build on existing best practice.

⁸ The EESC shall consist of representatives of organisations of employers, of the employed, and of others representative of civil society, notably in socio-economic, civic, professional and cultural areas, Article 300(2) TFEU.

⁹ *Participatory democracy: a retrospective overview of the story written by the EESC*
<http://www.eesc.europa.eu/?i=portal.en.events-and-activities-participatory-democracy-prospects-compend>.

- 3.2 Over the last ten years, the EU has seen **steady growth in the various forms of cooperation with civil society organisations**. This mostly involves consultation processes conducted by the European Commission.
- 3.3 At Commission level, a growing number of directorates-general have developed a range of consultation processes, which vary in terms of objectives, regularity, size and impact. These have evolved largely independently and have often turned into proper "consultative forums". They amount to a variety of situations and results which, in some cases, already constitute quite structured forms of permanent dialogue with civil society¹⁰. The Committee stresses that the legal structure of such consultations must not be confused with the new construct of civil dialogue, which must become structured and put on a permanent footing.
- 3.4 Existing structures include the EU health forum organised by DG Health and Consumers, the Fundamental Rights Platform of the EU Agency for Fundamental Rights, DG Development's civil society contact group and the Civil Society Dialogue launched by DG Trade.
- 3.5 The latter is perhaps the most advanced mechanism for structured sectoral dialogue, both because of the wide range of actors involved (over 800 registered organisations), and because almost half of them are based in a Member State and not in Brussels. It is also the only one for which an external assessment¹¹ has been commissioned, by DG Trade itself.
- 3.6 A second example is the European Integration Forum¹², launched in 2009 on a joint initiative of the EESC and the Commission. The forum has a stable membership of about a hundred European and national stakeholders, as well as ongoing participation by the European Parliament, the CoR and representatives of Member State governments. After a slightly rocky start, it has now become a hub for structured dialogue on the practical evolution of the EU agenda for integration policy, especially in the ex ante stage.
- 3.7 Civil society forums within the complex system of EU external relations provide a third example. Here we would highlight the success of the joint consultative committees set up in the context of EU accession negotiations, the role of the EU-Cariforum consultative committee in monitoring the specific Economic Partnership Agreement between the EU and Cariforum, and the role of civil society enshrined in the EU-Korea free trade agreement.
- 3.8 The Cotonou Agreement¹³ is perhaps the most complex and substantial case, in terms of both the number of countries and stakeholders involved and the number of actions taken. It

10 Set out below are only a few brief summaries.

11 <http://trade.ec.europa.eu/civilsoc/index.cfm>.

12 <http://ec.europa.eu/ewsi/en/policy/legal.cfm>.

13 Chapter 2, Article 4.

formally recognises the "complementary role of and potential for contributions by non-State actors [defined as the private sector, economic and social partners, and civil society] to the development process"¹⁴. The EESC is specifically mandated to organise regular meetings of ACP-EU socio-economic players. A specific programme was also developed to provide financial support within the various countries, managed by the EU delegations and giving these actors an increasing role, and investing in capacity building¹⁵.

- 3.9 Lastly, we would highlight the European Parliament's Citizens' Agora. This has held three thematic meetings (albeit at non-regular intervals, and with differing outcomes) since the initiative was launched in 2007, involving a broad range of European civil society organisations¹⁶. The work is currently the subject of a specific evaluation within the European Parliament, acknowledging the need to relaunch it in a more effective form in future years.
- 3.10 There are also some noteworthy international examples of effective civil society participation in the decision-making process. These include the Aarhus Convention¹⁷ of the United Nations Economic Commission for Europe, and the Code of Good Practice for Civil Participation in the Decision-making Process adopted by the Conference of International Non-Governmental Organisations (INGOs) of the Council of Europe¹⁸.
- 3.11 The Aarhus Convention provides not only for the public and relevant civil society organisations to have the right to "access to environmental information" from public authorities, but also the right to "public participation in environmental decision-making" and potentially the right to challenge public decisions. Moreover, civil society representatives can nominate members to the Convention Compliance Committee and can be represented on the Bureau. Finally, financial support is available to these civil society organisations.
- 3.12 As regards the Council of Europe, the Code of Good Practice has been recognised by the Committee of Ministers and aims to improve civil society participation in political decision-making at local, regional and national levels. The Code outlines four different levels of participation (information, consultation, dialogue and partnership), which can be used as a matrix by both civil society and public authorities.
- 3.13 There are also good examples at regional and national levels. Particularly noteworthy is the French "Grenelle Environnement" created in 2007 at the initiative of the French president¹⁹.

14 Chapter 2, Article 6.

15 To gain an idea of the monitoring work undertaken by the EESC, see the final declaration adopted at the regional seminar held in Addis Ababa from 7-10 July 2010. www.eesc.europa.eu/?i=portal.en.acp-eu-eleventh-regional-seminar-documents.10876.

16 <http://www.europarl.europa.eu/aboutparliament/en/00567de5f7/Agora.html>.

17 Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters adopted in 1998. See <http://www.unece.org/env/pp/introduction.html>.

18 The Code was adopted in October 2009. See www.coe.int/ngo.

19 "Grenelle Environnement" – <http://www.legrenelle-environnement.fr>.

The forum brought together representatives of the State, local authorities, NGOs and the social partners in a process of dialogue and partnership, and led to two significant packages of environmental laws, in 2008 and 2010 respectively. Moreover, following a proposal from the "Grenelle Environnement", in 2008 the name of the French ESC was changed to Economic, Social *and Environmental* Council and members representing this sector were appointed to the body²⁰. Lastly, one should mention other forms of civil dialogue established at national and local level, such as cooperation platforms, compacts, cooperation protocols or agreements, which should be exploited accordingly.

4. **Lessons and opportunities to develop**

4.1 Today there are hugely interesting examples which have, in practice, gone well beyond the standard forms of mere consultation. In some cases, these have brought more stable and multifaceted processes of active participation, with stronger forms of cooperation, paving the way to possible forms of structured civil dialogue, as prescribed in Article 11 TEU. However, these practices are generally insufficiently known outside the circles concerned: they need to be assessed, more widely promoted, extended and put on a more stable footing.

4.2 Furthermore, how these forums are perceived by the various stakeholders, particularly as regards their effectiveness, depends on a range of factors: the highly varying level of ownership of the process, the perceived level of representativeness of the stakeholders²¹, the financial conditions that may or may not be conducive to the participation of less structured players not present in Brussels, and the technical capacity to contribute actively to the discussion and ensure follow-up of the process and the continuity of the operational investment made by the EU institutions.

4.3 It is worth highlighting some important aspects of these processes:

- they have given rise to working practices which, over time, have become widely used and accepted standards, providing an asset that should be studied and assessed;
- most of them involve a very extensive set of stakeholders, usually from more than one family or one sector of civil society organisations; rather, they often include the same types of representatives as are found in the Committee: employer bodies, worker organisations, and bodies representing other socio-economic, civic, professional and cultural players;

20 For further examples of civil society participation please refer to the hearing conducted during the drafting of this opinion: <http://www.eesc.europa.eu/?i=portal.en.events-and-activities-articles-11-1-2-lisbon-treaty>.

21 However, the representativeness criteria applied in different situations vary widely. We would thus point again to the qualitative and quantitative criteria set out in the EESC opinion (rapporteur: Mr Olsson), [OJ C88, 11.4.2006, p. 41-47](#).

- in some cases, more than one EU institution/body is involved, albeit with different roles; this sometimes creates the effect of a network among various institutions, which should be further developed;
- in this process of structured dialogue, there is ever greater involvement – in a wide range of forms – of national civil society representatives and organisations, alongside European organisations. However, there is still much to be done here to ensure greater involvement of the local and national levels of civil society in the 27 Member States²².

4.4 These findings reveal a potential critical mass which, if harnessed systematically and properly publicised, could constitute an important building block in the construction of participatory democracy at EU level. In any case, it would give visibility to this pillar of European democracy, both in the eyes of the public and within the various institutions. The scale of the contribution of European civil society organisations and the efforts that the EU has been making for some time would then be more widely recognised and appreciated.

4.5 **The Committee thus proposes that the European Commission, with the active cooperation of all the other institutions, launch a larger-scale, more detailed study.**

4.6 Ten years on from the White Paper on European Governance²³, such a study should provide a more complete overall assessment of the results achieved, the tangible impact on the legislative process, the intervening unexpected developments, the problems encountered, the shortcomings and incongruities noted, and the costs borne, while identifying, finally, the elements required to ensure more appropriate, wider participation. The study should assess the actual effectiveness and scope of the current system of structured cooperation with civil society, and consider ways of making it more effective. It should also consider good practices that could be put forward, and how to develop them further. It should assess how and to what extent this considerable body of work is known and perceived outside the circles concerned, and how it contributes to broadening democratic participation and increasing support for the European project and thus to the shaping of a European public space. The study should also include pointers for an impact assessment from the point of view of both the institutions and the various stakeholders of organised civil society.

4.7 Carried out in the light of Article 11²⁴, and directly and actively involving civil society organisations, this study could become a good working basis for identifying guidelines and further practical arrangements for developing structured dialogue in line with Article 11 TEU. In this way it could provide the Commission and the other EU institutions with the requisite

22 In this regard, it is worth pointing out the enormous number of local, national and regional organisations that have been involved in recent years in specific practical European projects and that could, if properly encouraged and networked, be actively involved in a wider dynamic of participation and civil dialogue, that could enhance grassroots public support for the European process at national and local levels across the EU.

23 [OJ C 193, 10.7.2001, p. 117](#); [OJ C 125, 27.5.2002, p. 61](#) and COM(2001) 428 final.

24 The institutions shall maintain an open, transparent and regular dialogue ..., par. 2.

elements for framing subsequent and more precise practical proposals, in line with the green paper referred to in point 2.5, whose importance the Committee stresses. In particular, the study should seek to identify possible common guidelines and practices for all institutions, with due regard for their individual autonomy, in order to develop an unambiguous, effective, inclusive and transparent process for the structured participation of civil society in the European venture.

- 4.8 The EESC can certainly contribute here, making available its expertise and networks: it would play an active part in both the design and implementation of the study, and then during dissemination of the results, especially in the 27 Member States.
- 4.9 On 23 June 2011 **the Commission and the European Parliament launched the joint transparency register**, which replaces the register set up by the Commission in 2008. Several thousand organisations have registered to date, from all corners of European civil society. These organisations have to provide an extensive range of information and undertake to abide by a code of conduct²⁵. This single register, common to the two institutions, and the fact that the Council has already expressed an interest in coming on board, suggests clear direction here and a willingness on the part of the institutions to proceed in a coordinated manner on a matter of such importance and sensitivity for relations with civil society.
- 4.10 The Committee believes that this register – so far solely aimed at achieving transparency for those in contact with the EU institutions in order to influence policy – could gradually become a tool for identifying civil-dialogue stakeholders as regards representativeness criteria. The possibilities that the register opens up for developing structured civil dialogue should thus also be explored in the aforementioned study.
- 4.11 The Lisbon Treaty also opens **new windows of opportunity in relation to the European Council**. This is now a permanent structure, with the president of the European Council appointed for a two-and-a-half year term of office, which can be renewed. This lays the foundation for structuring a more long-term vision and more stable relations with organised civil society. The European Council is also required to meet the Article 11 obligation. The fact that it is now responsible for setting the EU's broad policy guidelines makes it even more strategically important to develop cooperation that evolves gradually towards structured civil dialogue. The Committee thinks that the Council should set up a special unit dedicated to dialogue with civil society and, as part of its specific functions, the Committee is willing to cooperate closely with the Council to pursue this aim in practice.

25 http://europa.eu/transparency-register/index_en.htm.

5. The EESC's role

5.1 Over the past ten years, the Committee has substantially modified its own working methods and above all has greatly expanded the involvement of stakeholders, experts and European civil society organisations in its work.

5.2 Every facet of the Committee's work has seen changes: the more traditional aspect of its work (opinions), with the increasing involvement of experts and the proliferation of hearings (varying in scale); the establishment of the Liaison Group with CSOs; the various conferences and events organised under the programmes of the sections, groups and presidencies, both in Brussels and in the Member States; the work carried out on the Europe 2020 strategy with the economic and social councils and similar bodies in the Member States; and finally, the same diverse range of activities carried out in the framework of its external relations.

5.3 A picture emerges of substantial and ever growing relations and dialogue with a wider, more diverse range of players from European organised civil society: a multifaceted, very sectoral development, where the various players tend to be relatively unaware of each others' actions. The overall potential of this has not been sufficiently exploited.

5.4 This is why **the Committee should undertake to:**

- promote more **thorough analysis of the evolution of and prospects for its system of relations with organised civil society**, to assess the effectiveness, relevance and perception of its work, and identify possible changes and innovations that may be necessary in order to constantly hone its specific role as an EU advisory body and strengthen the process of implementing Article 11 TEU. Such a study should be carried out with the support of high-level research institutes and should provide for appropriate means of involving and cooperating actively with representative CSOs at EU level, thus also gathering their views and overall assessments;
- develop a **dedicated centralised database of all contacts, competences and organisations** that are involved in various ways every year in the Committee's work, also defining their different types and then evaluating what possible initiatives (joint statements and/or annual dialogue with the whole body of contacts) could be developed in order to place this system of relations on a more robust footing;
- and finally, propose to the various EU institutions to set up a **single database for the whole system of relations and dialogue with civil society organisations pursued by all of the EU institutions and bodies**, also envisaging an appropriate annual report to be made accessible to all national and European stakeholders²⁶.

²⁶ See also point 21 of the EP Resolution of 13 January 2009 on the Perspectives for developing civil dialogue under the Treaty of Lisbon (2009/0007 INI).

5.5 The Committee must tap all useful synergies with the other EU institutions, to ensure that Article 11 is properly implemented. To this end, it reiterates its commitment to opening up new avenues for working with the European Council and to strengthening and expanding all of the opportunities for cooperation already in place with the European Parliament, the Commission and the Committee of the Regions.

5.6 **The new cooperation protocol signed by the EESC with the European Commission**²⁷, which consolidates and strengthens the role of the Committee as a privileged intermediary between civil society organisations and the Union institutions, opens up many opportunities here, which should be followed through with determination. This protocol consolidates and reinforces the avenues of cooperation developed over the years and establishes new, ambitious and tangible paths for progressively and jointly implementing Article 11 TEU, in order to develop "participative democracy at Union level with the aim of strengthening its democratic legitimacy"²⁸. Specifically, "the Commission considers this cooperation as a privileged tool to organise an open, transparent and regular dialogue with representative associations and civil society as referred to by Article 11 TEU"²⁹.

5.7 Indeed, the protocol sets out two pivotal opportunities for developing such cooperation, which could become a stable and structured framework in which to progressively include an ever-broadening network of European civil society representative organisations, thus giving further shape to the practical development of structured civil dialogue under Article 11(2):

- As regards the establishment of the EU's political priorities, the Committee has the opportunity to influence the Commission's political priorities and annual work programme. To this end, the Committee is to inform the Commission of its own proposed priorities for the following year, and at the end of each year the Committee organises a debate on the future of the EU during which the Commission presents its strategic priorities.
- As regards the European Semester and the Europe 2020 strategy, the protocol places on an institutional footing the presentation of an annual report by the EESC, with the close cooperation of the network of national economic and social councils and similar institutions, on civil society involvement in the drafting of National Reform Programmes. The report is debated in advance of the Spring European Council; the relevant Commission member is required to participate in this debate and present the Annual Growth Survey.

27 <http://www.eesc.europa.eu/?i=portal.en.eu-cooperation.22469>.

28 Preamble to the Protocol, para. 6.

29 Also preamble to the Protocol, para. 7.

- 5.8 The Committee should also undertake to create the most appropriate synergies with CSOs at national and EU levels, developing structured cooperation at both levels.
- 5.9 In particular, such structured cooperation could be developed at national level for the contribution that the protocol now asks the Committee to make to "evaluating the implementation of EU legislation in particular in relation to the horizontal clauses, as provided for under Articles 8 to 12 of the Treaty on the Functioning of the European Union (TFEU)"³⁰. To that end, existing cooperation with national ESCs and similar institutions should be stepped up.
- 5.10 Lastly, in 2004 the Committee established the **Liaison Group** with European civil society bodies and networks, which is also mentioned in the revised protocol. In the context of the vision outlined, the Committee deems it necessary to review, restructure and revitalise the role of the Liaison Group, and, in particular, to open it to all sectors of organised civil society, including with reference to the more multifaceted composition of the Committee's three Groups. Bolstering it in this way could be a specific step towards decisively advancing implementation of Article 11(1) TEU (as regards horizontal civil dialogue), making the Committee a platform for facilitating this process. Overhauled and bolstered in this way, the Liaison Group could play an increasingly valuable role within the EESC, particularly in monitoring the implementation of Article 11.

6. **Building a structured space for European civil dialogue**

- 6.1 The Committee believes that it is incumbent on it to become an increasing centre of excellence for European civil dialogue, developing and fine-tuning existing instruments, and fostering new forms of structured dialogue and open, participatory forums for stakeholders: This should be part of a wider strategy involving ever more appropriate participation of European CSOs, with the aim of multiplying good civil-dialogue practices at all levels. In this way, the Committee can make a key contribution to the implementation of Article 11.
- 6.2 The Committee believes that work should start on shaping a space that will embody this new era of participatory democracy. As well as being an innovation in terms of both substance and method, this would give a boost for the overall process and would provide a communication event in itself. This is a way to give form and substance to the construction of a European public sphere, as proposed by the philosopher Jürgen Habermas as a prerequisite for the whole European project, but still far from being realised. This work is all the more urgent in view of the crisis and the previously highlighted risks of an unravelling of democratic support for European integration.

³⁰ Preamble to the Protocol.

6.3 Proposals for such a space have already been put forward at the Committee, both during in-house conferences³¹ and in a recent authoritative opinion on *Renewal of the Community Method*³².

6.4 The Committee thinks that this structured space for European civil dialogue could take the **form of an annual event**, with the following structure and aims:

- an event aimed at gathering, conveying and summarising the main contributions of European organised civil society to the Commission's annual programme and to the priorities of the various institutions, in connection with the scenario outlined in point 5.7;
- an event that could come to be structured over several days, along the lines of the "Open Days" organised effectively by the CoR³³, with workshops and thematic meetings which feed into a comprehensive closing session;
- an event for which the EESC would lay solid groundwork, in the form of a dedicated committee which would include representatives of European CSOs and establish the thematic priorities as well as the participation arrangements³⁴;
- an event where participation should be broadened out as much as possible, also in terms of national and sectoral organisations;
- an event which would also involve direct participation by Europeans – in view of Article 11(1), which also requires direct dialogue with citizens across the 27 EU Member States – harnessing the huge potential of the new communications technologies;
- an event which could conclude with a final declaration which would be managed and coordinated by a preparatory committee, as already successfully trialled by the EESC on various occasions both in-house and externally.

6.5 The Committee believes that this event could constructively spur all of the EU institutions to make civil dialogue a horizontal task for all directorates-general in the Commission, all working parties in the Council and all committees in the European Parliament, in a

31 See point 4 of the document adopted by the main CSOs at the conference held at the EESC on 10 February 2010: "The organisation of an annual conference of organised civil society with a view to helping set the European political agenda...".

32 [OJC 51, 17.2.2011, p. 29](#), point 5.6, rapporteurs: Mr Malosse and Mr Dassis.

33 The CoR Open Days, the tenth anniversary of which is being celebrated in 2012, are a forum for discussion and political debate, as well as a space for exchanging good practices and cooperation. They now involve over 6 000 participants and around a hundred workshops, three general thematic meetings and a concluding session, and are attended by high-profile representatives of all the EU institutions.

34 An example of good practice here was the *Programme for Europe: the proposals of civil society*, published by the EESC in spring 2009.

transparent and balanced way, in respect of the various components of European organised civil society, as previously called for by the European Parliament³⁵.

- 6.6 In order to give more weight and a stronger foundation to this prospect, the Committee also calls on the Commission to put forward again a specific, definitive proposal for a European Statute for Associations, as strongly called for by European CSOs and as has been previously requested in several EESC opinions.

Brussels, 14 November 2012

The President
of the
European Economic and Social Committee

Staffan Nilsson

³⁵ European Parliament resolution of 13 January 2009 on the Perspectives for developing civil dialogue under the Treaty of Lisbon (rapporteur: G. Grabowska).



European Economic and Social Committee

REX/349
**Civil society involvement in
the EU's development
policies**

Brussels, 28 March 2012

OPINION
of the
European Economic and Social Committee
on
**Civil society involvement in the EU's development policies and in development cooperation
(Exploratory opinion)**

Rapporteur: **José María Zufiaur Narvaiza**

REX/349 - CESE 839/2012 ES/AC/NT/ht

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In a letter dated 20 October 2011, the European Commission asked the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, to draw up an exploratory opinion on:

Civil society involvement in the EU's development policies and in development cooperation.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 167 votes to 15 with five abstentions.

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1. **Conclusions and recommendations**

- 1.1 In a situation in which the economic, environmental and social crises will determine the future of humanity, the EESC considers it a matter of priority to obtain agreement and a common approach between the various cooperation actors on the type of development to be promoted¹.
- 1.2 If cooperation is to be effective, it is essential to coordinate all EU policies with development policy. Civil Society Organisations (CSOs) should also be motivated towards more and better coordination and coherence with these policies.
- 1.3 The CSOs are leading players in development in their own right and should play the same part in cooperation policies. They need to be involved in the drafting, implementation and monitoring of cooperation policies and programmes and be among the strategic bodies through which finance is channelled.
- 1.4 The EESC advocates more strategic cooperation between the Community institutions and the CSOs, by way of political dialogue, framework agreements and more effective mechanisms for channelling funds.

¹ OJ C 376, 22.12.2011, p. 102, point 1.5, rapporteur: Mr H.J. Wilms.

- 1.5 The European Commission and all the governments should support the Istanbul Principles for CSO Development Effectiveness.
- 1.6 The CSOs should be given greater recognition in new cooperation arrangements like South-South cooperation and triangular cooperation.
- 1.7 Development and cooperation policies, especially European ones, must take account of the unique features and diversity of the CSOs, as well as their experience in relations with partner countries.
- 1.8 In a globalised world it is necessary to recognise the global character of some CSOs and exploit their potential as global actors.
- 1.9 Changes are needed in the system for granting European development funding through CSOs. It is necessary to introduce, as a matter of urgency, arrangements such as the "framework agreements", operational grants, cascading subsidies, multiannual agreements, emergency funding and implementation of the "toolbox" defined in the Structured Dialogue. CSO networks, federations and confederations should, in the EESC's view, be the main recipients of this type of funding.
- 1.10 CSOs should be guaranteed a favourable environment for carrying out their work in all countries. This requires respect of basic principles like freedom of association, freedom of speech, assembly and action. This objective should be incorporated into public cooperation policies.
- 1.11 The participation of civil society should be a real component of governance, and as such be adopted by the EU as a criterion for action in its relationship with partner countries.
- 1.12 The EESC, while welcoming the involvement of local authorities in EU development policy², believes that linking CSOs and local authorities in development and cooperation policies, despite their necessary complementarity and cooperation, is a source of conceptual confusion and operational difficulties.
- 1.13 Involving the private sector in development policies is essential for increasing its impact. However, it must be ensured that this is not used as a pretext for reducing the public contribution and that the participation of the private or any other sector does not entail the establishment of new "conditionalities" for cooperation projects. A framework should also be established, based on already defined international standards, for any sector's effective involvement, in accordance with development cooperation objectives.

² Increasing the impact of EU development policy: an agenda for change, OJ C 113, 18.4.2012, pp. 52–55.

- 1.14 Transparency mechanisms and the accountability of cooperation should be stepped up, including where they affect CSOs, as should the fight against corruption.
- 1.15 The CSOs should also involve the European Voluntary Humanitarian Aid Corps, envisaged in the Lisbon Treaty, in development policy.
- 1.16 The EESC's international activities over a long period of time have contributed, as in the case of the mandate given to the EESC in the framework of the Cotonou agreement, to the recognition of the institutional dimension of the CSOs. This was among the key attributes of the Cotonou Agreement. For the first time in an international treaty signed by the EU, the essential role of "non-state actors" as partners in development cooperation was explicitly recognised³. Crucially, the Agreement also states that non-state actors should receive financial resources for capacity-building in order for them to become effective partners in the Agreement. This mandate facilitated the creation of the ACP-EU Follow-up Committee, establishing for the first time a joint body of CSO representatives from ACP countries and EESC members, financed by the EDF. The Follow-up Committee's role is to follow up the implementation of the Cotonou Agreement and Economic Partnership Agreements. It has also played a key role in establishing the sustainable development clause. This modus operandi has served as a point of reference for the EESC's work in other geographical areas and has proved very productive, contributing for example to the reinforcement of CSOs' organisational capacities, and to the establishment of platforms and contact points with CSOs in EU delegations, as well as facilitating their access to Community finance and their participation in the negotiation of trade agreements.
- 1.17 The EESC considers that experiences of this kind should be consolidated and extended to support cooperation policies. And, above all, taking on board the views of many of the major CSOs, it calls on the European External Action Service to ensure that the EU delegations undertake to support them effectively, enter into contact with them and familiarise themselves with and promote their activities both in Europe and in partner countries. In the light of the strengthening of the EU External Action Service's delegations, it is more necessary than ever that they make this undertaking as a binding commitment and not a voluntary act dependent on goodwill.
- 1.18 In the context of the decentralisation of European development cooperation, the EESC believes that it can cooperate very effectively with the European External Action Service in the EU Delegations' dialogue with the CSOs. This is partly because the EESC is the European counterpart of the various consultative bodies that are being set up under the economic (Cariforum), trade (South Korea) and association (Central America, Chile) agreements. It is also because of the long-standing and stable relations that the EESC maintains with civil

³ Thus the second paragraph of Article 4 of the Cotonou Agreement stipulates that the EU and the authorities of the ACP countries must inform and involve non-state actors in consultations on cooperation policies and strategies and that these actors must be involved in implementing such strategies.

society organisations and their institutional representatives from all continents, but especially with the ACP, Latin American and Mediterranean countries⁴.

1.19 The EESC reiterates the important role of the CSOs in promoting awareness-raising and education of the EU population in cooperation, at a time of crisis which threatens to cause development policy commitments to be forgotten. These activities should be sufficiently funded with a specific budget heading, subject to sufficient safeguards regarding transparency and accountability.

2. General principles and objectives

2.1 Over the last decade the European Union has paid increasing attention to the dialogue with the CSOs. The European Consensus on Development, the Development Cooperation Instrument and the report of the European Court of Auditors, as well as the Structured Dialogue, have broadened the scope of the dialogue so that it now includes, among others, the European Commission and the European Parliament, the Committee of the Regions and the EESC, the Member States and civil society organisations: among others, trade unions, cooperatives and social economy organisations, farmers' organisations, business organisations, NGO platforms and member organisations from the partner countries.

2.2 Nevertheless, despite these gains and international agreements⁵, the general perception is that such progress is still very abstract and that practical progress has been much less. In many donor and developing countries, the CSOs are still encountering major difficulties and their work has lost impetus. This is true of trade union organisations for example that have more difficulties in accessing official development assistance (ODA) in the donor countries, whilst access in the partner countries is limited or non-existent as regards both funding and political dialogue. There are threats to support for CSOs, and for their role as actors in development (the measures recently adopted by the government of Zimbabwe are an example of this).

2.3 The EESC understands that greater and better recognition of the CSOs' role requires accepting a series of criteria, principles and values in development and cooperation policies.

2.4 The first and fundamental principle is the need to achieve convergence between CSOs themselves, and also between CSOs and the European institutions, as to **what is understood by development**. This is an extremely necessary and urgent goal in a context in which three crises are enmeshed: the environmental crisis (climate change, loss of biodiversity etc), the social crisis (increased inequalities) and the economic crisis (unemployment, growing job insecurity, the dominance of the financial sector over the real economy etc). The first three

⁴ <http://www.eesc.europa.eu/?i=portal.en.external-relations-other-continents>.

⁵ Paris Declaration on Aid Effectiveness, March 2005; Accra High Level Forum 2008; Istanbul Development Principles (http://www.cso-effectiveness.org/IMG/pdf/final_istanbul_cso_development_effectiveness_principles_footnote_december_2010-2.pdf); International Framework for CSO Development (http://www.cso-effectiveness.org/IMG/pdf/final_framework_for_cso_dev_eff_07_2011-3.pdf); Declaration of the Busan High Level Forum 2011.

crises have given rise to a fourth, the food crisis. The figures reflecting the depth of these three crises – which feed on each other – show that our future, indeed everybody's future, is in danger and that the only way of minimising the damage is a qualitative leap in the areas of equality, cooperation and care. Nevertheless, development cannot be understood as being synonymous with economic growth and prosperity and progress cannot be equated with GDP indicators.

- 2.5 The EESC still feels that, without prejudice to the need to overhaul the criteria for action, **development cooperation is one of the essential instruments for taking development forward**, and especially for the poorest countries.
- 2.5.1 In this respect, the EESC reiterates the need to meet the development funding commitments entered into at international level which must continue to be something that the donor countries and the European Union in particular cannot go back on. Development cooperation **is a public policy** in the donor countries, based on best practice, which must have the necessary funding to see it through.
- 2.5.2 As stipulated in the Lisbon Treaty, the EESC reiterates that care must be taken to ensure **consistency between cooperation and development policies and other policies – trade, investment, financial**. CSOs should also be motivated towards more and better coordination and coherence with these policies.
- 2.6 There have been fundamental changes over the past decade in terms of cooperation, including the relevant developments such as South-South cooperation, or triangular cooperation. The role of the CSOs **and their networks should be given greater recognition as regards these new forms of cooperation**.
- 2.7 Similarly, some of the ways of channelling funds aimed at improving ownership and budgetary support have resulted in the marginalisation of civil society in the partner countries. **The EESC stresses the need to sufficiently involve local CSOs in democratic ownership and in thematic programmes, also as regards the financial aspect**.
- 2.8 The involvement of the EESC in various EU Strategic Associations (with Brazil and China), the recognition of its role in international agreements like Cotonou and its participation in global programmes like Rio+20 suggests that it should be involved in the EU's thematic cooperation and development policy programmes.
- 2.9 The agreements reached at international level and set out in the Paris Declaration, the Accra Agenda for Action (AAA) and the Busan High Level Forum represent significant steps in establishing aid effectiveness. Nevertheless, **the CSOs think that some of the concepts and criteria set out in these documents should be broadened**. For example, what is to be understood by ownership, harmonisation, alignment, result-focused management, mutual

responsibility and aid effectiveness. A definition more in keeping with these criteria should take shape in a dialogue between the CSOs and the European institutions.

- 2.10 The aim is to address aid effectiveness using an approach based on the various components of the concept of human rights and to assess it in terms of its contribution to reducing poverty and inequality and ending aid dependency itself.
- 2.11 The approaches set out by various organisations and in international declarations show that **CSOs are development actors in their own right**⁶. The EESC calls on the European Commission and all the governments to support the Istanbul Principles for CSO Development Effectiveness.
- 2.12 **Development and cooperation policies must take account of the CSOs' specific characteristics and diversity.** Some examples of the wide range of forms that CSO contributions to development can take, backed with the appropriate cooperation policies, include the added value that an NGO focused on protecting the environment or human rights can bring to development; a trade union organisation that protects labour rights, the primary distribution of wealth through wage negotiations and social protection for workers; an agricultural cooperative that has a direct effect on food sufficiency and sovereignty; an association of immigrants with their contribution to co-development; or an organisation of employers or the self-employed, with their crucial contribution to creating the fabric of production and job-creation. The EESC deems it essential that the public institutions' development and cooperation policies take advantage of all the options that this diversity offers.
- 2.13 The EESC calls for a legislative and institutional climate that empowers and favours the existence, development and involvement of CSOs in all countries. The involvement of civil society organisations should become an essential part of democratic governance⁷.
- 2.14 **Cooperation with the private sectors is crucial to ensuring that development cooperation policy has a broader impact.** The great diversity of the private sector (including social economy organisations and non-profit associations) together with the major gains which can arise from socially responsible (CSR) initiatives needs to be emphasised. The challenge is how to maximise their input to economic and social development and human security in a globalised world. Nevertheless, there is a certain debate about the public-private partnership, or the exclusively private support of major companies in development cooperation, as regards the degree to which these partnerships might affect development goals. Public-private partnerships may be instruments to bring together the development agendas of different partners and effective tools for sharing knowledge and resources from different partners. In

⁶ Article 20 of the AAA, Busan conclusions of 1 December 2011. Istanbul Principles.

⁷ Final declaration of the 10th Regional Seminar of ACP-EU Economic and Social Organisations, 28, 29 and 30 June 2009 (<http://www.eesc.europa.eu/?i=portal.en.acp-eu-tenth-regional-seminar-reports.6271>).

this respect, it would be necessary to establish a framework for effective and responsible input from the private sector, based on already accepted international principles such as the ILO labour standards, the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights. Reference should also be made to international transparency initiatives like the Extractive Industries Transparency Initiative (EITI) and the Kimberley Process in the context of international business and investment.

- 2.14.1 The participation of the private sector should also not lead to a reduction in government financing of development cooperation, nor should aid, for example, be made conditional on the privatisation of strategic sectors or services which are essential to the community.
- 2.14.2 On the other hand, in line with point 1.13, encouraging the participation of CSOs in public-private partnerships is key, as is the role of the social partners and social dialogue.
- 2.15 **Mechanisms for transparency and accountability for all involved in cooperation must be further enhanced.** And the United Nations Convention against Corruption needs to be applied, as corruption damages popular support for cooperation policies. The CSOs are well placed to do this, from the dual aspect of accounting for their own actions, as well as acting as social monitoring mechanisms in terms of cooperation in general. The established development goals can be achieved only if a link and interaction with the general public are maintained.
- 2.16 In a globalised world, it is necessary to recognise the international nature of CSOs and take advantage of their potential as responsible global actors. At the same time, in a multipolar world there is less and less sense in maintaining the distinction between CSOs from the North and the South. Support for the CSO networks, coordination platforms, federative mechanisms and support for their members, *inter alia*, should therefore be included in the development activities funded by donors and more particularly by EU cooperation.

3. **Strengthening the role of civil society organisations**

- 3.1 The results of the **Structured Dialogue**, set out in the final document of the Budapest Conference⁸, include ideas and proposals of great relevance for all the actors involved. The EESC considers that this dialogue should be consolidated and that some coordination mechanism or contact group should be set up which would meet periodically and represent the components of the EDF, to ensure that the recommendations are complied with and implemented⁹. A forum of this kind should be a **permanent political body** (debate on cooperation policies, with resources and instruments provided by the European Commission); it should also be **representative** (CSOs, Commission, EP, Member States etc.). The EESC

⁸ https://webgate.ec.europa.eu/fpfis/mwikis/aidco/images/f/fb/Joint_Final_Statement_May_2011.pdf.

⁹ As is the case in various European Commission directorates dealing with other topics.

considers that it should have a specific role in this forum for dialogue in the light of its institutional mandate and experience.

- 3.2 It must be ensured that the CSOs participate and can contribute to the design, implementation and monitoring of development policies. In order to help strengthen globally active CSOs and strengthen cooperation by European organisations, the EU should look at the possibility of establishing a legal status for European CSOs based on precise criteria and shared by the participants in the Structured Dialogue.
- 3.3 Since the entry into force of the Cotonou Agreement, the EESC has played a pivotal role in strengthening the participation of non-state actors, largely due to the mandate that it received¹⁰. In practice, this has taken the form of a permanent ACP-EU Follow-up Committee participating in regular regional seminars and all ACP conferences or similar events. Over the years, this has helped directly with implementing the principles of transparency, good governance and association enshrined in the Cotonou Agreement¹¹.
- 3.4 When establishing a permanent political dialogue in a beneficiary country, it is also important to take account of the specific features of each civil society actor and organisation.
- 3.5 The Structured Dialogue should lead to **more strategic cooperation between the EU institutions and the CSOs**. In this respect, the EESC feels that there is a need to establish frameworks for relationships and participation beyond project funding. Or how, for example, the tool-box referred to in the Structured Dialogue can be put to use, not only at local level (EU delegations), but also at central level. This would result in a more flexible and effective partnership between the EU and the CSOs at global level.
- 3.6 With the impetus they provide and their demands, the CSOs play a decisive part in promoting the coherence of development policies and the establishment of a new, post-2015 global pact including the development agenda issues such as reducing inequalities, universal social provision, fair wealth distribution and the safeguarding of natural resources.
- 3.7 **CSOs are very diverse and disparate entities**, which could make it necessary to define more precisely what is meant by CSOs. Moreover, this diversity, experience and relationship

¹⁰ "Consultation meetings and meetings of ACP-EU economic and social operators shall be organised by the Economic and Social Committee of the European Union" (Protocol 1 of the Cotonou Agreement). This mandate was complemented by the request of the former EU Commissioner for Trade, Mr Pascal Lamy, for the EESC to monitor the negotiations on the Economic Partnership Agreements. Within this context, the EESC supported the inclusion of social and environmental chapters within the CARIFORUM-EC EPA and the creation of a civil society consultative committee to monitor the implementation of this EPA, all of which were incorporated in the final trade agreement with the region. Thus, it can be seen that the institutional provisions established in both the Cotonou Agreement and in the EPA with the Caribbean, in addition to the mandates given to the EESC have indeed strengthened the role of civil society organisations in development cooperation

¹¹ For a full assessment of the role of non-state actors in implementing the Cotonou Agreement, see the Final Declaration of the 11th Regional Seminar of ACP-EU Economic and Social Interest Groups, Ethiopia 2010 at http://www.eesc.europa.eu/resources/docs/f_ces6152-2010_decl_en.doc

with partner countries should be reflected in EU cooperation, making use of the potential and specific characteristics that each actor can bring.

4. CSO involvement in the various EU instruments and programmes for external aid

4.1 The EESC has already made clear its position on the task of CSOs with regard to the Development Cooperation Instrument (DCI)¹². Furthermore, **the EESC believes that civil society should be active in relation to all the cooperation instruments** in line with the positions adopted in the Structured Dialogue and the provisions set out in the recently approved Agenda for Change.

4.2 In accordance with the proposal set out in the Structured Dialogue, the EESC considers that there should be changes to the system of granting EU development funds through the CSOs. The instruments provided for in the 2014-2020 financial perspective should provide for new arrangements going beyond the traditional subsidy mechanisms for projects. Other arrangements such as "framework agreements", operational grants, cascading grants and multiannual agreements should be introduced as a matter of urgency; these are medium and long-term arrangements which would guarantee a greater development impact.

4.3 Similarly, special funds should be created for urgent cases, for example, for the democratic processes in the Mediterranean, which cannot wait for grant applications to be approved and which can only be effectively put to use by the networks of various CSOs, such as trade unions, NGOs, cooperatives, small businesses, women's organisations etc.

4.3.1 Following on from that, the CSO networks, federations and confederations should be the main recipients of these types of funding. In this respect, mechanisms such as operational grants and cascading grants would constitute an appropriate instrument that would boost the added value generated by networks of CSOs involved in development.

4.3.2 In the context of the Agenda for Change, EU cooperation should examine and rethink its planning and project cycle management mechanisms to focus on areas such as the more timely disbursement of funds and flexibility reflecting the circumstances. Similarly, greater emphasis should be placed on support for analyses and viability studies for development initiatives as a means of ensuring successful outcomes more effectively.

4.3.3 The financing models should include three kinds of incentives to promote: 1) accountability on development results; 2) integration and mergers of organisations and the establishment of global CSOs; 3) new types of networks and multi-actor alliances.

¹² EESC opinion on the Development Cooperation Instrument of the European Union [OJ C 44, 11.2.2011, pp. 123-128](#). EESC opinion on Increasing the impact of EU Development Policy: an Agenda for Change, COM(2011) 637 final, (not yet published in the OJ).

4.3.4 The Lisbon Treaty includes the European Voluntary Humanitarian Aid Corps (EVHAC) which is currently in its pilot stage at DG ECHO and results of this pilot stage should be carefully evaluated before launching the EVHAC. The EESC is convinced of the **potential CSOs have for channelling voluntary activity in every sector and, more particularly, development**. The EESC feels that, on the basis of clearly defined criteria, volunteering should be understood as a contribution in kind to projects subject to co-financing¹³.

5. Strengthening civil society and CSOs in partner countries

5.1 CSOs often have to deal with situations of extreme political, institutional or economic vulnerability and this makes their work difficult; in some cases they may be harassed, intimidated or criminalised in the course of their activities. This is often the result of restrictive government practices. The EESC reiterates the need for including an element of supervision over the legislative frameworks, fundamental freedoms and support measures for CSOs in development cooperation policies, as well as regulations governing development and cooperation.

5.2 The EESC is aware that the regulatory frameworks governing CSOs are very different both within the EU and in partner countries. This should not prevent progress from being made as regards compliance with international rules (such as the right of association, free speech, assembly, the freedom to act, communicate and cooperate, seek financing and receive state protection) in all cases and at all levels. The presence and involvement of civil society and CSOs does not compromise representative democracy but actually enhances it if the means exist to carry it forward¹⁴. **Civil society involvement must be a real component of governance and must consequently be adopted by the EU as a criterion in its relations with partner countries.**

5.3 **The institutional dimension and the strengthening of the organisational capacities** of partner organisations in non-EU countries in general deserve greater recognition in the context of EU cooperation. In addition to their project management skills, helping to strengthen CSOs contributes to the integrated development of the respective societies. Efforts should thus be made to **help establish and strengthen the capacities of CSOs in partner countries** in general terms and as regards procedures for accessing EU funding, including smaller local projects, and for taking part in trade agreement negotiations, for example.

5.4 At the same time, the EESC argues that EU development cooperation policy should exclude organisations which, although ostensibly belonging to civil society, are in reality undemocratic or directly dependent on the State.

¹³ EESC opinion on the Communication on EU policies and volunteering. Recognising and Promoting Crossborder Voluntary Activities in the EU.

¹⁴ The AAA and the Busan Conclusions are binding on all the countries.

- 5.5 **There should be encouragement for CSOs in partner countries to join together in groups and for their legal recognition as participation bodies.** As has been suggested in the framework of the Cotonou Agreement or in Latin America, for example, they should continue to organise themselves to create platforms or representative networks at various levels to create synergies and improve their methods for dealing with public bodies.
- 5.6 The fact that EU Delegations have contact points or people specially dedicated to relations with civil society in the partner countries has proved useful in various contexts. The role of these contact points and their ability to analyse the situation in the respective countries and step up contacts with the CSOs should be developed. There should be greater coordination between these contact points and the EESC in order to take advantage of what has been learned and the good practices that have evolved.
- 5.7 Promoting the concept of democratic ownership should in turn mean better opportunities for access to Community cooperation funds for CSOs in the partner countries, especially for the most representative groups, networks and organisations.
- 5.8 At the same time, progress should be made with **new forms of cooperation between CSOs** opening up possibilities for triangular cooperation, South-South cooperation or through exchanges of know-how, technical assistance from European CSOs and management technology, for example. These new forms of cooperation could be crucial for CSOs in medium-income countries that will see traditional EU cooperation cut back. CSOs play a key role in this cooperation in consolidating democracy, promoting recognition of civic rights, reducing inequalities, promoting civic participation, gender equality, fiscal redistribution, transparency and protection of environmental rights.
6. **Raising public awareness and development education**
- 6.1 The EU has maintained its role of donor for development even during periods of economic crisis. Continuing to honour this undertaking is a challenge for all the EU states and institutions. This commitment will depend, to a large extent, on public support and providing information and raising public awareness as regards development and the global problems affecting all countries.
- 6.2 CSOs offer the perfect vehicle for raising public awareness and providing development education. The EESC reiterates the importance of focusing attention on this area, particularly at a time of crisis. Development education calls for innovative approaches that reflect its ability to change mindsets and to carry its message to broader audiences than just children and young people. Innovation in this area requires the establishment of alliances with multiple stakeholders. This is particularly important in countries that have recently joined the EU, where the development cooperation tradition is less well established and CSOs less developed.

- 6.3 The European CSOs and the EESC, because of its links with European civil society, are in a position to address this task of raising public awareness. Moreover, they can deliver the credibility that comes from working with the EU in the widest range of social sectors, including the most vulnerable. In this connection, it is essential that awareness-raising objectives include the profile of projects carried out by CSOs in partner countries and the EU Neighbourhood Policy countries.
- 6.4 Maintaining specific funding headings for awareness-raising and development education, and carrying out Europe-wide campaigns for publicising development and cooperation issues are fundamental in this respect.

Brussels, 28 March 2012.

The president
of the
European Economic and Social Committee

Staffan Nilsson



European Economic and Social Committee

SC/033
Renewal of the Community
Method

Brussels, 21 October 2010

OPINION
of the
European Economic and Social Committee
on
Renewal of the Community Method (Guidelines)
(Own-initiative opinion)

—————
Rapporteur-general: **Mr Henri Malosse**
Co-rapporteur-general: **Mr Georges Dassis**
—————

SC/033 - CESE 1363/2010 FR/SWAD/NT/ym

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EN

On 17 December 2009, the European Economic and Social Committee, acting under Article 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

Renewal of the Community Method (guidelines).

The subcommittee on the Renewal of the Community method, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 19 May 2010. The rapporteur was Mr Henri Malosse and the co-rapporteur, Mr Georges Dassis.

Due to the renewal of the Committee's term of office, the European Economic and Social Committee appointed Mr Malosse as rapporteur-general and Mr Dassis as co-rapporteur-general at its 466th plenary session, held on 19, 20 and 21 October 2010 (meeting of 21 October 2010), and adopted the following opinion by 187 votes to five with six abstentions.

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1. **Conclusions and recommendations**

- 1.1 In spite of some outstanding successes and an ever-widening influence, the European Union continues to doubt itself and to cause others to doubt it. Even the dazzling success of the euro has been unable to prevent economic and monetary union from being badly undermined by the present financial crisis to a degree unseen anywhere else. The Lisbon strategy has failed to allow the Union to take up a leading position in the knowledge-based economy. Confronted by these difficulties, Europeans are gradually losing patience, and indeed many wonder whether or not the Union will prove itself capable of addressing the major challenges of our time such as globalisation, climate change and recovery from the economic and financial crisis.
- 1.2 In moments of doubt, it is however worth revisiting the "fundamentals" of the European project. The Community Method, the underlying foundation of the European Union's "halcyon days", must be renewed and relaunched.
- 1.3 The EESC advocates applying the Community Method in those areas where Europeans' expectations are at present highest: relaunching the European economy, making our education, innovation and research systems more dynamic, ensuring secure energy supplies, supporting sustainable development and the fight against the serious problems caused by climate change, promoting equality of opportunity and entrepreneurship, freedom of movement and the mobility of people whilst respecting social rights and developing services of general interest in a European context, in particular in relation to communications, the environment, health, security and civil protection.

- 1.4 The full potential of this relaunch of the Community Method can only be realised if it is equipped with sufficient resources such as a corresponding increase in the European budget, the development of public/private partnerships, improved coordination between national and European budgets and the consolidation of a European Monetary Fund.
- 1.5 The EESC thus concludes that this decade's Community Method will not resemble that of the 1960s or 1980s. Today, Europeans must be encouraged to engage with and take an active part in society via participatory democracy and those working on behalf of civil society. The EESC, therefore, calls for European civil society to take on an increasingly important role not only in initiating European policies, but also in measuring their impact so that their effective implementation may be ensured and any serious shortcomings remedied.
- 1.6 Applied to today's pressing problems and to the expectations of Europeans, equipped with effective implementing resources and renewed with improved civil society participation, the Community Method can, and indeed must, resume its position as the driving force behind the relaunch of European integration.

2. **Why renew the Community Method?**

- 2.1 Since the European project's very inception, it is the Community method which may be credited with making European integration original and successful, and shaping the European Union into what it is today. It is characterised by:
- pooled resources used in the pursuit of common objectives,
 - projects informed by the general interest,
 - open and democratic debate bringing in civil society,
 - decisions made on a majority basis with due regard to the law,
 - effective administrative and judicial monitoring of their implementation,
 - direct impact and interface with economic and social interest groups.

It is the espousal of this Community Method which has secured Europe's key achievements.

- 2.2 The Member States have retained very considerable, often exclusive competence in areas not directly covered by the treaties, ranging from traditional matters of sovereignty such as defence and the police to other matters with specific political, cultural and historical dimensions such as taxation and social relations. Intergovernmental cooperation in such areas is itself an important aspect of the European project which would also be worthwhile analysing so that its practical consequences may be measured and its appropriateness for dealing with what is really at stake in today's Union evaluated.
- 2.3 The success of the Community approach in achieving the main common objectives has gone hand-in-hand with economic development and a deeper political dimension in the process of European integration. Successive enlargements, first westwards, northwards and southwards,

and then to the East with the fall of the Iron Curtain, likewise testify to the powerful and unrivalled attraction that these achievements have exerted on other countries in Europe.

2.4 Recent years, however, have seen a diminution in the Community method's momentum and its ability to persuade countries to make common cause. The European Commission has often appeared to lack both the means and the will to take initiatives which fulfill expectations and rise to challenges. Today, however, the European Union is grappling with new problems in the shape of ever more merciless globalisation and an economic and financial crisis which is not only causing difficulties for many businesses, SMEs in particular, but is also at the root of a widening social divide which has seen a growing number of people excluded from society, or at the very least, become increasingly hard-pressed. Europeans are becoming less and less convinced of the European project: it appears to create more problems than it solves.

2.5 Europe's failure to make a mark at the World Climate Change Summit held in Copenhagen in 2009 plus the Union's inability to present a unified front in reacting to the financial difficulties encountered by one of the euro area's Member States served to underline this sense of drift which also led to instability in the financial sector.

2.6 As globalisation picks up speed, the European Union appears off the pace, mired in its own contradictions, complexities and delays. With the coming into force of the Lisbon Treaty, the EESC advocates renewing the Community Method which will prove crucial to determining Europe's position on the world economic and political stage. The EESC's recommendations touch on the main issues listed below:

- highlighting the European identity and general interest;
- matching of objectives and resources;
- involving civil society.

3. **Highlighting the European identity and general interest**

3.1 The lack of a stronger definition of a common European identity, which takes precedence over national interests and differences, will make it impossible to relaunch the Community Method. As long as the notion of "European" remains synonymous with "foreign" and the Member States and their national administrations lack any true incentive to "buy European", fearful of treading on the toes of "their" taxpayers and under pressure from "their" companies, there is little to be gained by a further raft of legislation opening up public procurement. And yet, in a globalised world, it is only a Europe solidly united around its key common objectives which will be able to attain them.

3.2 A definition of the general Community interest is therefore needed. The Commission should encourage a wider exchange of ideas here and not stand on the sidelines as happened recently during the financial crisis and when one of the euro area's members fell into difficulties. All too often it seems to pander to the Member States' and national administrations' immediate

sensitivities whilst the widely-understood common interest would often have required a solution based on collective responsibility and on the idea of a set of common interests.

- 3.3 The European Commission seems to be encountering ever-increasing difficulties in defining and representing this general European interest. And yet this is the very substance of its role. It must try to regain the momentum of the 1960s and 1980s. These days it no longer stands alone, and the establishment of a new triangle of institutions which includes a strengthened Parliament and a President designated by the European Council should encourage it to assume its role as the proposing and monitoring body in the fullest sense.
- 3.4 As the representative of the European citizen, the European Parliament must henceforth play a major role in determining the general European interest. Flanking the European Parliament, the two consultative Committees, (EESC and CoR), should be able to use their leverage to support and bolster European Commission initiatives whilst nonetheless upholding the citizen's right of initiative and all other aspects of civil society's bridging role.
- 3.5 The renewal of the Community Method will have a substantive impact only if the concept of "subsidiarity", which has often fallen victim to an excessively one-sided reading, i.e. as an instrument which reins in the application of this Community Method and the implementation of new Community policies, is reviewed. A fresh, more dynamic approach to this concept is needed, based on the principle which accepts, that for reasons of efficiency and economies of scale, it will over time more often than not prove preferable to transfer those sectors which require substantial resources, infrastructure, research and development, industrial policy, defence, foreign policy, security, the fight against poor health, for example, to European level. Provided that their national political leaders do not seek to fudge the issue Europeans citizens are capable of understanding this.
- 3.6 With a gulf opening up between the citizen and the European institutions, it is crucial that the Union map out new areas of application for the Community Method which match its citizens' high expectations.
- 3.6.1 The time has come, therefore, to build up European services of general interest in those sectors where changing circumstances and challenges make them necessary, such as civil protection, international emergency aid, customs services, transport, research centres, high-speed networks, for example. From these new bases, European concessions of general interest could be promoted via public/private partnerships to develop Transeuropean Networks (transport, energy, telecommunications), thereby enhancing our cohesion and competitiveness.
- 3.6.2 The lives of citizens and companies could, in addition, be made easier and their awareness of the reality of the Single Market raised, by immediately taking a number of initiatives whose usefulness in terms of the general interest has long been accepted: a European industrial policy which, by harnessing synergies, addresses the challenge of globalisation, a European

statute for SMEs, and for foundations and associations, a one-stop shop for taxation for cross-border SME transactions and a Community patent. A range of legislative instruments guaranteeing the free movement of persons whilst upholding their social rights and the right to collective bargaining must be developed. Citizens' initiatives channelled via the Parliament and the EESC could also give rise to other initiatives relating to security of energy supply, sustainable development and consumer protection, for instance.

- 3.6.3 As the EESC has emphasised on a number of occasions, the decision to use directives in the area of public procurement led to a resounding failure, probably the most serious in the Single Market's history. More than thirty years after the Single European Act, public procurement is still too fragmented. The absence of Community spirit has led to a piling up of highly detailed European directives, supplementary national legislation and multiple derogations and resulted in the continued ring-fencing of the equivalent of 15% of European GDP. In this area, and in others where it may be deemed to be advantageous, the European Commission should give preference to the directly applicable regulation over the directive, the implementation of which requires transposition into national law.
- 3.6.4 The European Union must step up its investment in the "knowledge triangle": education, research and innovation. Education, widely recognised as essential to Europe's recovery, cannot be kicked into touch by the European Union. Building on the successful Erasmus initiative, more ambitious mobility programmes, exchanges supported via a European network of universities, special initiatives designed to promote key competences, the development of entrepreneurial flair and actions for specific target groups should be generated at European level via a new approach founded on the general interest. With regard to research and innovation, the Eighth European Framework Programme must become the symbol of the new Europe and focus on areas such as nanotechnology which, via Community research centres, and with the appropriate human and financial resources, would become a truly European industrial project.
- 3.6.5 Economic and monetary union should become established at the core of European identity and cohesion. This is far from being the case today, as the disparate national policy responses of the euro area Member States to the economic and financial crisis showed only too clearly. The euro area should become a state-of-the-art testbed for economic and financial integration by stepping up cooperation which would generate a positive knock-on effect for the dynamism and effectiveness of the European Union as a whole. The EESC welcomes the Commission proposal to set up a system to "monitor" the economic policies of the Member States. The task outlined in the proposal is not merely one of accounting, in the OECD sense of the role, but one endowed with far greater scope, which takes into account the political priorities of the citizens of the Union with regard to social cohesion, the fight against exclusion, job creation and developing creativity and entrepreneurial flair.

3.6.6 The European Union, with the strength of the euro behind it, must also speak with a single voice at international economic and financial meetings, the G20 in particular, and consolidate its participation in the IMF and the World Bank.

3.6.7 Strengthening Europe's foreign policy is a key element of the Lisbon Treaty. It comprises the establishment of a diplomatic service, a post of High Representative (amalgamated with the functions of Commission Vice-President) and the setting up of European Union delegations in third countries which would replace the European Commission delegations. It is crucial to implement the Treaty ambitiously, so that Europe can speak from a position of authority with a single voice, its pronouncements carrying more weight and coherence for those outside. At the same time it must structure its political, economic, cultural, scientific and commercial activities so that its ongoing external actions demonstrate true coordination instead of the petty rivalries which only serve to weaken the Union's position.

4. **Ensuring the matching of objectives and resources**

4.1 The fact that many Community objectives have been only partially realised can often be traced back to a lack of will in following through on full implementation and a failure to allocate the necessary common resources.

4.1.1 With regard to the relaunch of the internal market, Mario Monti's report¹ contains some very apt proposals with regard to ensuring its full and effective implementation: boosting the SOLVIT network, evaluating the implementation of directives, gaining the involvement of national administrations, national parliaments and civil society, removing the last remaining sticking points in respect of free movement of people. The EESC recommends, therefore, that subsequent to the appropriate consultation being undertaken with the various quarters of civil society, this report be followed by a precise action plan with a timetable for implementation.

4.1.2 Budgetary support from the Union in the appropriate form (budgetary allocations, loans and public/private partnerships, etc.) will be needed to respond to the challenges posed by the Community Method's new areas of application. The key to the ECSC's success in 1951 was the matching of objectives and resources. The Union's current budget (less than 1% of GDP) falls far short of the level needed to achieve the objectives expected by Europeans in all the sectors where more effective intervention would be required. A regular increase in the budget between 2013 and 2020 towards a target of 2% of GDP seems a realistic target to which no objection can be raised given the economies of scale and the requirements for the Member States to reduce their public debt. This also means that the principle of making budgetary transfers from national to European level must be understood by governments and set out clearly to their citizens. It would also allow investment and major networks to be financed, it would support the knowledge triangle (education, research, innovation), strengthen cohesion

¹ "A new strategy for the Single Market – at the service of Europe's economy and society" - Report to the President of the European Commission submitted by Mario Monti on 9 May 2010.

policy and equip the Union with the human and financial resources needed for its external policy.

- 4.1.3 In order to finance this increase by 2020, the EU will stand in need of both its own resources and improved coordination between national and European budgets. Growing public debt after the 2008 financial crisis will make it simple to prove that debt can be brought down more quickly without posing any threat to growth, by pooling resources to finance public spending such as defence, border security, external aid, research and industrial policy, for example. The Member States must demonstrate the political will to undertake this.
- 4.1.4 Against the backdrop of the financial crisis, an important first step in this direction would have been the establishment of a European Monetary Fund (a sort of European Federal Reserve) which could intervene in and stabilise the euro area and which is equipped to respond collectively to difficulties encountered by any one of its members. It took a plunge in the value of the euro and a worsening of the crisis within one Member State for the euro area members to set up an embryonic fund and to take the decision to intervene collectively rather than bilaterally, whilst nonetheless requesting additional support from the IMF.
- 4.1.5 It is obvious, therefore, that achieving integration and cohesion objectives would be contingent on improved allocation of European resources to provide greater support for cross-border programmes. At present these receive a mere 1% of the budget despite their role in strengthening and ensuring the successful operation of the Single Market. The success of the 2020 Strategy depends both on the issue of resources and on the people's effective engagement with its objectives, which is at present lacking.
- 4.2 A Europe of twenty seven can no longer operate like the Europe of six. The institutional triangle rightfully accords a position of greater importance to the European Parliament. The institutions and an early deployment of the citizen's right of initiative must make the latter into a democratic instrument of real substance.
- 4.2.1 The extension of Community competence has gone hand-in-hand with the extension of the codecision procedure between the Parliament and the Council. The successive treaties which have formulated these new rules, however, have paid scant attention to adjusting consultative procedures accordingly. At present, the Commission refers plans to the EESC at the beginning of the codecision procedure whereas this should be done at a much earlier stage.
- 4.2.2 The EESC would be better able to fulfil its consultative role if referrals were made before the codecision process is set in motion, as soon as the preliminary impact analysis has been drawn up. The notion of the exploratory opinion would then assume its full meaning. The Committee opinion together with the impact analysis could then be appended to the Commission proposal which is to be submitted to the Council and the European Parliament. The EESC rapporteur should also be given a hearing in the relevant European Parliament committee.

- 4.2.3 Should it wish to withdraw any proposal, especially one which directly involves actors in civil society, the Commission should also ensure that the appropriate consultations take place. The Commission should not have withdrawn its proposal for a European Associations Statute without consultation.
- 4.2.4 With regard to governance, the Union must be more actively engaged in ensuring respect of the principle of gender equality and allow women the opportunity to participate equally at the core of decision-making and consultation procedures.
- 4.3 The Lisbon Treaty has once again increased the number of areas in which decisions are taken by a qualified majority vote, making it the default mechanism for a twenty-seven member European Union. Unanimity, however, is still required for certain matters closely connected to Community business such as taxation. Experience shows indubitably that in the areas where unanimity is still the rule, a requirement of this nature can easily result in gridlock. It is thus paradoxical, to say the least, that, in spite of repeated declarations from the European Council, the European Patent, which continues to be subject to unanimity, has yet to be adopted by the Union, despite the latter aiming all the while to be the world's most competitive and dynamic knowledge-based economy.
- 4.3.1 Several precedents, do, however, indicate that the Community Method has sometimes, when necessary, provided the means for circumventing the problem of unanimity. The Social Protocol and the Charter of Fundamental Social Rights of Workers were able to proceed with eleven participating countries, the United Kingdom joining only later. Could we not draw inspiration from such flexibility for other areas where matters are currently at a standstill, such as the Community Patent or the harmonisation of companies' tax bases?
- 4.3.2 EMU probably furnishes a good instance of successful enhanced cooperation. Beginning with a small number of countries, it remains open to any other countries able to join. But the Eurogroup, even with a European Central Bank which is federal in nature, has as yet not managed to develop a common system of economic governance to match monetary union. Time lost over the last ten years is now a cause for concern. Unless this is gradually clawed back over the course of the next ten years, it will place the cohesion, competitiveness and jobs of the euro area at risk, not to mention the long-term viability of the euro. To remedy this, it is absolutely necessary to review the effectiveness and transparency of the Eurogroup by facilitating regular (and not only crisis) meetings between heads of state or government in the euro area and by inviting other ministers affected by the euro's value such as those responsible for social affairs, industry, etc.
- 4.4 In a Europe of twenty seven, the issue of the correct transposition of directives and euro-compatibility of national policies obviously assumes crucial importance. There is little sense in making it easier for directives to be adopted if the Member States balk at implementing them within the set timeframe or gold-plate them.

4.4.1 The Commission should extend the use of its scoreboards for the transposition of directives which are often effective in bringing pressure to bear on those Member States which are dragging their feet. The various components of organised civil society should be consulted in these situations.

4.4.2 Where necessary, Community support mechanisms should be more sharply focussed on improving the conditions in which the Member States transpose and apply common regulation and on removing obstacles and sticking points which remain in these areas.

5. **Promoting the involvement of civil society**

5.1 There has been too great a tendency to overlook the aim of European integration, as expressed by Jean Monnet: "We are not forming coalitions of states, we are uniting men". In recent consultations held to discuss Europe's future path, the electorate's mistrust has been evident: this must prompt an examination of ways in which the clearly inadequate involvement of civil society can be improved.

5.2 Community rules continue to be drawn up in conditions which are too remote from the people. Their legitimate expectations in terms of freedoms, security and simplification are too often traduced by deadlock and compromises bought too cheaply from Member States and their national administrations. This is why representatives from civil society, in particular users, must be accorded a higher profile in regulatory committees, much in the same way as was done in the SLIM simplification plans, but this time upstream, when the legislation is being framed, rather than downstream, when it has already been adopted and there is a rush to correct the most serious shortcomings experienced by those very users.

5.3 It is likewise vital to grant civil society actors European spaces where they have both the freedom and responsibility to define common rules in which they have an interest, through independent self-regulation or to clarify certain aspects of public regulation in their sectors on the basis of requests from the legislator to draw up coregulations. The contractual independence of the European social partners was enshrined in the Maastricht Treaty at their express request. Although the treaty does not explicitly provide for this, similar ways forward have also come into existence in other areas: technical standardisation, recognition of professional qualifications, service provision, commerce, especially e-commerce, security of delivery and payment, consumer rights, energy and the environment. The Committee has made a survey of these and given them its backing in an information report. A 2003 European interinstitutional agreement provides the procedural framework. Now the European legislator must incorporate free spaces into the regulations promoting these practices, monitoring them and maintaining synergies. This support should likewise extend to alternative forms of dispute settlement, such as conciliation and mediation.

- 5.4 Unless European citizens are encouraged to consider themselves European and to act accordingly, Europe will be unable to continue making headway. They must be given common tools thus far lacking: clearer economic and social rights, simpler procedures, more independent legal resources, genuine common statutes (i.e. associations, companies, foundations). In the primary instance, it is at local level (individual citizens, associations, locally elected officials) where Europe must be perceived as a necessity, becoming a jointly-held ambition and source of pride.
- 5.5 A multiannual programme with a precise timetable for the decade from 2010 onwards must be embarked upon so that European citizens themselves may be given the wherewithal to join forces and play a pivotal role: without this, it will be impossible to renew the Community method.
- 5.6 With the backing of the European Parliament a prerequisite, the EESC, the CoR and major European organisations of civil society represented in the three Committee groups (Employers, Employees and Various Interests) could envisage launching a wide-ranging consultation on the major subjects of general interest for the next decade which would be likely to benefit from a relaunch of the Community Method, which in reality, would mean new common policies.

Brussels, 21 October 2010.

The President
of the European Economic and Social Committee

Staffan Nilsson



European Economic and Social Committee

**SCO/001
Citizens' initiative**

Brussels, 14 July 2010

OPINION

of the
European Economic and Social Committee
on the
**Proposal for a Regulation of the European Parliament and of the Council on the
Citizens' Initiative**
COM(2010) 119 final - 2010/0074 (COD)

—————
Rapporteur-general: **Anne-Marie Sigmund**
—————

SCO/001 - CESE 993/2010 DE/MW/NG/hn

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EN

On 27 April and 19 May 2010 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Article 304(1) of the Treaty on the Functioning of the European Union, on the:

Proposal for a Regulation of the European Parliament and of the Council on the Citizens' initiative

COM(2010) 119 final - 2010/0074 (COD)

Given the urgent nature of the work, the European Economic and Social Committee appointed Ms Anne-Marie Sigmund as rapporteur-general at its 464th plenary session, held on 14 and 15 July 2010 (meeting of 14 July 2010), and adopted the following opinion by 155 votes to four.

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1. **Conclusions and recommendations**

- 1.1 The Committee welcomes basic principles of the Commission's proposal, especially the three-stage approach of formal registration, an admissibility check of the subject-matter, and political evaluation.
- 1.2 The Committee sees its role in two phases: firstly, as a *facilitator* of embryonic citizens' initiatives, enabling those involved to network and possibly to meet, etc.; secondly, as an *institutional mentor*, issuing an opinion to assist the Commission in evaluating a successful initiative, holding hearings, and so on. The Committee will also take part in publicity campaigns.
- 1.3 However, the Committee does have a number of improvements to propose, including:
 - a clearer reference to the values of the Union as grounds for turning down registrations;
 - scrapping the requirement for various identity numbers when an initiative is signed;
 - using the residence principle to classify signatories;
 - extension of the time-limit to eighteen months;
 - development of open-source software for online collection of signatures;
 - lowering the minimum number of Member States to 1/4;
 - lowering the threshold for an admissibility check to 50 000 signatories;
 - a review of the regulation after three years;
 - instigating inter-institutional cooperation.

2. Introduction

2.1 The Committee welcomes the basic principles of the Commission's proposal for a regulation on the European citizens' initiative. This opinion complements that on "The implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative (Article 11)"¹, adopted on 17 March 2010, and only addresses issues where the Committee sees further room for improvement.

2.2 The Committee draws particular attention to the intentions of the European Convention, which explicitly sought – as part of the "democratic life of the Union" – to create an agenda-setting instrument for the public which would be on an equal footing with the Parliament and the Council.

3. Suggested amendments to the proposal for a regulation

3.1 Registration of proposed initiatives (Article 4)

3.1.1 A three-step approach

The Committee expressly welcomes the Commission's proposed three-step approach, which comprises:

- formal registration of an initiative,
- a legal admissibility check once a quorum has been reached, and
- a political evaluation of a successful initiative.

The admissibility check at the time of registration, as proposed by various parties, seems questionable, since it will delay or hinder the start of many initiatives. It would also lay the Commission open to charges of making assessments prematurely, or even of censorship.

On this point, the Committee stresses that the citizens' initiative is not only an innovative, transeuropean element of direct democracy, but also an extremely important communications instrument with which to liven up the European political debate. It is the only way of feeding into the European discourse a broad range of suggestions and ideas which would otherwise never reach the stage of signatures being collected – and this in itself is worthwhile.

3.1.2 Required information

The Committee supports the Commission's proposal regarding the information required (Annex II). This is in the interests of the greatest possible transparency and hence the

¹ Not yet published in the Official Journal.

acknowledged legitimacy of the proposed initiative. Whether the specific legal basis is mentioned should be a matter for the organisers and not compulsory.

3.1.3 **Formal registration**

In the Committee's view, the criteria set out in the proposal as grounds for rejecting a registration ("improper", "abusive", "devoid of seriousness") are unenforceable. These terms are also too open to interpretation.

For this reason, the Committee proposes that the only matters to be checked administratively at the formal registration are whether:

- there is a unity to the initiative proposal; in other words, whether it does not seek to cram several disparate issues into a single initiative;
- it includes any phrases that are defamatory of individuals or groups;
- it does not infringe the Charter of Fundamental Rights and the Union's values (Article 2 TEU).

3.1.4 **Appeals**

As a general principle, of course, the right of citizens to good administration (Article 41 of the Charter of Fundamental Rights) must be respected. If registration is denied, the organisers could appeal on this basis to the European Ombudsman or, of course, if all else fails, take legal proceedings themselves.

The Committee thinks that the regulation should make this clear – at least in the explanatory memorandum – for the sake of transparency.

3.1.5 **Subsidiarity monitoring**

The linkage with the subsidiarity principle called for by various parties appears to the Committee unnecessary. The Commission will in any event check for compliance if it decides to propose legislation as the result of a citizens' initiative.

3.2 **Collection of statements of support (Article 5)**

3.2.1 **Identity numbers**

In the Committee's view, the proposed form (Annex III) asks for a disproportionate amount of personal data, which will undoubtedly discourage people from signing. For this reason, it is against these numbers being required. It is unlikely that people who are passing by on the street and are persuaded by some issue will get out their identity cards or will have an identity

number memorised. The Committee also draws attention to the negative opinion of the European Data Protection Supervisor² on this issue.

Since not all Member States require or know these numbers, and each Member State requires very different documents³, this would lead to a patchwork of required information. The same conditions for the collection of signatures everywhere would thus cease to apply and the principle that all European citizens be treated equally would be infringed, thus frustrating the goal of having a uniform procedure.

The Committee therefore takes the view that the data required to establish identity – name, address, date of birth and nationality – must suffice. To this should be added a declaration of honour that the person concerned has signed the initiative only once.

3.2.2 Residence principle

Generally speaking, the residence principle should be used to determine to which country EU citizens are considered to belong, regardless of their nationality.

EU citizens who have their place of residence in a third country would be assigned according to the nationality they give.

3.2.3 Time-limit

In the Committee's view, the twelve-month time-limit proposed by the Commission is too short to enable the successful completion of a Europe-wide initiative. It therefore continues to advocate a period of eighteen months.

3.3 Online collection systems (Article 6)

The EESC expressly welcomes the envisaged possibility of online collection and endorses the Commission's view that the utmost care will be needed in setting this up. Given the fact that there is as yet no comparable system anywhere in the world for collecting signatures in an initiative process (in contrast to legally much less binding public petitions), the Committee thinks the following aspects should be explored:

- The Commission must encourage the development of open-source software for online initiatives and make it generally accessible.
- Initiators would have to have this software certified in the Member State in which the data gathered using the online system is stored.

² Opinion of 21 April 2010 on the proposal for a Regulation of the European Parliament and of the Council on the citizens' initiative (<http://www.edps.europa.eu/EDPSWEB/>).

³ Regulation of the European Parliament and of the Council on the citizens' initiative - General approach (10626/2/10 rev. 2).

- Additional electronic identification procedures, such as using a verification email, should make it possible to ensure that checking is reliable.
- The signatory would tick a box to confirm that he has only signed once.

3.4 Minimum number of signatories per Member State (Article 7)

3.4.1 Number of Member States

The EESC stands by its proposal of ¼ of Member States. This will reflect the equal standing of parliament and the public by using the same principle as that followed in establishing European political parties⁴. The hurdles to be surmounted by a European citizens' initiative cannot be higher than those for registering a European political party.

3.4.2 Number of signatories per Member States

The Committee expressly welcomes the proposed minimum number system (Annex I) and its degressively proportional approach.

According to the residence principle (see point 3.2.2), those with dual nationality or EU citizens living in another EU country should also be counted in their declared country of residence. Cases of people signing twice should in practice be very limited and this should not cast doubt upon the instrument as a whole.

3.5 Decision on the admissibility of a proposed citizens' initiative (Article 8)

3.5.1 Number of required signatures

The Committee supports the Commission's three-stage approach. However, the Commission's figure of 300 000 signatures before an examination for admissibility is conducted is far too high. It places a very high hurdle in the way of the organisers – and just as high would be the level of frustration experienced by signatories if they were to be told that the initiative was not even admissible.

Instead, the check should take place once 50 000 signatures have been collected (without verification) from three Member States and be completed within two months at the latest. During this time, the organisers can continue collecting signatures.

3.6 Verification and certification of statements of support by the Member States (Article 9)

The Committee agrees that random checks are reliable in the evaluation process.

⁴ Regulation (EC) No 2004/2003 of the European Parliament and of the Council of 4 November 2003 on the regulations governing political parties at European level and the rules regarding their funding (OJ L 297, 15.11.2003).

3.7 **Submission of a citizens' initiative to the Commission (Article 10)**

In the interest of the greatest possible transparency, each signatory should be able to find out who is organising and funding the initiative. The Committee therefore reiterates its call for the organiser to provide information about the funding and support behind a citizens' initiative when signatures are being collected.

3.8 **Examination of a citizens' initiative by the Commission (Article 11)**

3.8.1 **Equal standing with initiative procedures of the Parliament and Council**

The Committee asks that citizens' initiatives be treated by the Commission in the same way as initiatives proposed by the Parliament or the Council under Article 225 TEU and Article 241 TEU respectively. They should acquire the same standing.

3.8.2 **Right to a public hearing**

Since the EU citizens' initiative is also a communications tool intended to improve the dialogue between the public and the European Commission, a public hearing should be held following the submission of a successful initiative. The EESC is ready to be of help in this or, for example, to organise such a hearing itself. In this way, the Committee would be fulfilling its role as a bridge between the EU and the public.

3.8.3 **Informing the consultative bodies**

The Commission's communication on how it will proceed further should also be addressed to the European Economic and Social Committee, as well as to the Committee of the Regions.

3.9 **Review clause (Article 21)**

Given the lack of experience with this new, transnational instrument, the Committee recommends that the regulation be reviewed after only three years. The Commission should also consult the Committee on that occasion.

3.10 **Entry into force of the regulation (Article 22)**

The Committee endorses the date proposed by the Commission for the entry into force of the regulation, even if, for example, not all the details regarding online collection have been finalised. The public's expectations of this new instrument are so high that it should enter into force as swiftly as possible.

3.11 **Other questions to be resolved**

3.11.1 **Financial support**

The Committee reiterates its call for the Commission to give some measure of financial support to a citizens' initiative that passes the admissibility examination once 50 000 signatures have been collected.

3.11.2 **Translation**

The Committee thinks that, once a citizens' initiative is registered, the Commission's services should translate a brief summary of its subject-matter (no more than 800 characters, in line with Annex II) into all official EU languages.

After the first 50 000 signatures have been collected and the initiative formally admitted, the Commission should undertake to have the whole text of the registered initiative translated into the official languages of the Union.

4. **Specific EESC proposals**

The Committee draws attention to the offer made in its opinion of 17 March 2010 (referred to above) and sets this out in detail below.

4.1 **Communication and information**

The Committee stresses the need to conduct a thorough publicity campaign as soon as the regulation comes into force. The EU institutions should work together on this and coordinate their approach. The Committee is already at work on an information brochure designed to explain to the public and civil society organisations not only what the citizens' initiative has to offer, but also the nature of consultation and civil dialogue. It is also planning a conference of relevant stakeholders as soon as the regulation is adopted. There could also be further initiatives – aimed at schools, for example, to raise the awareness of the younger generation.

4.2 **Inter-institutional cooperation**

It is important that the staff of the EU institutions and consultative bodies dealing with the citizens' initiative coordinate their work closely to make sure that people's need for information is efficiently met. The synergy effect this seeks to achieve – while respecting the different competences of all – is really needed if we want the citizens' initiative to become an effective tool in the service of a European model of modern democracy.

4.3 **The Committee's involvement**

The Committee sees its role in two phases:

4.3.1 **Phase 1: The Committee as facilitator**

While an initiative is being planned or is in progress, the Committee is prepared to act – in its role as a platform for dialogue and information – as a facilitator enabling citizens' initiatives to network, perhaps meet, and so on, without this binding the Committee in advance to endorse the substance of the initiative.

4.3.2 **Phase 2: The Committee as institutional mentor**

In keeping with its core function – advising the Commission, Parliament and Council –, the Committee can operate in this phase as an institutional mentor for a citizens' initiative. In this spirit it offers to support the Commission with an opinion while it is conducting its internal discussions and forming its views on a successful initiative. It is also prepared to offer its infrastructure for holding hearings on a successful initiative.

4.3.3 **Strengthening of existing bodies**

This offer – together with that made in the opinion of 17 March 2010 – may entail a reinforcement of existing Committee bodies and could also require extra resources in order to ensure an appropriate response.

Brussels, 14 July 2010

The President
of the
European Economic and Social Committee

Mario Sepi



European Economic and Social Committee

SC/031
Civil society organisations
and the EU Council
presidency

Brussels, 17 March 2010

OPINION
of the
European Economic and Social Committee
on
Civil society organisations and the EU Council presidency
(own-initiative opinion)

Rapporteur: **Mr Barabás**

SC/031 - CESE 464/2010 EN/o

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EN

On 25 March 2009, the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on

Civil society organisations and the EU Council presidency.

The sub-committee, which was responsible for preparing the Committee's work on this subject, adopted its opinion on 12 January 2010.

At its 461st plenary session, held on 17 and 18 March 2010 (meeting of 17 March 2010), the European Economic and Social Committee adopted the following opinion by 156 votes to 2, with 5 abstentions.

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1. **Introduction**

- 1.1 The Lisbon Treaty, which entered into force on 1 December 2009, has brought significant changes to the institutional set-up of the European Union, including the new permanent post of European Council president. At the same time, the Lisbon Treaty created a legal basis for the "trio" presidency¹, in which three Member States assume the presidency of the EU Council over 18 months on the basis of a programme agreed on in advance.
- 1.2 From the perspective of civil society, Article 11 of the Lisbon Treaty is particularly relevant, since it is essentially concerned with strengthening participatory democracy, stepping up and structuring dialogue with citizens, carrying out in-depth consultation on the framing of EU policies and making provision for citizens' initiatives. All of this should help to strengthen civil dialogue.
- 1.3 This document has set itself the task of discussing the issues mentioned in the above paragraphs. To this end, it highlights the special role played by the EESC as the institutional representative of organised civil society at European level, sets out proposals to strengthen that role and, at the same time, expresses support for the provisions of the Lisbon Treaty intended to enable the EU to work more effectively, in greater transparency and with enhanced legitimacy.

¹ "The Presidency of the Council ... shall be held by pre-established groups of three Member States for a period of 18 months." (In OJ C 115 of 9 May 2008, page 341; Declaration on Article 16(9) of the Treaty on the European Union concerning the European Council Decision on the exercise of the Presidency of the Council, Article 1, point 1) is commonly referred to as the "trio" presidency.

2. **Towards the new "trio" presidency**

- 2.1 The presidency-in-office, i.e. the presidency of the Council of the European Union, is not a recent innovation; an essential feature is that it rotates every half-year between the Member States. During each presidency, the country holding the presidency acts as the EU's face and voice, defines strategies and plays an organisational and representative role.
- 2.2 Presidency tasks involve a great deal of responsibility and effort for the whole government. It may not use the presidency to represent its national interests.
- 2.3 Rules on the presidency were amended on 15 September 2006 by a Council Decision adopting the Council's rules of procedure (2006/683/EC), which laid the foundation for the "trio" system. Essentially, this provides that for each period of eighteen months the three presidencies-in-office during that time work in close cooperation and consultation with the European Commission to prepare a draft programme for Council activities during the relevant period.
- 2.4 What is the advantage of this new presidency structure? The new system preserves scope for manoeuvre for the country holding the presidency, as under the six-month presidency; at the same time, the programme worked out jointly by the "trio" helps Member States to work together more closely and ensure greater continuity and consistency in EU policies, and thus in the life of the Community.
- 2.5 The first such group of three presidencies working together ("trio"), which began on 1 January 2007, comprised Germany, Portugal and Slovenia and was followed by the French-Czech-Swedish group from 1 July 2008 to 31 December 2009. However, it is generally felt that for various reasons, and above all in the absence of the requisite legal basis, that the work of these "trios" was dominated by national considerations and aspirations rather than those common to the three partners in the "trio".
- 2.6 Following the entry into force of the Lisbon Treaty, from 1 January 2010 Spain, Belgium and Hungary will form a presidency "trio". This presidency will be based on the work programme adopted by the European Council meeting on 17 December 2009. It is a very ambitious programme covering many areas. To ensure effective presidencies, a key factor is the composition of the "trio", which should include one large and/or founding Member State – i.e. a country with a certain amount of experience, together with a country which joined more recently and a new Member State.
- 2.7 Experience has shown that whereas countries with greater political weight also have more bargaining power, the smaller countries can often compensate for their apparent handicaps and possible inexperience thanks to well-chosen priorities, a good negotiating strategy and a significant willingness to compromise.

2.8 Following the entry into force of the Lisbon Treaty, the "trio" practice amounts to a precedent with regard to the division of tasks between the European Council president elected for two-and-a-half years (renewable once) and the "trio" working on a rotating basis, and not all aspects of this can clearly be foreseen at this stage. Close cooperation will be needed for the system to succeed. At the same time, given that the current system will continue to apply in many areas, one may rightly expect that national governments will quite naturally continue to make their own points of view heard and have an impact during their six-month presidency. This new situation also has important implications for civil society organisations.

3. **Civil society organisations and current practices: a few typical characteristics**

3.1 To start with, we should point out that the performance of rotating Council presidency tasks is basically a government responsibility. The decisive role in these tasks is played by civil servants (diplomats), experts and politicians. Documents regulating the performance of presidency tasks, including the Lisbon Treaty, do not mention the organised, institutionalised involvement of civil society.

3.2 However, there is a growing awareness by both the EU institutions and the countries holding Council presidencies that bringing society on board by involving civil society organisations and citizens can significantly contribute to effective work. This reflects an awareness of the value of participatory democracy and civil dialogue.

3.3 However, this does not mean that a consensus exists at EU level on policies and practices with regard to involving civil society organisations in implementing the Council presidency programmes. At national level the situation varies considerably and largely depends on the extent to which civil society in the country holding the presidency is organised and active, and on its relations with its government. In this respect, the relationship is not typically one between equal partners.

3.4 It follows from the above comments that civil society organisations are not generally involved in drawing up the priorities proposed by the country carrying out Council presidency tasks; this in turn inevitably means that civil society has little or no feeling of ownership with regard to these priorities.

3.5 Given that the "trio" presidency is a relatively new development, it is hardly surprising that there are only isolated cases of civil society in the three countries getting together in advance to act jointly. The first encouraging signs of this are likely to appear during the Spanish-Belgian-Hungarian Council presidency, for example during the preparation and organisation of high-visibility civil society events (Malaga in 2010 and Budapest in 2011).

3.6 Over the past few years, the practice has been – as in the case of a major European Civic Forum held in September 2008 under the French presidency in La Rochelle – for the country holding the Council presidency to host a meeting for the representatives of civil society, with

the support of the European Commission. At such meetings, the issues of direct concern to civil society organisations are discussed, and should ideally be incorporated into the priorities identified by the host country.

3.7 The EU thematic years (such as the European Year for Combating Poverty and Social Exclusion in 2010) offer good possibilities for involving civil society organisations in Council presidency programmes and activities.

4. **The European Economic and Social Committee and Council presidencies: the current situation**

Over the years, the EESC has developed various activities in connection with Council presidencies. These include the following:

- inviting high-level representatives from the country holding the Council presidency to EESC plenary sessions and meetings of other bodies (section and group meetings, etc.);
- identifying EESC priorities and developing specific activities with reference to the programmes of the six-month Council presidencies;
- adopting EESC positions on various subjects at the request and initiative of the country holding the Council presidency;
- participating in various Council presidency programmes; presenting EESC opinions on issues which are under discussion;
- visiting the country holding the Council presidency; participating in specialised programmes and strengthening links with various civil society organisations;
- participating in major European-level civil society events in the country holding the Council presidency;
- holding conferences, presentations, cultural events, exhibitions, etc. at the EESC's headquarters, providing publicity for the country holding the presidency and its civil society;
- receiving group visits at the EESC (by representatives of civil society organisations) from the country holding the Council presidency;
- focusing the EESC's communication policy on the country holding the Council presidency and its civil society.

5. **The next step: the Lisbon Treaty, the Council presidency and organised civil society – Recommendations**

5.1 Our starting point is the Lisbon Treaty and its entry into force on 1 December 2009, thus creating the requisite conditions for the European Union to provide forward-looking responses to the diverse challenges which it faces.

5.2 Our objective is to develop participatory democracy, step up dialogue with citizens and strengthen civil dialogue, thus also helping to strengthen the democratic legitimacy of the European institutions.

5.3 Article 11 of the Lisbon Treaty provides a good basis for doing this; the new possibilities offered by this article are fully consistent with the EESC's earlier recommendations, for example in its opinion on "The Commission and non-governmental organisations: building a stronger partnership" (adopted on 13 July 2000)² and "The representativeness of European civil society organisations in civil dialogue" (adopted on 14 February 2006)³. All of this means that it is not only possible but indeed necessary for the EESC as the institutional representative of organised civil society at European level to play a proactive role in ensuring that the possibilities provided for in the Lisbon Treaty, and in particular Article 11 thereof, are implemented as fully as possible, as the Committee has stated in its opinion on *The implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative (Article 11)* which it also adopted on 17 March 2010⁴.

5.4 In this connection, Council presidencies are well-equipped to achieve the following:

- strengthening commitment to the European ideal and helping to ensure that active European citizenship is a greater part of our daily lives;
- ensuring that civil society organisations and European citizens are directly involved in and shape the political processes at various levels which determine the future of the European Union;
- strengthening civil dialogue;
- guaranteeing that the EESC continues, constantly renews and enriches its activities relating to Council presidencies; with regard to the latter point and in addition to the list under point 4, the EESC should:
 - a) encourage civil society initiatives and joint action, including the holding of high-visibility civil society events in the country holding the presidency;
 - b) act to ensure that major civil society initiatives resulting from dialogue between civil society and governments – as equal partners – are integrated into presidency programmes, thus strengthening acceptance by society and support for the programmes;
 - c) through the EESC Liaison Group with European civil society organisations and networks, regularly put forward for discussion issues linked to the current Council presidency and of relevance to civil society;

2 O J C 268 of 19 September 2000.

3 O J C 88 of 11 April 2006.

4 See page XX of the current Official Journal.

- d) encourage Economic and Social Councils (or similar institutions) in the country holding the Council presidency to become actively involved in related activities and programmes;
- e) ensure that EESC members from the country holding the Council presidency receive all the support they need in performing presidency-related tasks effectively;
- f) help enable civil society organisations to effectively support the work of the country holding the Council presidency by disseminating best practices.

Brussels, 17 March 2010.

The President
of the
European Economic and Social Committee

Mario Sepi



European Economic and Social Committee

SC/032
**The implementation of the
Lisbon Treaty: participatory
democracy and the citizens'
initiative (Article 11)**

Brussels, 17 March 2010

OPINION

of the
European Economic and Social Committee
on

**The implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative
(Article 11)**
(Own-initiative opinion)

Rapporteur : Anne-Marie Sigmund

SC/032 - CESE 465/2010 FR/HA/SW/gh

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On 14 July 2009, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

The implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative (Article 11 TEU).

The Subcommittee on *The implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative*, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 February 2010.

At its 461st plenary session held on 17 and 18 March 2010 (meeting of 17 March), the European Economic and Social Committee adopted the following opinion by 163 votes to one with three abstentions.

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1. **Conclusions and Recommendations**

- 1.1 The Committee considers that the provisions of the Treaty on European Union (TEU) on the democratic principles of the Union, in particular Article 11, are a milestone on the road to a people's Europe that is real and feasible, where the public has genuine influence. However, the individual democratic processes need to be defined in such a way as to make them more binding and ensure they are backed up by the necessary structures.
- 1.2 With regard to horizontal civil dialogue (TEU Article 11(1)) and vertical civil dialogue (TEU Article 11(2)), the Committee calls for a clear definition of this instrument and rules governing its procedures and participants. It encourages the Commission – by analogy with the approach set out in TEU Article 11(4) – to begin a consultation process on civil dialogue by publishing a Green Paper and to put in place the necessary arrangements on the basis of the outcome.
- 1.3 The Committee underscores its willingness, expressed several times in the past, to contribute to the development of civil dialogue as a partner and intermediary and to build on its role as a forum for debate. The Committee is placing its network and infrastructure at the disposal of all EU bodies with a view to supporting civil dialogue with civil society organisations.
- 1.4 Article 11(3) of the TEU puts the Commission's practice of consultation, already employed extensively to date, in the context of the newly-strengthened participatory pillar of the European democratic model. For this instrument, too, the Committee calls for clearer rules of procedure based on the principles of transparency, openness and representativeness.

1.5 The European Citizens' Initiative introduced by TEU Article 11(4) enshrines, for the first time in history, a direct cross-border, transnational democratic procedure. The Committee warmly welcomes this new possibility and would like to make a tangible contribution to this historic first. It clarifies its point of view in respect of the specific implementing provisions that need to be put in place during 2010. These must ensure that:

- the public does not face any unnecessary obstacles when exercising opportunities to participate, as the Citizens' Initiative is only an "agenda initiative";
- clear rules and provisions make it easy for initiators to organise initiatives across 27 Member States, without coming up against unexpected national obstacles;
- where appropriate, initiators are given financial support once a given threshold has been reached.

1.6 The Committee is keen to play a pivotal role in a transnational democratic infrastructure in Europe and will play its part, as laid down in TEU Article 11, in a targeted, efficient manner. It also offers to act as an information helpdesk, support citizens' initiatives where appropriate through an accompanying opinion, organise hearings on a successful initiative and, where applicable, back up the Commission's evaluation by issuing an opinion.

2. **Background**

2.1 In December 2001, the heads of state or government, meeting in Laeken, agreed on a new method of drafting European treaties and decided to convene a "Convention on the Future of Europe", whose composition¹ meant that it developed a considerable democratic dynamic. Subsequently, in June 2003, the Convention produced a text that made innovative proposals for greater transparency and participation.

2.2 After the "Treaty establishing a Constitution for Europe", drawn up by the Convention, failed to be ratified following the no-votes in the French and Dutch referendums, a revised EU Treaty was signed on 13 December 2007; it entered into force on 1 December 2009.

¹ Alongside its president, Valéry Giscard d'Estaing, and his two deputies, Giuliano Amato and Jean-Luc Dehaene, the Convention was made up of the following members:

- 15 representatives of the Heads of State or Government of the Member States;
- 13 representatives of the Heads of State or Government of the candidate countries;
- 30 members of Member States' national Parliaments;
- 26 members of candidate countries' national Parliaments;
- 16 members of the European Parliament;
- Two representatives of the European Commission.

There were also 13 observers from the EESC, the CoR, the social partners and the European ombudsman. The EESC observers were Göke Frerichs, Roger Briesch and Anne-Marie Sigmund.

3. Introduction

3.1 The entry into force of the Lisbon Treaty streamlines numerous procedures and makes them more transparent, defines competences more clearly, expands the rights of the European Parliament and raises the European Union's profile internally and externally.

3.2 As well as parliamentary (indirect) democracy², the European democratic model is expanded and strengthened, but certainly not replaced, by participatory (direct) democracy being enshrined in the TEU.

3.3 Specifically, the provisions on participatory democracy relate to:

- horizontal civil dialogue;
- vertical civil dialogue;
- the Commission's existing consultation practices; and
- the new European Citizens' Initiative.

3.4 The nature of the EU Treaty means that the provisions of TEU Article 11 merely created a framework, and this now needs to be defined, fleshed out and put into practice with appropriate legal arrangements and it is up to the parties involved to bring it to life.

3.5 With regard to the European Citizens' Initiative, the Commission has already taken a sensible step and published a Green Paper³; following the consultation procedure, it will publish a proposal for a regulation implementing TEU Article 11(4). In doing so it is sending out a clear signal in favour of dialogue to prepare for implementation of the new instruments, taking particular account of those organised civil society stakeholders and members of the public from throughout the EU who will later be the initiators of the European Citizens' Initiative.

4. Lisbon Treaty – Article 11 of the TEU

4.1 Horizontal Civil Dialogue

Article 11(1) of the TEU: *"The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action."*

² Article 10 of the TEU stipulates that the "functioning of the Union" is based on "representative democracy".

³ COM(2009) 622 final, 11.11.2009.

- 4.1.1 This provision provides a legal basis for horizontal "civil dialogue", but does not define it more precisely. The Committee has already issued a number of opinions^{4 5 6} on civil dialogue and has stated that it is a key aspect of participation in the European democratic model. It has also repeatedly stated that it is willing to work as a platform and multiplier for this dialogue and to ensure the debate is public across Europe. In this context, the Committee has also on several occasions stated that it wishes and intends to contribute to the development of civil dialogue as a partner and intermediary. In this context, it is prepared to build on its role as a forum for debate and to provide practical support, for example by making its facilities available. The Committee attaches great importance to helping civil dialogue get the (European) audience it needs and develop into a truly interactive discussion.
- 4.1.2 The Committee once again stresses that this instrument of participatory democracy needs a clear definition and that the specific arrangements for its operation need to be laid down. For example, the representativeness criteria which the associations mentioned in this paragraph of the Treaty have to meet in order to take part in dialogue do require clarification. With respect to the issue of representativeness of civil society actors, too, the Committee has already pointed out⁷ how important it is to distinguish between quantitative (legitimate representation of the majority of those affected) and qualitative (proof of relevant expertise) representativeness. The Committee takes the view that the associations to be involved in dialogue must be representative in both quantitative and qualitative terms.
- 4.1.3 The legislator will also need to be more precise about what specific measures it deems necessary to meet the requirement of "appropriate means" (see TEU Article 11(1)).
- 4.1.4 In this context, the Committee considers it important to point out the distinction between European civil dialogue and European social dialogue and warns against any confusion between these two concepts. Of course, European social dialogue is a pillar of qualified participation, but it is subject to specific rules concerning content, participation, procedures and impact. Its enshrinement in the Treaty reflects its importance.

4.2 Vertical civil dialogue

Article 11(2) of the TEU: *"The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society."*

- 4.2.1 This paragraph takes account of vertical civil dialogue and obliges the EU's bodies to practise it regularly. The Committee has already expressed its views on this type of civil dialogue,

4 Opinion of 25.4.2001 on *Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper* - OJ C 193, 10.7.2001.

5 Opinion of 14.2.2006 on *The representativeness of European civil society organisations in civil dialogue* - OJ C 88, 11.4.2006.

6 Exploratory opinion of 9.7.2008 on *A new European Social Action Programme* - OJ C 27, 3.2.2009 (points 7.6 and 7.7).

7 See footnote 5.

too⁸, and calls on the Commission to set out the arrangements in more detail, both in terms of content and procedure.

4.2.2 Some time ago – in anticipation of this treaty provision – the European Parliament founded the "Agora", thus creating an instrument for vertical civil dialogue.

4.2.3 As TEU Article 11(2) requires all the institutions and bodies to engage in dialogue with civil society, the Committee calls on all the European institutions, especially the Council, to make a statement as soon as possible on how they intend to implement this treaty article.

4.2.4 The Committee places its network and infrastructure at the disposal of all EU bodies, with a view to helping launch and/or supporting civil dialogue with civil society organisations.

4.3 Consultations by the European Commission

Article 11(3) of the TEU: *"The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent."*

4.3.1 This provision puts the Commission's practice of consultation, already employed extensively to date, in the context of the newly-strengthened participatory pillar of the European democratic model. The Committee recalls^{9 10} that this practice of consultation is fundamentally a key element of the "European governance"¹¹ concept launched by the Commission in 2001. As a top-down measure, it only indirectly facilitates civil society action. The Committee also points out that "consultation", a top-down measure, should be distinguished from "participation", a civic right. The aspect of actively involving civil society organisations in a bottom-up process remains untouched by this measure.

4.3.2 The Committee is prepared, in line with its mandate, to support the European Commission whenever it wishes to carry out consultations beyond the usual online system, for example by organising joint hearings on specific topics or holding open consultations through stakeholder forums under the open space method.

4.3.3 However, consultation alone does not amount to genuine dialogue with civil society organisations. The Committee therefore calls on the Commission to overhaul and structure the way it has carried out consultations hitherto: Firstly, the time frame for consultations must be

⁸ Opinion of 13.7.2000 on the Commission discussion paper The Commission and non-governmental organisations: building a stronger partnership, OJ C 268, 19.9.2000, and Opinion of 24.9.1999 on The role and contribution of civil society organisations in the building of Europe, OJ C 329, 17.11.1999.

⁹ Opinion of 25.4.2001 on *Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper* - OJ C 193, 10.7.2001.

¹⁰ Opinion of 20.4.2002 on *European Governance - a White Paper* - OJ C 125, 27.5.2002.

¹¹ COM(2001) 428 final, 25.7.2001.

appropriate so that civil society organisations and the public really do have time to develop their answers and the consultation is not mere window-dressing. Secondly, the assessment process must be made more transparent. The Commission should be required to respond to submissions and explain its position as to why this or that suggestion was accepted or rejected, thus truly entering into dialogue. The Commission, for its part, should intensively consult with civil society organisations on these and other improvements.

4.4 The European Citizens' Initiative

Article 11(4) of the TEU: *"Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties."*

- 4.4.1 The Committee shares the view that this new European citizens' initiative has significance for European integration that goes way beyond the legal dimension and should be considered to be the first element of direct transnational democracy, although the wording of the provisions means that it is limited to EU citizens. The Committee would like to see third-country nationals permanently resident in the Union to be included when the Treaty is revised.
- 4.4.2 It should be stressed that the new European citizens' initiative is not a direct initiative such as those provided for in a number of Member States, which give rise to a binding referendum, but rather an "agenda initiative" calling on the Commission to draw up legislation. It is a minority instrument that simply creates an opportunity to influence the political agenda. The right of legislative initiative remains with the Commission, and any legislative process that may follow will do so in accordance with the appropriate procedures.
- 4.4.3 Of course, this instrument needs certain rules and standards. However, as instruments for direct democracy at European level have yet to be created, the European citizens' initiative should be given a framework to develop progressively. The regulation implementing TEU Article 11(4) should set the lowest possible minimum standards and admission criteria for initiatives and leave room for discretion and interpretation in areas where there are no experiential data at EU level, as all the European Citizens' Initiative can do is to ensure that a particular topic is taken up in the Commission's action plan.
- 4.4.4 However, the Committee certainly does not share the view of the European Parliament¹² that "it is the political task of the Parliament to monitor the process of a citizens' initiative" and is opposed to the monitoring of a process in the pre-legislative area by the legislator. Such "monitoring" would violate the principle of separation of powers; the Committee therefore calls for an independent "advisory body" or a "helpdesk" to be set up to support initiators

¹² European Parliament resolution of 7.5.2009, rapporteur: Sylvia-Yvonne Kaufmann (T6-0389/2009).

when preparing and launching a European Citizens' Initiative so that obvious conflicts with the rules on admissibility and implementation can be avoided in most cases, even if they cannot be ruled out altogether.

4.4.5 In the same report, the Parliament quite rightly refers to the need to distinguish between petitions, which should be addressed to the Parliament, and citizens' initiatives, which are to be addressed to the Commission as a request. With this in mind, a clear distinction should be drawn between these two bottom-up participatory instruments' procedures and requirements.

4.4.6 The European Citizens' Initiative as an instrument of direct democracy is also an effective means of starting transnational deliberative processes. The public, which is currently rather disengaged from "political Europe", can now get involved with specific initiatives and goals. The more they are invited and encouraged to participate in the initiative without having to face unnecessary bureaucratic hurdles, the sooner people will stop thinking of themselves as spectators of incomprehensible decisions and move from being on the sidelines of the European polity to being at its centre. Such a process, set in motion step by step, which fosters debate on issues of European magnitude, will automatically lead to the formation of a European consciousness and a sense of European public awareness.

4.4.7 It must be pointed out that the substance of a European citizens' initiative self-evidently must not violate the Treaty or the European Charter of Fundamental Rights. However, just as extremist groups (ab)use the available channels of opinion-forming in the indirect/parliamentary process for their own purposes, the same could happen in the direct/civic process. This is a serious, fundamental challenge for any democracy, but is also its greatest advantage over undemocratic systems. A modern representative democracy built on both indirect and direct pillars must be capable of discussing uncomfortable and even extremist views in an open, transparent manner.

4.5 **European Commission Green Paper on a European Citizens' Initiative**

4.5.1 Although the Committee has not been directly involved in the now-completed consultation procedure, it would like - in anticipation of the proposed regulations being discussed in Parliament and the Council - to make an informed contribution to the opinion-forming process and has set out its views below on the issues addressed in the Green Paper.

4.6 **Minimum number of Member States of which signatories must be nationals**

4.6.1 The Committee shares the Commission's opinion that the threshold should be determined on the basis of objective criteria. It does not agree with the Commission that a minimum of one third of Member States, i.e. nine states, are needed in order to ensure that the Union's interest is adequately represented; neither does it share, however, the opinion held by some organisations that as few as four Member States would be sufficient.

4.6.2 Rather, the Committee agrees with the European Parliament that one quarter of Member States - currently seven states - would be an appropriate threshold. This figure was reached with reference to Article 76 of the TFEU, which provides for acts relating to administrative cooperation on police and judicial cooperation and on cooperation in criminal matters undertaken on the initiative of a quarter of the Member States. The Committee considers this to be the appropriate reference for ensuring that citizens' initiatives have a truly European dimension.

4.7 **Minimum number of signatures per Member State**

4.7.1 As the Lisbon Treaty refers only to a "significant number of Member States", it would also be an option not to specify a minimum number of participants per country. However, given the Treaty's repeated references to the double majority, the Committee shares the Commission's view that it would be contrary to the spirit of the Treaty not to require a minimum number of participants per Member State.

4.7.2 Instead of laying down a rigid figure of 0.2% per Member State, the Committee recommends using a sliding scale, which could provide a useful balance between the states. For example, a fixed lower limit of 0.08%¹³ could be required in order for the signatures from a Member State to be counted, and a citizens' initiative must, of course, have 1 million signatures in total. These two criteria in combination will automatically strike a balance that also does justice to the Treaty's focus on representativeness and a genuine European interest.

4.7.3 The Committee feels that a flexible system such as this, which would facilitate implementation, is likewise justified given that, in the end, the European Citizens' Initiative does not result in a binding decision, but is simply a "request" to the Commission.

4.8 **Eligibility to sign a citizens' initiative**

4.8.1 The Committee shares the Commission's view that, in order to avoid unnecessary administrative burdens, eligibility to participate in a citizens' initiative should be based on participants' eligibility to vote in the European Parliament elections in their countries of residence. Despite being sympathetic to the idea of involving young people (for example by reducing the minimum age to 16), this departure from the rules used to determine eligibility for voting in European parliamentary elections would make it disproportionately difficult to check the signatures, as almost all countries would have to set up duplicate electoral registers.

4.9 **Form and wording of a citizens' initiative**

4.9.1 Here, too, the Committee thinks that very rigid requirements in terms of form would be inappropriate; the formal requirements necessary for official petitions should apply and

¹³ This percentage is based on the minimum requirement of 0.08% for a citizens' initiative in Italy.

certain minimum requirements should be set (see also 4.13). The content of the initiative and the requested decision should be presented clearly and unambiguously. It must always be clear what someone is supporting when they sign a European Citizens' Initiative.

4.10 Requirements for the collection, verification and authentication of signatures

4.10.1 There is no reason not to establish common procedural rules or standards for collection, verification and authentication at EU level that differ from national law, as the European Citizens' Initiative is a (new) transnational participatory instrument.

4.10.2 All methods of signature collection that allow for identity checks should be authorised. It should be possible to collect signatures both via an online portal and in public. In the Committee's view, conditions such as requiring national authorities or a notary to confirm the authenticity of signatures present an unreasonable obstacle. However, alongside identity checks, it must also be ensured that the initiative's supporters have signed freely and independently. With this in mind, procedures need to be put in place for electronic signature collection in particular.

4.10.3 Name, address and date of birth, together with a verification email in the case of online collection, are adequate data for security and authentication purposes. The aim must be to guarantee that no initiative complying with the minimum requirements for signature collection laid down in the regulation is unexpectedly confronted with other, additional obstacles in any EU country. The signatures of Europeans living abroad should be assigned to their country of residence.

4.10.4 Signatures should be verified by the Member States; this could perfectly well be achieved as part of the sample checks customary in some EU Member States.

4.11 Time limit for signature collection

4.11.1 Experience with citizens' initiatives in the run-up to the Lisbon Treaty has shown that launching an initiative can be a time-consuming process; the Committee therefore considers the one-year time limit proposed by the Commission to be too short, and would recommend 18 months. In view of the aforementioned fact that initiatives do after all set in motion a process towards the creation of a genuine sense of European public awareness, going beyond their specific aim, it would, in the Committee's opinion, be regrettable were such a process to be prevented from reaching a positive outcome - with all the associated social and legal implications - due to a relatively short time limit of one year.

4.12 **Registration of proposed initiatives**

- 4.12.1 The Committee agrees with the Commission that it is up to initiators themselves to check in advance that their initiatives are lawful and admissible. It should be possible to register initiatives using a website run by the Commission, which would also gather information on their content so that the public could keep up to date on ongoing initiatives.
- 4.12.2 In this context, the Committee calls on the Commission to provide an online signature collection tool on the European Citizens' Initiative website that is to be set up. In addition, that website could also be used as a discussion forum about the various initiatives and thus help secure public access to the debate.
- 4.12.3 Nonetheless, the Committee feels that initiators of citizens' initiatives should also have access to a contact point providing advice not only on procedural questions but also on substantive issues. The Committee is willing to act as a "helpdesk" here.
- 4.12.4 Consideration might be given to a system of yellow and red cards that would indicate at an early stage to initiators of a citizens' initiative that their initiative might not be admissible, either due to formal criteria, such as the matter being outside the Commission's competence, or due to a clear violation of fundamental rights.

4.13 **Requirements for organisers – transparency and funding**

- 4.13.1 In the Committee's opinion, the initiators of an initiative should provide the following information:
- initiative committee and its external representatives,
 - any supporters,
 - financing plan,
 - overview of human resources and structures.
- 4.13.2 The Committee finds the Commission's statement that no provision is made for public support or funding for citizens' initiatives to be completely unacceptable, particularly the claim that this is the only way of guaranteeing the independence of such initiatives. The European Commission funds the structures and the work of many effective non-governmental organisations, and it would be quite unwarranted to assume that these civil society players were therefore dependent on the Commission because they were partly funded by it. Moreover, the logical consequence of the Commission's approach would be that only large organisations with financially strong supporters would even be in a position to consider a European citizens' initiative.
- 4.13.3 The Committee therefore suggests that the EU provide funding assistance once an initial milestone, for example 50 000 signatures from three Member States, has been reached, in

order to exclude hopeless or frivolous campaigns. Here, too, the proposed system of yellow and red cards could play a role.

4.14 **Examination of successful citizens' initiatives by the Commission**

- 4.14.1 The Committee considers the six-month time frame proposed by the Commission to be an absolute upper limit, and supports the two-stage approach proposed in the European Parliament's resolution (two months to assess the formal criteria and three months to reach a decision on the content)¹⁴. The Commission should make this internal decision-making process as transparent as possible.
- 4.14.2 Once a successful citizens' initiative has been submitted, its legal admissibility should be definitively checked.
- 4.14.3 During the Commission's political evaluation phase, the Committee will organise hearings - possibly involving the Parliament and the Council Presidency - at which organisers could present their initiatives to the Commission. The EESC could, if appropriate, also complement this process by issuing an exploratory or own-initiative opinion.
- 4.14.4 The acceptance, partial acceptance or rejection of the initiative by the Commission should be explained to the initiators publicly and in detail. In the event of rejection, the Commission should publish a formal decision, which should be subject to appeal before the ECJ.

4.15 **Initiatives on the same issue**

- 4.15.1 The Committee considers that it will then be up to initiators to launch an initiative on a similar topic if they wish. It is worth reiterating that the new European citizens' initiative is an "agenda initiative". The Committee therefore sees no reason to incorporate bans or obstacles.

4.16 **Additional remarks**

- 4.16.1 The Committee takes the view that the Commission should have the text translated into all the official languages for the organisers of a citizens' initiative that has already found 50 000 supporters from three Member States.

5. **Concluding remarks**

- 5.1 The Committee considers that the provisions on the democratic principles of the Union, in particular TEU Article 11, are a milestone on the road to a people's Europe that is real and feasible, where the public has genuine influence. However, the individual democratic

¹⁴ This should be done in a similar way to the procedure for European Parliament initiatives referred to in Article 225 TFEU; see European Parliament resolution of 9 February 2010 on a revised Framework Agreement between the European Parliament and the Commission for the next legislative term (P7-TA-2010-0009).

processes need to be defined in such a way as to make them more binding and ensure they are backed up by the necessary structures.

- 5.2 The Committee therefore calls on the Commission to publish, following the Green Paper on the European Citizens' Initiative, a Green Paper on civil dialogue, which would cover the practical implementation of Articles 11(1) and 11(2), consider existing practice, define procedures and principles more precisely, evaluate them and, together with civil society organisations, make improvements, in particular by creating clearly defined structures. In this context, too, the Committee reiterates its willingness to get involved under the terms of its mandate.
- 5.3 It also calls on the other institutions to explain how they intend to implement the new treaty provisions in practice.
- 5.4 Article 11(4) takes us into uncharted democratic territory, even in worldwide terms. For the first time in the history of democracy, citizens of several countries have a transnational right of participation.
- 5.5 This new democratic right has huge potential. Its purpose is to strengthen representative democracy in Europe. It directly consolidates the participatory element of the European democratic model. Indirectly, however, it could contribute to a stronger, more integrated EU and public access to EU-wide debate, as well as helping the public identify with the EU more strongly. Precisely because Europe is so big and so diverse, it is important to ensure that every citizen, including those with limited means or who do not belong to large, established organisations, is able to make use of all democratic instruments available. In other words, exercising the tools of democracy should not be conditional on having hefty financial resources.
- 5.6 The Committee, which the Lisbon Treaty has confirmed in its role as a consultative body supporting the European Parliament, the Council and the Commission, will continue to carry out its principal tasks and issue opinions within the framework of the responsibilities assigned to it in the Treaty. It will play its role as a bridge by becoming an even more pivotal part of a comprehensive democratic infrastructure at European level.
- 5.7 In the interests of ensuring that its activities support the aforementioned EU institutions as effectively as possible and of optimising its working methods, it also proposes, in the context of the European Citizens' Initiative:
- to draft an opinion on citizens' initiatives formally accepted by the Commission within the assessment deadline;
 - where appropriate, to draft an opinion in support of an ongoing citizens' initiative;
 - to arrange hearings on successful initiatives (with organisers, the Commission, Parliament and the Council);

- to set up an information helpdesk (as a contact point for the public on procedural questions and such like); and
- to provide back-up information (publication of a handbook on participatory democracy, conferences on practical implementation, etc.).

Brussels, 17 March 2010

The President
of the
European Economic and Social Committee

Mario Sepi

**TOWARDS A STRUCTURED FRAMEWORK
FOR EUROPEAN CIVIL DIALOGUE**

Brussels, 15 February 2010

1) INTRODUCTION

Article 11 of the **amended Treaty on European Union** makes **participatory democracy** a tool to strengthen the democratic legitimacy of the European Union and therefore a principle of governance, as a complement to representative democracy. Thus civil dialogue becomes one of the major tools in policy-shaping and decision-making processes at European level. The EU institutions are required to conduct "***an open, transparent and regular dialogue with representative associations and civil society***¹".

In accordance with Article 11, the EU institutions have a joint responsibility to ensure that organised civil society, which embodies the aspirations and interests of the citizens of Europe, is actively involved in the formulation of European policies and processes. Therefore, a genuine and long-lasting commitment of all EU institutions to engage in a permanent and structured dialogue with organised civil society at European level is essential.

To be effective, European civil dialogue must be underpinned by mechanisms for dialogue established at local, regional and national level.

This document aims to define the measures needed to implement participatory democracy at European level.

2) WHAT IS ORGANISED CIVIL SOCIETY?

In 1999 the European Commission asserted that "civil society includes the following: trade unions and employers' organisations ("social partners"); non-governmental organisations; professional associations; charities; grass-roots organisations; organisations that involve citizens in local and municipal life ..."

According to the opinion of the European Economic and Social Committee (EESC) to which the European Commission was referred (OJ C 329 of 17.11.1999, p. 30), organised civil society is "the sum of all organisational structures whose members have objectives and responsibilities that are of **general interest** and who also act as **mediators** between the public authorities and citizens."

Implementation of Article 11 of the Treaty and the related documents could be based on a definition of "**organised civil society**" as an **intermediary** between **citizens** and **public bodies**. The

¹ Article 11 of the Treaty also provides for citizens' direct participation by stipulating that "*the institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.*"

organisations of which it is composed represent a **general interest** or an interest of a part of society which they actively defend. These organisations are independent of public bodies, bringing together persons or organisations representing people on a voluntary basis. They are **non-profit-making**. They operate in areas **outside the sphere of enterprise**. They function in a **democratic** and **transparent** manner, with election of their constituent bodies on a regular basis and direct participation by their members in decision-making.

3) WHAT IS EUROPEAN CIVIL DIALOGUE?

The increased efforts since the 1990s to establish consultation procedures and a more or less structured form of sectoral dialogue with civil society organisations bear witness to a growing realisation on the part of the EU institutions of the importance and utility of giving organised civil society the opportunity to participate in European processes. These consultation and dialogue procedures are referred to by the catch-all term of "civil dialogue" yet - unlike social dialogue - the concept has not been officially defined in any text due to a lack of consensus regarding the concept itself, its scope, procedures and players.

At the present time and in line with current practice, **European civil dialogue may be considered to take three complementary forms:**

- sectoral civil dialogue between civil society organisations and their interlocutors within the legislative and executive authorities, referred to as "**vertical** dialogue";
- structured and regular dialogue between EU institutions and all of these civil society components, referred to as "**transversal** dialogue";
- dialogue between civil society organisations themselves on the development of the European Union and its policies, referred to as "**horizontal** dialogue".

Whilst these three forms of dialogue exist, they are still in an embryonic state, are not permanent and do not have any support structure. What is more, they vary considerably according to the institutions concerned (Parliament, Council and Commission).

The **Council of Ministers'** practices in this area are very limited, consisting of invitations to informal Council meetings. Its procedure for the preparation of decisions remains very opaque, with only a few Member States informing and consulting their citizens on the matters addressed.

The practices applied by the **Commission** vary considerably from one Directorate-general to another. Even in the best of cases, dialogue with organisations of social partners often continues to dominate the process.

The European **Parliament**, for its part, has taken the initiative of holding, on an occasional basis, **citizens' Agoras** with the objective to enable dialogue between MEPs and civil society on subjects considered to be of major importance on the European political agenda.

As far as the **European Economic and Social Committee** is concerned, it has set up a Liaison Group with European civil society organisations and networks as part of the process of establishing a regular and structured dialogue with these organisations and networks on issues of common interest whilst also helping to encourage dialogue among the civil society organisations themselves.

In effect, when viewed in the context of developing participatory democracy and better European governance, structured and institutionalised dialogue between organised civil society and the EU takes on particular importance. However, it requires ongoing consultations between the various civil society organisations themselves. Actually, such dialogue within organised civil society makes it possible to draw up coordinated positions for the institutions, with a greater impact and legitimacy.

4) RECOMMENDATIONS ON A STRUCTURED FRAMEWORK FOR EUROPEAN CIVIL DIALOGUE

Like social dialogue, civil dialogue, which covers more potential fields and participants, must be able to benefit from a **formal framework and institutional recognition**.

Rules must be established, including the implementing provisions governing the various forms of vertical and transversal civil dialogue: information, consultation or effective participation in the process of preparing decisions and monitoring policy implementation. Horizontal civil dialogue is organised by civil society itself, yet it must be able to benefit from a forum and appropriate funding.

This structured framework could be based on four interlinking elements:

- European statutes for associations, foundations and mutual societies;
- identification of the players in European civil dialogue;
- establishing eligibility criteria for participating in European civil dialogue;
- establishing an institutional framework for European civil dialogue.

a) European statutes for civil society organisations

European civil society organisations **must be able to profit from European statutes** if they so wish, which would thus confer a European dimension on their activities. These statutes would bring institutional recognition of the fundamental freedom of association, as enshrined by the European Union's Charter of Fundamental Rights, and would contribute to fostering European citizenship.

b) Identification of the players in the European civil dialogue

European associative networks bringing together and legitimised by national organisations with which citizens identify themselves in order to defend their interests should be recognised as players who represent them for the purpose of participating in vertical and transversal civil dialogue at European level.

c) Establishing eligibility criteria for participating in European civil dialogue

Participation in European civil dialogue should be based on **representativeness criteria** which ensure the credibility of those involved, thereby enhancing the legitimacy of the participating organisations.

The **criteria proposed by the EESC for European networks** (*cf. opinion SC/023 – CESE 240/2006 "The representativeness of European civil society organisations in civil dialogue"*), and which are applied by the European network and organisations which are members of the EESC Liaison Group are:

- represent general interests falling within the interests of European society;
- comprise bodies that are recognised at Member State level as representative of particular interests;
- have authority to represent and act at European level;
- have member organisations in most of the EU Member States;
- be independent, not bound by instructions from outside bodies.²

In addition to these criteria, European organisations taking part in civil dialogue should act **in accordance with the values on which the Union is founded and referred to in Article 2 of the amended Treaty on European Union**³.

d) An institutional framework for European civil dialogue

The responsibilities of the parties to European civil dialogue, the rights and obligations of the institutions and civil society organisations taking part in it, have to be established. They must enable the setting up of **a permanent and stable framework for dialogue**. Examples exist at transnational level, such as the Code of Good Practice for civil society participation in the decision-making process at the Council of Europe, and at national level (the Compact in the United Kingdom or the Charter of Reciprocal Commitments in France).

The European rules which will be developed for the implementation of Article 11 of the Treaty will have to take account of both the positive and limiting aspects of these various existing practices.

² The other criteria are as follows: exist permanently at Community level; provide direct access to expertise; provide for accountability of its members; be democratic in its decision-making and in renewing its decision-making bodies; be transparent, especially financially and in its decision-making structures.

³ The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

WHAT IS EXPECTED OF THE EUROPEAN INSTITUTIONS

In order to establish structured civil dialogue at European level, the organisations and networks signatory to this document call for:

1. the appointment of "**reference points**" for **civil dialogue** within the European institutions. One Vice-president within the new European Commission will be responsible for fundamental rights and citizenship. Dialogue with civil society also must fall within her remit. Equally, a "reference point" must also be appointed within each Directorate-General.

One of the European Parliament's Vice-presidents should also act as an interlocutor for civil society, while the Council of the European Union, as well as the European Council, should give key figures responsibility for the implementation of civil dialogue.

2. the creation of **structured vertical civil dialogue groups**, in particular with the European networks representing organised civil society:
 - i. In each European Commission DG;
 - ii. In connection with the work of all the Parliament committees;
 - iii. In connection with the work of the Council of the European Union.
3. the setting up, on the basis of the existing institutional framework, of a **permanent inter-institutional body for transversal civil dialogue, with appropriate funding**, for consulting organised civil society on major topical issues relating to the future of the European Union;
4. the organisation of an **annual organised civil society conference** with a view to contributing to the European political agenda, involving all EU institutions;
5. the preparation of a **Green Paper on a structured framework for European civil dialogue as a fundamental feature of the implementation of Article 11 of the amended Treaty on European Union, in parallel with the citizens' initiative.**

THIS DOCUMENT IS SUPPORTED BY



EUROPEAN CIVIC FORUM

91 national organisations
26 European countries



CONFEDERATION OF FAMILY ORGANISATION IN THE EUROPEAN UNION

53 national organisations
20 European countries



EUROPEAN ASSOCIATION FOR THE DEFENCE OF HUMAN RIGHTS

22 national organisations
18 European countries



YOUTH FORUM JEUNESSE

99 European networks and national platforms
across all the countries members of the Council
of Europe



SOCIAL PLATFORM

37 European networks
All EU countries and beyond



EUCIS-LLL

EUROPEAN CIVIL SOCIETY PLATFORM ON LIFE LONG LEARNING

19 European networks
All EU countries



EUROCHILD

83 national organisations
35 European countries



European Movement
Mouvement Européen

EUROPEAN MOVEMENT

43 national organisations
43 European countries



EUROPEAN DISABILITY FORUM

25 European networks
29 national councils in 29 European countries



EUROPEAN FOUNDATION CENTRE

223 European and international members



RURALITY, ENVIRONMENT, DEVELOPMENT

Coordinator of European Rurality Movement
12 European and international organisations



EUROPEAN WOMEN'S LOBBY

33 national organisations in 30 European countries
21 European networks



THE EUROPEAN CONSUMERS' ORGANISATION

43 national organisations
31 European countries

Grouping of NGOs social services providers



SOLIDAR

39 national organisations
17 European countries



EUROPEAN ASSOCIATION OF SERVICE PROVIDERS FOR PERSONS WITH DISABILITIES

34 national organisations
17 European countries



EUROPEAN COUNCIL OF ASSOCIATIONS OF GENERAL INTEREST

32 national organisations
21 European countries

MANIFESTO FOR A GENUINE EUROPEAN CIVIL DIALOGUE

Today in the European Union, millions of citizens, freely and voluntarily joining together, are working in civil society organisations bearers, in the general interest of the peoples of the EU, of projects in the field of social integration, human rights, environment, development, culture, sports, etc.

These organisations give voice to concerns relating to their particular areas of action. They share a the same willingness to take part in the building of a Europe that respects human rights and the values that underpin them, that is concerned about sustainable development, that sets an example of international solidarity and embodies the ambition of a "living together" based on social justice, solidarity and equality between all citizens. Through their action, they contribute to the strengthening of the social and societal cohesion of the EU. This bestows on them an even more important role considering the economic and social crisis the EU is going through.

The leading organisations, connected through European networks, have already unveiled their most pressing demands regarding the sectors in which they are active. But they also share concerns and demands that stem from the wish to consolidate the place and role of organised civil society for the democratic life of the EU and, by so doing, to strengthen a European democracy that is more participatory and more deliberative. Such is the purpose of this manifesto.

For us, the democratic legitimacy of the European Union not only is rooted in a clear definition of its institutions' powers and responsibilities but it also implies that those institutions enjoy public confidence and can secure active involvement of citizens in the European venture and that active participation by all representative organised civil society players in the democratic life of the Union is guaranteed.

Participatory democracy meets the present-day needs of European governance by supplementing and reinforcing representative democracy. Involving organised civil society in policy-shaping and the preparations of decisions strengthens the democratic legitimacy of public institutions, of their work and activities. The quality of civil dialogue - like social dialogue, to which it is a necessary supplement - is an indicator of the state of health of our democracies.

Thus, civil society organisations, at both Member State and European level, are everywhere working actively to ensure that the voice of associations is heard by the public institutions.

At European level, many civil society players have been active in the process of building and unifying Europe. They have a key role to play in carrying forward this process so that it fully meets the expectations of the peoples of the European Union. Politicians are confronted with problems of growing complexity and scope, and the challenges facing the European Union are such that tackling them demands that account be taken of all grassroots stakeholders. At a time when many citizens feel that the European institutions are remote from their concerns, the stakes could not be higher.

In the run-up to the European elections, the undersigned European associative networks wish to call on all political parties. **In addition to the relatively permanent and structured sectoral dialogue that the European networks have succeeded in building up over the years with the European institutions, there is now a need to devise a structured, efficient and sustainable overall framework for European civil dialogue.**

In this respect, we consider that, beyond the Citizens' Agora initiative during its latest parliamentary term, the European Parliament has a decisive part to play in ensuring that the voice of associations is

fully heard and acknowledged by all the European institutions, and that the contribution made by organised civil society is reflected in such a way that policies, in keeping with the Union's values, meet citizens' concerns and demands, so they can regain confidence in the EU's ability to respond to their needs.

We therefore expect that newly-elected members of the European Parliament will take active steps for civil dialogue to be recognised and will encourage its development, alongside the social dialogue which also needs to be strengthened.

If the Treaty of Lisbon is ratified by all the Member States, the new Treaty on the European Union (TEU) will include an Article 11 which brings recognition of the reality of participatory democracy, and which is the focus of our hopes and demands. We therefore expect candidates for the European elections to adopt a clear stance regarding our expectations, and to specify the contribution that the European Parliament could or should make to meeting them.

1. "The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action."

What we think

- The existing procedures and structures are very largely inapt, and there is little visible sign of the impact made by the contributions of civil society organisations and networks to framing EU policy.
- The European institutions must be more open about how the results of civil dialogue are reflected in their decision-making.

We call on the European Parliament to work for:

- further substantial progress regarding transparency in decision-making, especially at the Council (public nature of meetings, access to working documents, etc.), such transparency being needed if organised civil society is to be actively and effectively involved in consultations on EU policies;
- the EU institutions (European Parliament, European Council and European Commission) to enable and encourage greater participation on the part of civil society organisations in the process of shaping Community policies and decisions, and in their implementation. Dialogue with the European institutions should make it easier to take account of the dialogue that must take place within the Member States;
- the European institutions to report on the contributions stemming from dialogue with organised civil society and on whether or not those contributions have been taken into account. They should also report on the outcome of the decisions they take after consulting organised civil society.

2. "The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society."

What we think

- Recognition of individuals' right of association should be given substance at European level by creating the appropriate European statutes.
- Civil dialogue at EU level should be based on associations or networks of associations that are recognised by civil society to be representative.

We call on the European Parliament to work for:

- the EU institutions, as in the case of social dialogue, to set up a formal framework for civil dialogue. Guidelines are needed. These must be based on a code of good practice governing consultation, agreed between the parties concerned;
- the statutes of the European association, mutual society and foundation to be introduced, in addition to the national statutes;
- transparent and public criteria governing the representativeness of European civil society organisations in the framework of civil dialogue to be defined and implemented, in coordination with the EU institutions and the organisations in question;
- other organisations which have a proven track record of contributing to the themes in discussion to be involved when required, in addition to those whose representativeness is already recognised.

3. "The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent."

What we think

- Consultations on EU policies should take place from the earliest drafting stages through to evaluation of their implementation. This is a precondition for a truly democratic participatory process.
- Consultations must take heed of the contributions of civil society organisations and networks at both EU and Member State level.
- Civil society needs strong associations in the Member States. The picture is still too patchy. The European framework should enable a positive influence to be exerted on Member States practices where civil dialogue enjoys only modest legitimacy in the eyes of citizens.

We call on the European Parliament to work for:

- a consultation framework that permits a broad process. It should in particular be given a feasible timetable (deadlines for consultation, etc.);
- the consultation process to be governed by an interinstitutional agreement, ensuring an effective dialogue with all the European bodies concerned;
- the institutional framework and consultation practices at EU level to provide an example to the Member States where such practices are not yet in place or are not fully fledged. This framework should also be able to draw upon best practices in the Member States, adapting them to the European setting.

Alongside the provisions of Article 11 of the TEU, we need the support of the members of the European Parliament if European civil dialogue is to be fully effective and efficient and is to be recognised. We therefore call on MEPs to assist in:

- officially proclaiming 2011 the **European Year of Volunteering**, which would provide an ideal opportunity to highlight the role of volunteers and their representative organisations in economic, social and civic life;
- holding an **annual organised civil society conference** as an privileged forum for debating the progress of the European venture and the options for the public policies of the Union;

- appointing a **European commissioner responsible for relations with organised civil society** and civil dialogue, thereby giving this process full credibility;
- developing a **coherent funding policy** for representative organised civil society players at European level, so that they can fully play their part in civil dialogue;
- putting into place a **framework for permanent, structured civil dialogue** between civil society organisations, and between them and the EU institutions, based on the existing institutional framework.

In conclusion, we believe that in the run-up to the European elections, the political parties should undertake to create a climate in which civil dialogue can grow and flourish at both national and European levels, and to ensure that the provisions of the new treaty, giving practical substance to participatory democracy, are brought to life.

THIS MANIFESTO IS SUPPORTED BY



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26 European countries



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ASSOCIATION EUROPÉENNE POUR LA DÉFENSE DES DROITS DE L'HOMME

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18 European countries



YOUTH FORUM JEUNESSE

100 organisations nationales
All EU countries and beyond



EUROCHILD

81 national organisations
35 pays européens



SOCIAL PLATFORM

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European Economic and Social Committee

SC/023
The representativeness of
European civil society
organisations in civil
dialogue

Brussels, 14 February 2006

OPINION
of the European Economic and Social Committee
on
The representativeness of European civil society organisations in civil dialogue

SC/023 - CESE 240/2006 FR-SV/GW/KH/HR/ET/ht

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EN

On 25 September 2003, The European Economic and Social Committee, acting under Rule 29 of its Rules of Procedure, decided to draw up an own-initiative opinion on

The representativeness of European civil society organisations in civil dialogue

and, under Rule 19, paragraph 1, of its Rules of Procedure, the Committee decided to establish a subcommittee to prepare its work on the matter.

The subcommittee adopted its draft opinion on 12 January 2006. The rapporteur was Mr Jan Olsson.

At its 424th plenary session, held on 14 and 15 February 2006 (meeting of 14 February 2006), the European Economic and Social Committee adopted the following opinion by 103 votes to one with six abstentions.

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* *

1. Preamble

- 1.1 Over the last ten to fifteen years, the interest of the European institutions in holding a dialogue with civil society, in particular organised civil society at European level, has continued to grow. They have recognised in fact that there cannot be any good policies unless there are at least three things: an effort to listen to the public, participation and the approval of the people concerned by EU decisions.
- 1.2 The experience and expertise of civil society players, the dialogue between them and with public authorities and institutions, at all levels, combined with negotiation and the quest for that convergence or even consensus, enable proposals to be made in the general interest. This enhances the quality and credibility of political decision-making, which becomes easier for the public to grasp and accept.
 - 1.2.1 By giving citizens the chance to engage individually and collectively in managing public affairs via a specific contribution from organised civil society, participatory democracy enhances representative democracy, thus strengthening the democratic legitimacy of the European Union.
- 1.3 By virtue of its membership and the role and mandate entrusted to it by the Treaties, the European Economic and Social Committee (EESC) has been fully involved in European participatory democracy from the outset, and is its oldest component.

- 1.4 The "right to participate", which has been claimed by civil society and organisations active at European level for a long time, but is now of particular relevance. The issues and challenges facing the European Union are such that they require the mobilisation of all those on the ground and their representatives.
- 1.5 This need was recognised by the European Council, among others, at its meeting in Lisbon on 23 and 24 March 2000 in connection with the implementation of the Lisbon Strategy¹ and was highlighted by it once again at its meeting on 22 and 23 March 2005, in connection with the re-launch of this Strategy².
- 1.6 In its White Paper of July 2001 on European governance³, the Commission makes the participation of civil society in the development and implementation of EU policies one of the basic principles of good governance and one of the priority areas for action to renovate the Community method and make the institutions operate in a more democratic manner.
- 1.7 The principle of participatory democracy is also enshrined in Article I-47 of the Treaty establishing a Constitution for Europe⁴. In this respect and despite the peregrinations of the ratification process, the EU institutions must follow this reasoning and establish a genuine participative democracy. If the latter is to satisfy the demands of modern European governance, however, there remains a need to set up the instruments which will allow the citizens of Europe, and particularly the organisations in which they are active, to discuss, to be consulted and actually to influence the development of the Union and its policies within the framework of a genuine structured civil dialogue with organised civil society.
- 1.8 For its part, the EESC is working actively to develop participatory democracy, in partnership with the other EU institutions and civil society organisations.
- 1.8.1 In October 1999, the EESC held the first Convention on The role and contribution of civil society organisations in the building of Europe. Since then, it has issued a number of opinions

1 In point 38 of its conclusions (doc. SN 100/00), the European Council declares that:
"The Union, the Member States, the regional and local levels, as well as the social partners and civil society, will be actively involved, using variable forms of partnership".

2 In point 6 of its conclusions (doc. 7619/05), the European Council stresses that:
"Alongside the governments, all the other players concerned – parliaments, regional and local bodies, social partners and civil society – should be stakeholders in the Strategy and take an active part in attaining its objectives".

3 COM(2001) 428 final of 25 July 2001 - OJ C 287 of 12 October 2001.

4 Article I-47(2) of the Constitutional Treaty states that "the institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society", while paragraph 1 asks the institutions, by appropriate means, to give "representative associations" in particular the opportunity to make known and publicly exchange their views on all areas of Union action.

with a view to further developing and structuring the dialogue between civil society organisations and the European institutions^{5 6}.

2. The players in the civil dialogue at European level⁷

2.1 The players in the civil dialogue at European level are organisations which represent the specific and/or general interests of citizens. European social partner organisations are therefore by their very nature a party to civil dialogue. Social dialogue is, in this context, an excellent example of the practical implementation of participatory democracy. However, a fundamental distinction must be made between social dialogue and civil dialogue. European social dialogue is clearly defined both in terms of its participants and its purpose and procedures, and the European social partners have quasi-legislative powers⁸. What characterises it are the special powers and responsibilities of its participants, who act independently.

2.2 At European level, these organisations have many different forms and appellations: associations, federations, foundations, forums and networks are some of the most common titles⁹. There are also foundations with a European scope. Often, these different types of organisation are grouped under the heading "non-governmental organisations" (NGOs), which is in fact used to cover all types of autonomous non-profit-making structures. Many of these European organisations operate on an international scale.

2.3 These European organisations coordinate the activities of their members and associates in the various Member States and often beyond them. In addition, and more and more frequently,

⁵ See the documentation concerning the "First Convention of civil society organised at European level" of 15 and 16 October 1999 (CES-2000-012-EN), and the relevant opinions: "The role and contribution of civil society organisations in the building of Europe", 23 September 1999 (CES 851/1999 - OJ C 329 of 17 November 1999), "The Commission and non-governmental organisations: building a stronger partnership", 13 July 2000 (CES 811/2000 - OJ C 268 of 19 September 2000), "Organised civil society and European governance – the Committee's contribution to the drafting of the White Paper", 26 April 2001 (CES 535/2001 - OJ C 193 of 10 July 2001), "European Governance – a White Paper", 21 March 2002 (CES 357/2002 – OJ C 125 of 27 May 2002).

⁶ The EESC has organised two other conferences on the topic, the first on "The role of organised civil society in European governance", on 8 and 9 November 2001, and the second on Participatory democracy: current situation and opportunities provided by the European Constitution, on 8 and 9 March 2004.

⁷ For the European Economic and Social Committee, civil dialogue takes three forms:

- firstly, dialogue between European civil society organisations on the EU's development, future and policies;
- secondly, structured, regular dialogue between these organisation and the EU;
- thirdly, daily sectoral dialogue between civil society organisations and their contacts within the legislative and executive authorities.

⁸ See Articles 137 and 138 of the Treaty.

⁹ The directory of non-profit-making civil society organisations organised at European level, drawn up on a voluntary basis by the Commission (CONECCS database), lists more than 800 organisations, some of which can be placed in the socio-occupational category.

they are grouped together in European networks, as is the case in the fields of social and environmental affairs, human rights, consumer affairs, development or the social economy.

2.4 In order to illustrate the breadth acquired by the European civil society organisations and the way in which they fit together, an appendix to this opinion gives an outline of the most significant organisations, federations and networks in the various sectors of civil society organised at European level, apart from socio-professional organisations. About twenty specific sectors are identified in this document.

2.4.1 This survey shows that European organised civil society is becoming increasingly structured and that there is diversity in the very structuring of the organisations concerned: they can be composed simply of national organisations (or even regional and local organisations, in some cases) representing a given sector: their members can be European organisations and national organisations, and legal and natural persons at all levels. Grouping into a network generally follows one of two patterns: either the network is made up of European organisations in a given sector or it associates national and European organisations.

2.5 Obviously, a number of European civil society organisations, not to mention certain national organisations or networks, generally have an experience and expertise that enables them to claim a right to take part in the consultative processes within the framework for formulating EU policies. However, it is equally clear that, in the absence of objective assessment criteria, the representativeness of European civil society organisations, other than the organisations of the social partners, is often called into question. The voluntary field is seen as being too fragmented, as it is often split into a multitude of organisations and often representing the individual interests of their members rather than the general interest, and lacking transparency; it is also seen by many as being incapable of exerting a real influence on the process of formulating policies and preparing decisions.

3. **The requirement of representativeness**

3.1 The EESC has already emphasised on several occasions that only clearly established representativeness can give civil society players the right to participate effectively in the process of shaping policies and preparing Community decisions.

3.1.1 In addition to being a fundamental democratic principle, the need for civil society organisations to be representative is consistent with the aim of giving them greater visibility and influence at European level.

3.1.2 With this in mind, the Committee has worked out representativeness criteria, which it set out most recently in its opinion of 20 March 2002 on the White Paper on European governance¹⁰.

¹⁰ See footnote on page 5. Point 4.2.5 in the opinion (CES 357/2002).

In order to be considered representative, a European organisation must meet nine criteria. It should:

- exist permanently at Community level;
- provide direct access to expertise;
- represent general concerns that tally with the interests of European society;
- comprise bodies that are recognised at Member State level as representative of particular interests;
- have member organisations in most of the EU Member States;
- provide for accountability of its members;
- have authority to represent and act at European level;
- be independent, not bound by instructions from outside bodies;
- be transparent, especially financially and in its decision-making structures.

3.1.3 In this opinion, the EESC proposed, however, *"to discuss these criteria with the institutions and civil society organisations as a basis for future cooperation"*.

3.2 In order to avoid any misunderstandings over the scope of the representativeness criteria established in this opinion, there seems to be a need to draw a clear distinction between "consultation", open in theory to all the organisations having expertise in a given field, and "participation", which is an opportunity for an organisation to intervene formally and actively in the collective decision-making process, in the general interest of the Union and its citizens. This process, which is underpinned by democratic principles, enables civil society organisations to be part and parcel of policy framing and preparing decisions on the development and future of the Union and its policies¹¹.

3.2.1 Even if this distinction may seem to be of a largely academic nature, it is relevant: representativeness is a precondition for participation as it confers legitimacy. In a process of consultation, the aim is to hear points of view and collect the expertise of civil society players, without imposing prior conditions. Consultation nevertheless remains a very important component of civil dialogue.

3.3 In its White Paper on European governance, referred to above, the Commission proposed establishing partnership arrangements going beyond the minimum consultation standards applied to all its departments in some areas where consultations are already well established. The Commission made the conclusion of these agreements subject to the civil society organisations providing guarantees with regard to their openness and representativeness, but it did not deal with the criteria to be applied.

¹¹ See in particular the EESC opinion of 26 April 2001 on Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper (CES 535/2001 - OJ C 193 of 10 July 2001 – point 3.4.).

3.4 The Communication of 11 December 2002¹² establishing the general principles and minimum standards for consultation of interested parties by the Commission distinguishes between open consultations, within the framework of a global and non-exclusive approach, and focused consultations, where relevant interested parties (target groups) are defined on the basis of clear and transparent selection criteria. However, it does not identify these criteria either.

3.4.1 In this same communication, the Commission also highlights the importance it attaches to the contributions of European representative organisations but refers to the work already carried out by the EESC on the matter of the criteria for the selection of representative organisations to take part in the civil dialogue.

3.5 The Nice Treaty consolidated the EESC in its role of privileged intermediary between organised civil society and the EU's decision-makers and gave it increased responsibility for:

- organising discussions between representatives of civil society with different motivations and defending divergent interests; and
- facilitating a structured and continuous dialogue between the European organisations and networks of organised civil society and the EU institutions.

3.6 However, it should be stressed that the present opinion does not apply to:

- the daily dialogue at sector level between civil society organisations and between such bodies and their interlocutors within the EU's legislature and executive, particularly the Commission¹³; or
- the European social dialogue and European social partner organisations, whose representativeness is established clearly on the basis of criteria specific to these organisations. The same is true of the socio-professional organisations involved in social dialogue at sector level. However, these organisations are qualified to be fully-fledged players in the civil dialogue.

3.7 The drawing-up of this opinion thus takes place, first and foremost, in the context of clarification and rationalisation of the EESC's own relations with European organisations and networks. This opinion thus aims to give the dialogue with organised civil society greater credibility by enhancing the legitimacy of these organisations and networks.

¹² COM(2002) 704 final.

¹³ The issue of representativeness remains, in this context, crucial to giving civil society organisations a genuine right, not just to be consulted but to participate in framing EU sectoral policies and preparing related decisions, in addition to their implementation and follow-up. It does however raise some issues which in many ways are of a different nature and scope to those addressed in this opinion. They therefore warrant a specific discussion, when the time comes.

3.7.1 This itself is part of the drive to implement reinforced, structured dialogue with European organised civil society:

- on a general level, i.e. for all topics of common interest linked particularly to the development and future of the European Union;
- within the context of the EESC's consultative role as regards the definition and implementation of EU policies.

3.8 This opinion could also:

- form a point of reference and material for consideration by the other institutions, especially with a view to consolidating democratic participation at European level and the establishment of a genuine European civil dialogue;
- open up a field of inter-institutional cooperation, including the exchange of good practice, particularly with the Commission and the European Parliament, without there being any question of interfering with their way of organising the dialogue with European organised civil society.

3.9 For its part, the EESC stresses, here, that there are pros and cons to the establishment of a system for accrediting civil society organisations to the European institutions. However, the EESC does not consider this opinion to be an appropriate platform for discussing the merits of such a system. Nonetheless, it believes that this issue is closely linked to representativeness and that the two should therefore be discussed together as part of a wide-ranging debate involving all stakeholders, the European institutions and civil society organisations.

4. **The EESC and European civil society organisations: a pragmatic and open approach**

4.1 The EESC is aware that it only partially reflects the diversity and developments covered by the term "organised civil society", and so it has taken initiatives and implemented reforms to ensure as broad a representation as possible of organised civil society.

4.2 European organisations and networks of civil society which are not yet represented on the EESC - or not directly - are thus associated with the EESC's structures and its work in various ways, but that association is not based on representativeness criteria.

4.2.1 Thus each of the EESC's three **Groups**¹⁴ recognises European organisations by giving them the status of approved organisation. In principle, EESC members have direct or indirect links with these organisations, but that is not essential.

¹⁴ The EESC is divided into three Groups, representing employers (Group I), employees (Group II), and the other economic and social sectors of organised civil society (Group III).

- 4.2.2 At **section**¹⁵ level, the European organisations which have an effective contribution to make when an opinion is drawn up are often involved in the work. They are informed of the work in progress, send their comments, can be represented by experts and can participate in hearings or conferences which are organised.
- 4.2.3 The **EESC** organises events (conferences, seminars, hearings, etc.) on cross-sectoral subjects, such as the Lisbon Strategy, sustainable development and the financial outlook for 2007-2013; also worthy of mention are the meetings to follow up the work of the European Convention¹⁶.
- 4.2.3.1 The participants from organised civil society are chosen in a pragmatic way on the basis of proposals from the groups, EESC members, sections or the secretariat. These events are generally open to representatives of organised civil society who have freely expressed an interest in taking part.
- 4.3 A **Liaison Group** between the EESC and the representatives of the main sectors of European organised civil society has also been recently set up by the Committee. At present, in addition to the ten EESC representatives (the EESC president, the three Group presidents and six section presidents), it has 14 members from the main organisations and networks active in the sectors represented within the Liaison Group. The organisations concerned may or may not already have the status of an approved organisation.
- 4.3.1 The job of this Liaison Group is to ensure that the EESC adopts a coordinated approach towards European civil society networks and organisations and that initiatives decided on together are followed through.
- 4.4 The above survey shows the pragmatic approach adopted so far by the EESC, which in general means an open, non-exclusive approach, while gradually structuring its relations with European organised civil society. However, as regards the granting of approved organisation status or the sectoral consultations carried out by the sections, the approach is more targeted.
- 4.5 In this respect, the final report of the ad hoc group on structured cooperation with European civil society organisations and networks, dated 10 February 2004, stresses that *"the question of representativeness obviously requires serious consideration"* but that *"this issue must not,*

¹⁵ The EESC comprises six sections that deal with all the areas of EU activity in which it plays an advisory role.

¹⁶ In accordance with the declaration of the Laeken European Council of 15 December 2001, the European Convention had a mandate to engage in dialogue with civil society. This task was undertaken by Jean-Luc Dehaene, vice-president of the Convention, with whom the EESC organised eight information and dialogue meetings with European civil society organisations and networks; among those taking part in these meetings were members of the Convention and, more particularly, its Presidium. The success of these meetings was confirmed by the fruitful cooperation between the European Parliament and the EESC during the preparation and running of the hearings of these organisations and networks that preceded the adoption by the EP's constitutional affairs committee of its parliamentary report on the Constitutional Treaty in November 2004. Initially, the EESC had organised a hearing of all the organisations concerned, in the presence of the first vice-chairman of the constitutional affairs committee and the two EP rapporteurs. Later, the spokesmen for the representative networks were invited to address the parliamentary committee directly.

however, prevent any headway at all being made" and recommends an approach that "obviously includes a degree of prudence, but also requires openness and pragmatism"¹⁷.

5. **A three dimensional procedure to assess representativeness**

5.1 The criteria defined by the EESC in its opinion on the White paper on European governance are, clearly, worded to different degrees of precision. Therefore, the meaning and scope of these criteria should be more precisely defined and thereby made measurable and applicable.

5.2 Against this background, the EESC considers that it is more important to establish a clear, uniform and simple procedure to assess the representativeness of European civil society organisations, and thereby avoid complex, controversial issues.

5.3 The procedure must provide for a criteria review that is tailored to the European organisations' existing structure and operating methods. It must also be based on the principle that the organisations are part of the assessment process. The EESC has no designs on their autonomy.

5.4 The procedure should therefore be based on the following principles:

- openness;
- objectivity;
- non-discrimination;
- verifiability;
- participation (by European organisations).

5.5 The Committee suggests the procedure should cover three assessment criteria, viz.:

- the provisions in the organisation's statute and their implementation;
- the organisation's support base in the Member States;
- qualitative criteria.

5.5.1 The two first assessment criteria are clear and relate to each organisation's individual structure. They thus provide a good basis for a relatively objective assessment of the organisation's representativeness, whilst preserving the dynamics of civil society. The third dimension is more complex.

5.6 The EESC considers that the suggested procedure does not involve any particular burden or constraint on the organisations concerned, but that it does require openness in terms of the organisations' structure and procedures. Openness is a basic democratic principle of general interest, that can enable different public interests and individual citizens, as well as public

¹⁷ CESE 1498/2003 final – par. 2.2.6.

authorities, to gain an insight into the organisations' structure and activities in order to make their own assessment.

5.7 Based on the principles and assessment criteria, the EESC should be able to develop a procedure enabling it to gauge the representativeness of European civil society organisations. This procedure could be implemented by setting up a special evaluation instrument, initially with the Liaison Group for European Civil Society Organisations and Networks.

6. The statute and its implementation

6.1 The EESC believes that there is a clear, direct link between the criteria already proposed and the statutes of European civil society organisations.

6.2 In principle, all organisations – whether de jure or de facto – active at European level should have statutory regulations¹⁸.

6.3 Given the criteria already defined by the EESC¹⁹, and with a view to making these fully operational, the Statute for a European Organisation should contain the following provisions:

- on the association's areas of activity and purpose;
- on membership criteria;
- on the operating procedures, which must be democratic, transparent, and include the accountability of the Board vis-à-vis its member organisations;
- the financial obligations of the member organisations;
- that an economic audit and an activity report must be submitted annually and be available to the public.

6.4 In the absence of European legislation, each organisation independently adopts its statute under the relevant national legislation²⁰.

6.4.1 In this context, it should be remembered that in 1991²¹ the European Commission had already proposed legislation to enable the creation of "European Associations". The aim was to create a form of association for associations with members in several Member States, along the lines of the existing one for limited companies and cooperatives. The material provisions of the proposal are consistent with the above proposals on the content of the statute.

18 It appears that some of the larger networks mentioned earlier have statutes (e.g. the Social Platform and Concord) while others are informal associations comprising a number of European organisations without a statute. This applies at least to Green 9, a group of environmental NGOs, and the Human Rights Network that incorporates NGOs active in the human rights field.

19 See point 3.1.2. above.

20 For example, Belgian law allows for the statute of non-profit-making international association (AISBL).

21 COM(91) 273/1 and 2.

- 6.4.2 The proposal, for which the EESC expressed its support²², was blocked because of opposition from a number of Member States and has now even been withdrawn by the Commission. The EESC still firmly believes that such a statute is an essential instrument in order to consolidate the right of association as a fundamental freedom, enshrined in the EU's Charter of Fundamental Rights, and an expression of European citizenship. The principles contained in Article I-47 of the Constitutional Treaty should, in the Committee's view, provide an incentive to re-examine the issue.
- 6.4.3 Consequently, the EESC reiterates its call to set up a European statute of transnational associations, by analogy with the statute of European political parties that came into force in November 2003²³. This is consistent with the proposals made in this opinion.
- 6.5 Nonetheless, member organisations should be responsible for ensuring, through appropriate mechanisms and procedures, that the statute is monitored and implemented as part of the organisation's internal democratic decision-making process
- 6.6 In order to ensure proper openness in the way European civil society organisations operate, the statute, the annual economic and activity reports, and information about member organisations' financial obligations and funding sources should be made public, possibly by also publishing them on the websites of the organisations in question.

7. **The organisations' support base in the Member States**

- 7.1 The criteria proposed by the EESC suggest that a European organisation must have member organisations in the vast majority of Member States and that they should be recognised as being representative of the interests they represent.
- 7.2 In order to apply this criterion the EESC considers that, if a European organisation is to be considered representative, it must be represented in more than half of EU Member States. This requirement should stand even though the recent EU enlargement has made the situation more complex.
- 7.3 In order to allow for the appraisal of this support base, every European organisation should systematically make public its list of member organisations, whether they are organisations (legal persons) that are independent of outside interests representing civil society in the Member States and/or European associations of such organisations.
- 7.4 Assessing the degree to which a European organisation or its national member organisations can be seen as established and representative is always difficult. Such an assessment should take into account the following points.

²² Opinion CES 642/92 of 26 May 1992 – OJ C 223, 31 August 1992.

²³ OJ L 297, 15 November 2003.

7.5 The guiding principle should be that, whether it be national or transnational, an organisation's membership of a European organisation should not only meet the membership criteria provided for in that European organisation's statute, but should also meet the criteria stipulated in the member organisation's statute.

7.6 Consequently, a national member organisation should adopt the same practice as the European organisation to which it belongs, making public its statute and activity report, which mirrors the organisation's structure and operating methods. It would also be desirable, as required by the Council of Europe, to know the number of individual members who are directly and indirectly connected with the organisation.

8. **Qualitative criteria**

8.1 By their very nature, the above criteria can be assessed fairly simply and objectively. However, qualitative criteria are trickier to apply and assess, although the statute of an organisation, particularly its purpose and means of action, along with its geographical coverage, do provide some basis for assessment. Although they may prove insufficient when it comes to assessing the representativeness of an organisation, qualitative criteria do provide a means of appraising the organisations' ability to contribute.

8.2 In this context, it should be reiterated, that this opinion is not referring to organisations that have the expertise needed to take part in open consultation procedures (see above), but rather those which are required to participate effectively and formally in the policy framing procedure. This therefore justifies a more in-depth analysis.

8.3 Qualitative criteria thus refer to an organisation's experience and ability to represent citizens' interests in its dealings with the European institutions, and the confidence and reputation it enjoys with these institutions on the one hand, and with other sections of European organised civil society on the other.

8.4 Consequently, a European organisation's ability to contribute must be assessed, based on its qualitative representativeness, in light of the extent to which the organisation can demonstrate, through its activity, its level of involvement in consultative processes implemented by the European institutions.

8.5 It is essential, here, that the European organisations concerned should openly present their activity reports and other relevant information. "Benchmarks" could also be used, as is the case in the academic and research fields; these would need to be defined in cooperation with European civil society organisations.

8.6 In all events, the EESC intends to act on this matter in a transparent, objective, pragmatic way, as part of an open, dynamic process.

Brussels, 14 February 2006.

The President
of the European Economic and Social
Committee

The Secretary-General
of the European Economic and Social
Committee

Anne-Marie Sigmund

Patrick Venturini

*

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N.B. Appendix overleaf.

APPENDIX

OVERVIEW

of

EUROPEAN ORGANISED CIVIL SOCIETY

N.B: As the European organisations of social partners and the socio-occupational organisations involved in the sectoral social dialogue are not the subject of the opinion of which this appendix is part, these organisations are not covered in this overview.

The purpose of this overview is to illustrate the diversity of European organised civil society and the ways in which it is arranged and structured. It does not aim to cover every sector of European organised civil society.

Fight against poverty and social exclusion: ATD Fourth World, the European Federation of National Organisations working with the Homeless (FEANTSA), the European Anti Poverty Network (EAPN), the European Social Action Network (ESAN).

Fight against discrimination/Integration of persons with disabilities and of minorities: the European Disability Forum (EDF), the European Blind Union (EBU), Autism-Europe, the European Association of Persons with Intellectual Disability and their Families (Inclusion Europe), the European Network against Racism (ENAR).

Social services: the European Council for Voluntary Organisations (CEDAG), the European Liaison Committee for Social Housing (CECODHAS), the European Volunteer Centre (CEV), Caritas Europe, ETWelfare, SOLIDAR, the Red Cross Liaison Bureau, Eurodiaconia and the European Association of Service Providers for Persons with Disabilities (EASPD), among others.

Youth representation: the European Youth Forum, which currently comprises 93 member organisations. These are either national youth councils or international youth organisations.

Protection of consumer interests: the European Consumers' Organisation (BEUC), currently comprising 36 organisations from 25 countries.

Protection of women's rights: the European Women's Lobby (EWL), currently comprising more than 50 national and international women's organisations and corresponding networks.

Health insurance and social protection: the International Association of Mutual Benefit Societies (AIM).

Public health: the European Public Health Alliance (EPHA), which groups together some 60 or so national, European and international organisations working in the public health sector. More than 40 other organisations are associate members.

Representation of family interests: the Confederation of Family Organisations in the European Union (COFACE) with its 60 member organisations from the countries belonging to the European Union.

Environmental protection: the Green 10, together with the European Environmental Bureau (EEB), Birdlife International, Climate Action network Europe (CAN Europe), Friends of the Earth, Greenpeace - European Unit, the World Wildlife Fund (WWF), the European Federation for Transport and Environment (T&E), International Friends of Nature (IFN), the European Public Health Alliance Environment Network and CEE Bankwatch.

Protection of Human Rights: the Contact Group on Human Rights, with Amnesty International, Human Rights Watch, Terre des Hommes, the World Organisation Against Torture, the International Federation for Human Rights, along with currently six other European and international organisations.

Cooperation on Development: the European NGO Confederation for Relief and Development (CONCORD) together with the national branches in, currently, 18 EU Member States, as well as 16 European and international organisations and networks such as, for example, SOLIDAR, European Solidarity Towards Equal Participation of People (EUROSTEP), International Cooperation for Development and Solidarity (CIDSE), the Association of World Council of Churches related Development Organisations in Europe (APRODEV).

Humanitarian aid: VOICE (Voluntary Organisations in Cooperation in Emergencies) with currently around 100 exclusively national organisations from 18 countries, including 15 EU Member States. These include, for example, Action contre la Faim, Handicap International and OXFAM.

Arts and Culture: the European Forum for the Arts and Heritage (EFAH) with around 70 European, national and regional organisations and institutions, and Europa Nostra, which is a pan-European federation with over 200 member organisations active at national, regional and local level.

Education: the Education and Civil Society Platform, including, the European Association for Education of Adults (EAEA), the European Vocational Training Association (EVTA), the European Forum of Technical and Vocational Training (EFVET), the European network promoting corporate social responsibility (CSR Europe) and SOLIDAR.

Communities of faith and conviction: the Commission of the Bishop's Conferences of the European Community (COMECE), the Representation of the Orthodox Church to the European Union, the Church and Society Commission of the Conference of European Churches (CEC), the Congress of European Rabbis, the Muslim Cooperation Council in Europe, the European Humanist Federation (EHF). Due to the specific nature and the obvious background of these associations, no overarching

structure with representative functions exists in this area. An attempt by these communities to organise, within the framework of the initiative entitled "A Soul for Europe", dialogue between them and with the European Union institutions has been abandoned by agreement after 12 years in autumn 2004.

Promotion and protection of citizens' rights: the Permanent Forum of Civil Society, European Citizen-Action-Service (ECAS), Active Citizenship Network (ACN).

Promotion of the European venture: the International European Movement with National Councils in nearly all European countries as well as about 25 trans-national organisations.

Social economy: the European Standing Conference of Cooperatives Mutual Societies, Associations and Foundations (CEP-CMAF), together with the European Council for Voluntary organisations (CEDAG), the Association of European Cooperative and Mutual Insurers (ACME), the International Association of Mutual Benefit Societies (AIM), the Coordinating Committee of European Cooperative Associations (CCACE) and the European Foundation Centre (EFC).

Some of these organisations and networks, which in many cases comprise a considerable number of national and trans-national networks and organisations, are in turn members of overarching platforms and forums. For example the European Women's Lobby and the European Youth Forum are members of, amongst other things, the European Platform of Social NGOs. In addition, the European Women's Lobby together with the European Platform of Social NGOs, CONCORD, the Green 10, the Contact Group on Human Rights, the European Forum for the Arts and Heritage (EFAH) and the European Public Health Alliance (EPHA) make up the Civil Society Contact Group, which was created in 2002. These combinations are an expression of the need to exchange information and experience, and to establish a consensus with one another in order to be able to act vis-à-vis the public and the bodies of the European Union with a stronger backing.



European Economic and Social Committee

AD HOC GROUP
Structured cooperation with
European civil society
organisations and networks

Brussels, 17 February 2004

FINAL REPORT

of the ad hoc group on

Structured cooperation with European civil society organisations and networks

—————
Rapporteur: **Mr Bloch-Lainé**
—————

CESE 1498/2003 fin FR/CD/ET/ht

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1. Introduction

1.1 Within the EU institutional framework, the European Economic and Social Committee is recognised as the body representing civil society organisations, providing a forum for consultation and information and an arena in which they can air their views.

1.2 Part I, Article 31(3) of the Draft Treaty establishing a Constitution for Europe states that:

"The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of others representative of civil society, notably in socio-economic, civic, professional and cultural areas."

1.3 Clearly, however, any consultative body, whatever its status, must, under its terms of reference as laid down in the appropriate texts and declarations, make sustained efforts to discharge its remit as best it can and improve its practical performance. Such an approach is vital to its usefulness and influence.

1.4 Here, as elsewhere, the Committee faces shortcomings that it has a duty and a responsibility to remedy – or at least mitigate. EESC membership does not fully reflect the diversity and ongoing development of "organised civil society". Committee members are appointed by the Council on a proposal from Member State governments and represent national organisations only. At European level, however, many civil society players, networks, associations and, in particular, non-governmental organisations (NGOs) are emerging and operating effectively, but are not formally represented on the European Economic and Social Committee. Many of them have their own channels of direct information and communication with the European institutions. These include social dialogue in the case of employers' and workers' representatives, and the direct European NGO consultation procedures put in place by the Commission.

1.5 The EESC has of course already undertaken effective moves to establish relations with these players. Many useful links have been forged in a range of different ways – via hearings, conferences, seminars, meetings etc. There is no need to list them all out here. The most recent and most notable example of this desire for openness and interchange has been the regular information and consultation meetings with European civil society organisations and networks about the Convention proceedings, organised by the Committee in conjunction with the Convention itself. Meetings of this kind have undoubtedly served to demonstrate the EESC's desire to work harder and more effectively as a portal and listening post for organised civil society.

1.6 Thus, for more than three years, the Committee has repeatedly expressed its desire to strengthen cooperation with European civil society organisations¹ and has purposefully sought to take additional steps in that direction.

1.7 The Committee has been reinforced by the European Commission in particular which has undertaken to cooperate with the Committee to enable the latter to become “*an indispensable intermediary between the EU institutions and organised civil society*”². The cooperation protocol attached to this statement also states that:

“The Commission welcomes the moves by the Economic and Social Committee to involve organised civil society more closely so that, in the context of establishing new forms of governance, the Committee, in particular by developing a balanced approach which is in the general interest, can play its role fully and efficiently as intermediary between the EU institutions and organised civil society, (...)

1.8 Despite the evident the need to proceed with caution, European organised civil society is a potential source of knowledge, skills and experience which the Committee should be in a better position to harness. The Committee, for its part, could, on request, provide useful support to many European civil society organisations. In short, this means seeking, through consultation and practical action, to boost the overall effectiveness of initiatives undertaken by both sides.

1.9 Against this background, the Committee Bureau decided, on 25 February 2003, to set up an ad hoc group with the following remit:

“to explore arrangements and procedures for potential structured cooperation with European civil society organisations and networks, in line with the EESC president's work programme of 11 December 2002, the Bureau report of 16 October 2001 entitled The Economic and Social Committee and organised civil society (CES 1009/2001 fin) and the Committee opinion of 20 March 2002 on European governance (CES 357/2002).”

1.10 Chaired by **Ms Cassina**, the ad hoc group submitted an interim report to the Bureau meeting on 28 October 2003 in order to gather members' views on the guidelines and the two principal ways forward for practical action that were proposed. After debate, the Bureau authorised the ad hoc group to finalise its report on the basis of the following principal guidelines:

¹ See *inter alia* the Committee Bureau report adopted on 10 July 2001 on *The Economic and Social Committee and organised civil society* (CES 1009/2001 rev.) (see extract in Appendix I).

Also see Appendix II.

² See the joint statement by the president of the European Commission and the president of the European Economic and Social Committee of 24 September 2001 (CES 1235/2001 – 4th paragraph)

- recognition of the fact that there is a need for the EESC to take a further step in its cooperation with European civil society organisations and networks and;
- the marked preference for a contact group³ between the EESC and the European civil society organisations and networks rather than a consultative commission of European organised civil society, while noting that important issues regarding its remit and composition need to be clarified.

1.11 However, the debate also demonstrated the need to clarify possible ambiguities in the report, touching in particular on the competences of the sections, social dialogue and the role of social partner organisations.

1.12 This report is not intended to provide exhaustive details on the rules for setting up the ad hoc group or on its procedures, but rather to establish its basic principles and to specify its guidelines. These rules must be defined at a later stage, in agreement with the competent authorities of the EESC and with due respect for the Rules of Procedure and the structure of the Committee.

2. **The approach adopted**

2.1 *Opening remarks*

2.1.1 There can be no doubt that the problem of the ways and means of establishing structured organisation with European civil society organisations and networks touch on the very identity of the Committee itself. It is vital, therefore, to ward against two risks:

- on the one hand, the risk of keeping ambiguities alive and generating obfuscation and blurred thinking about the respective roles of the players involved – failing, in other words, in the need to identify who does what; and
- on the other hand, the risk of having peripheral concerns take priority over substantive considerations, giving too much importance to powers and prerogatives and expending more energy in defending vested interests than in identifying and building on intersectoral areas of cooperation.

2.2 *Lines of approach*

2.2.1 For the reasons given in the introduction to this paper, it is of course vital to further step up cooperation with European civil society organisations and networks:

³ This expression is used generically and without prejudice to the final appellation of this body.

- it is important to optimise the synergies between organised civil society players, while respecting the identity of each one. These synergies are not, however, set in stone. The Committee's task, therefore, is also to adapt itself consistently to their ongoing development;
- it is vital to give practical shape – in the form of specific undertakings – to the lines of approach to this issue set out in earlier opinions and reports and in the work programme which the president submitted to the plenary assembly on 11 December 2002. Anything else would undermine the Committee's image and credibility.

2.2.2 Moreover, any significant progress towards increased and better structured cooperation with European civil society organisations and networks will grant organisations of civil society greater strength and visibility vis-à-vis Member States, EU institutions and public opinion, and the Committee added value and greater visibility in the accomplishment of its role and work.

2.2.3 It is essential, however, to be very clear about the Committee's motivation in this field and the objectives that it has in mind:

- the Committee is not out to "soft-soap" anyone. The intention is not to win over or curry favour with any civil society organisation that might have doubts as to the Committee's true representative nature;
- nor of course is it about the EESC proclaiming itself the sole voice of organised civil society or of trying to make the Committee a "filter" between civil society organisations and the other EU institutions.

2.2.4 It is vital, therefore, to respect the division of roles between the various players and, not least, to take full account of the Draft Treaty establishing a Constitution for Europe drawn up by the European Convention:

- on the one hand, Part I, Article 47 deals specifically with the social partners and autonomous social dialogue. It is thus important to remember the marked distinction between dialogue with civil society organisations, and social dialogue which has clearly defined players, powers and procedures;
- on the other hand, Part I, Article 46 (2) establishes, in principle, open, transparent and regular dialogue between the EU institutions and representative civil society associations

2.2.5 Care must be taken, moreover, to ensure that the mechanism put in place does not curtail the Committee's autonomy in forming opinions or curb its freedom to take decisions. In the words of the EESC president in his work programme: "*It goes without saying that it will be up to the members of the Committee ultimately to decide on the form and content of the opinions*" to be adopted by the EESC even when outside players have an input through dialogue and consultation.

2.2.6 The question of representativeness obviously requires serious consideration. For that reason, the Committee has decided to draw up an own-initiative opinion on the representativeness of European civil society organisations in civil dialogue. This issue must not, however, prevent any headway at all being made. A common-sense approach to the issue obviously includes a degree of prudence, but also requires openness and pragmatism.

3. Option chosen

3.1 The option chosen aims to establish a mechanism – more pragmatic than institutional but nonetheless permanent – to act, not as a joint think tank, but as a **liaison body** and **forum for political dialogue**.

3.1.1 The proposed title for this contact group is the “*Liaison group with European organisations and networks*”.

3.2 The contact group's remit would be to ensure that the EESC has a coordinated approach vis-à-vis European civil society organisations and networks and the follow-up of joint initiatives. It should also reinforce the visibility of the EESC's work as regards these organisations and networks.

3.3 *Tasks of the contact group*

More specifically, the contact group's remit would be to exchange views and information on:

- the respective priorities and work programmes, in particular with regard to the implementation of the EESC's semi-annual work programme⁴ and the respective work programmes of European civil society organisations and networks represented within the contact group;
- any other important topic of mutual concern.

It could also be instrumental in joint or cooperative initiatives or events on horizontal topics.

⁴ On the basis of the semi-annual document concerning the principal activities of the Committee in the context of the successive presidencies of the Council of the European Union.

3.4 *Composition of the contact group*

3.4.1 This body might have a fixed membership made up as follows:

- from the **EESC**: a fixed **ten-member** delegation: the president; the three group presidents and the six section presidents;
- from **European organisations and networks**: the idea would be secure as broad a representation as possible of the various sectors of organised civil society based on existing networks (the economy and the world of work, development issues, education and culture, human rights, charity work etc.) These representatives – of which there should, in principle, be **no more than around twenty** – would be appointed by coordination bodies selected by the organisations in question.

3.4.2 The Committee will consider these representatives to be authorised to speak and make commitments on behalf of the organisations and networks represented by them in the contact group.

3.5 *Working methods*

The agendas would be agreed jointly by the EESC president and a spokesperson for the European civil society organisations and networks represented within the contact group and appointed by them. They will also chair meetings jointly.

Meetings could be held three or four times a year, or more if considered useful or appropriate.

This arrangement would be put in place on an experimental basis for a period of, say, two years. After that, an assessment would be made of the group's relevance and its possible avenues for development, without pre-empting what these might be.

4. **Additional comments**

4.1 It should be emphasised that it is and will remain the primary responsibility of the sections to ensure an effective participation by European civil society organisations and networks in EESC activities, and, as a key priority, to integrate them fully and effectively in the Committee's opinion-drafting process. This is intended to widen the basis for consensus which is the foundation of EESC opinions in order to increase the added value of the EESC's role as consultative body and improve its working relationship with the other institutions.

4.1.1 Therefore, drawing more frequently on experts from European civil society organisations when drafting opinions would be advisable.

4.2 This contact group must be established in complete compliance with the Committee's tripartite structure. As already stressed in the Bureau's report of 10 July 2001, "*This three group formula is a distinctive and vital feature of the Committee, besides being a major asset in facilitating the organisation of internal structured dialogue between a wide variety of collective players anchored in the socio-economic fabric*"⁵.

4.3 We could further increase the value of this asset by taking full advantage of the special relationships that the three groups have with the European organisations with which they have a common interest. These relationships should be reinforced still further and the synergies increased, in the general interest of the EESC.

4.4 In this context, establishing a contact group is also intended to reinforce the EESC in its initiatives vis-à-vis European organised civil society, to increase the synergies which are vital to increase the effectiveness of the Committee's work, as part of a global, coherent and coordinated approach, and to ensure that these initiatives are transparent and visible.

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N.B.: Appendix overleaf

⁵ CES 1009/2001 rev, item II-2

APPENDIX I

ECONOMIC AND SOCIAL COMMITTEE AND ORGANISED CIVIL SOCIETY (extract from the Bureau's report of 10 July 2001 – CES 1009/2001 rev.)

II. Developing relations between the committee and civil society organisations not directly represented within its forum

In accordance with the decisions of the Bureau at its meeting on 19 December 2000, the ad hoc group on "organised civil society" also has a remit to define instruments allowing the ESC to play its full role as institutional intermediary of organised civil society vis-à-vis the European institutions, as well as to consolidate and affirm the ESC's role as a "meeting place for organised civil society" and an "essential link" between the European Union and organised civil society. In response to expectations (for instance, in terms of mutual information, communication and consultation) on the part of civil society organisations which are not directly represented within the Committee, the latter's tripartite structure (employers, employees and various interests), as laid down in Article 257 of the Treaty, should be respected.

This three group formula is a distinctive and vital feature of the Committee, besides being a major asset in facilitating the organisation of internal structured dialogue between a wide variety of collective players anchored in the socio-economic fabric. Hence the Committee is not merely a collection or accumulation of individuals.

The groups and the relationships they form in their work to produce opinions make it possible to express and compare viewpoints reflecting the pluralist interests of a broad swathe of society.

More specifically, the measures to be taken should help:

- ensure that the Committee can play its full role as catalyst and institutional intermediary on horizontal issues for the Member States' civil society organisations in their relations with the EU institutions and consolidate its position as the main channel of communication and information for these organisations;*
- ensure in future, in particular at the internal co-ordination level, a coherent and co-ordinated overall approach for all Committee actions vis-à-vis civil society organisations not represented at the Committee;*
- foster synergies with civil society organisations not represented at the Committee;*

- *ensure that Committee actions vis-à-vis organised civil society are transparent, and*
- *guarantee the requisite visibility of these actions.*

To do this, the ESC must:

- *step up and amplify the actions it has undertaken in recent years as a link between the Community institutions and organised civil society both inside and outside the European Union; and*
- *on the basis of the following proposals, implement new activities and equip itself with instruments enabling it to capitalise on the gains from Nice, consolidate its role as a link between the European Union and organised civil society and as a permanent and structured forum for dialogue and cooperation at Community level.*

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APPENDIX II

REFERENCE DOCUMENTS

EESC opinions (extracts)

“The Committee is the right forum in which to further broaden civil dialogue, and it should therefore make appropriate arrangements as soon as possible for this dialogue also to be conducted with those civil society organisations that are not currently represented in the Committee. This would be a crucial contribution to developing the model of participatory democracy.”

“The role and contribution of civil society organisations in the building of Europe”, 23 September 1999 (CES 851/1999 – paragraph 12.1)

“The Committee is fully aware that it is not able to influence the appointment of its members. In accordance with the principle of subsidiarity, this is the responsibility of the Member States. For this reason, one of the Committee's priorities is to find means of involving more representatives of Community-level civil society organisations in its work and in the implementation of concrete initiatives as part of an ongoing process. The tripartite structure of the Economic and Social Committee will have to be respected in this context.

As a follow-up to the first convention on civil society organised at European level (October 1999) and bearing in mind the comments made in the preceding paragraphs, the Committee has set itself two priority goals here, namely (i) to establish bases for cooperation with organisations representing civil society at European level which wish to cooperate and (ii) to serve as a bridge between civil society organisations - both within the EU and in the candidate countries - and the Community institutions.

At the first civil society convention, the Committee was strongly encouraged, especially by the Commission, to embark on this path. Also welcomed were the initiatives which the Committee had already taken and which it intended to pursue further with a view to assisting the institution-building process in the candidate countries

In the light of the above and the hopes raised by the convention, the Committee declares that it is willing to consider setting up an organisational structure for carrying out the appropriate work and, in particular, to consider the possibility of establishing within its midst a civil dialogue observatory, to serve as a forum for discussion and interaction. European NGOs, in particular, would be involved in the work of this observatory.”

“The Commission and non-governmental organisations: building a stronger partnership”, 13 July 2000 (CES 811/2000 – paragraph 6.4 to 6.4.3)

“The ESC recognises the need for it, in common with other European institutions, to adapt to the challenges which Europe is now facing. It is aware that this will require changes within the Committee as well as a reorientation of its relationships with the other institutions. The Committee recently adopted an opinion which mooted the possible establishment, within the ESC, of a ‘Civil society observatory’ to introduce initiatives for developing the civil dialogue and enhancing the Committee’s role as a forum for developing the participation of organised Civil Society representatives in the democratic process.”

“Strategic objectives 2000-2005”, 19 October 2000 (CES 1198/2000 – paragraph 3.1.10)

“(…) the Committee reiterates its readiness to meet the challenges of the new governance concept and to make its contribution to institutional reform. Thus on 19 December 2000 its Bureau decided to lay down operational measures that would help the Committee to be an even more effective representative of and institutional broker for organised civil society in its dealings with the organisations concerned and the Community institutions. (...)

The Committee believes that a medium-term strategy should be drawn up in cooperation with the institutions and European bodies representing organised civil society.

The Committee is convinced that the following specific initiatives would accelerate the developments desired by all interested parties:

1. ***“Forum for civil society”***: *this is the Committee's unofficial title for the platform it wishes to set up to provide ongoing support for open dialogue and exchanges of opinion and experience between civil society organisations, whether or not they are represented on the Committee. The Committee would very much like to see the European bodies send their representatives regularly to these meetings.”*

“Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper”, 26 April 2001 (CES 535/2001 – paragraph 6.2)

“The Committee is willing to develop, in cooperation with the Commission, its role as a forum for dialogue and consultation. The EESC will increase its efforts to implement the arrangements included

in the Protocol for Cooperation signed with the Commission and will strive to create similar mechanisms of closer cooperation also with the Council and the European Parliament.”

“European Governance - a White Paper”, 21 March 2002 (CES 357/2002 – paragraph 6.9)



European Economic and Social Committee

REX/097

**Civil society/development
policy**

Brussels, 16 July 2003

OPINION

of the European Economic and Social Committee

on the

Role of civil society in European development policy

REX/097 - CESE 933/2003 EN/o

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EN

On 17 January 2002 the European Economic and Social Committee, acting under the second paragraph of Rule 29 of its Rules of Procedure, decided to draw up an opinion on the

Role of civil society in European development policy.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 June 2003. The rapporteur was **Ms Florio**.

At its 401st plenary session of 16 and 17 July 2003 (meeting of 16 July), the European Economic and Social Committee adopted the following opinion by 63 votes in favour and 4 abstentions.

1. Introduction

1.1 This opinion is intended as a contribution to the debate on the role of civil society in international relations and, more particularly, in the European Union's development policy, which has grown in importance over recent years. This has been brought into particularly sharp focus by recent world events such as the war in Iraq, and by the fundamental role the European Union should play in the region in reconstruction and establishing a genuinely democratic society.

1.2 Against this backdrop, civil society's increasing interest in development policy and the international scene has been matched by a growing recognition on the part of international organisations that non-state actors (NSAs) are key actors in framing programmes and development policies.

1.3 An awareness of growing economic interdependence and the recognition that international balances are constructed on the glaringly obvious North-South divide have prompted wide sectors of civil society – the NSAs – to take a closer interest in all development-related issues, and to seek to take a more active part in the debate on social, economic and cultural inequality. This process of engagement, which began back in the 1980s, gathered pace in the following decade, when the changing global political scene and the demise of the bipolar world order removed a number of obstacles to broader expression and participation on the part of non-institutional players.

2. The European Union's development policies: legal bases and evolution of guiding principles

2.1 The European Union's development policy is rooted in the 1957 Treaty of Rome. The Community Member States undertook to maintain bonds of solidarity with "the colonies and overseas territories" and to contribute to their development. In the 1960s, when most of these territories won their independence, their relations with the Community were governed by the Yaoundé Conventions (1963, 1969). Only in the 1970s, and in particular after the United Kingdom's accession, did

development policy begin to grow in complexity: these years were marked by the Lomé Convention and new links with a number of countries in North Africa, Asia and Latin America.

2.2 In 1993, the Maastricht Treaty on European Union, and more particularly its Articles 177 to 181, established a specific legal basis for European development policy. The Treaty defines its objectives as being: the sustainable economic and social development of the developing countries, the smooth and gradual integration of the developing countries into the world economy, and the campaign against poverty. The Treaty also emphasises the principles of freedom, democracy, and respect for human rights and fundamental freedoms. Further progress in the affirmation of human rights was marked by the Treaty of Amsterdam (1999) and the European Charter of Fundamental Rights agreed in Nice (2000).

2.3 The European Union and its Member States currently provide 55% of official aid to the developing countries, which gives some idea of the potential significance of the Union's policies and their impact in favour of genuinely fair and sustainable development. The main objective is to combat poverty, starting from the principle of human and social development which is fair, sustainable, and **participatory**.

2.4 The European Union is consequently emerging on the international scene as an active player in disseminating development policies based on an awareness of different cultures and geared to building up partnerships with third countries, treating them as full equals in spite of the difference in levels of development.

2.5 The Cotonou Agreement, signed in June 2000, marks a turning point in the EU's policies in this area. The agreement makes clear the link between social dialogue, civil dialogue, development aid and trade support. For the first time, the dialogue between institutions and NSAs is a legally-binding obligation, with the state and civil society assuming a mutually supporting role which should help to boost the impact of development programmes.

2.6 The background to the Cotonou Agreement is one of an overall shift in EU development policy. The Joint Declaration on EU development policy adopted back in November 2000 by the Council and the Commission urged the most wide-ranging participation of all segments of society in order to create the conditions for greater equity and for the strengthening of the democratic system in the developing countries; in 2001, the White Paper on European Governance (COM(2001) 428 final) underlined the importance of civil society and of the dialogue with governmental and non-governmental actors of third countries in defining policies with an international dimension.

3. **The new participatory approach in development policy**

3.1 EU development policy is thus moving towards a participatory approach which acknowledges civil society as a new actor in international relations, at least where development

policies are concerned. It embraces all local social players and, most importantly, promotes their involvement in the various stages of drafting and implementing national strategy documents. As part of this new vision, civil society should not only benefit from being more actively embedded within the decision-making processes, but should itself take on a larger part of the responsibility for the development process as a whole.

3.2 The political dimension of development has therefore been recognised, an area in which the equal contribution of the public and private sectors, economic and social actors and civil society – who should all be brought into the process – is essential. Only close cooperation between these social players can provide any guarantee of coherent development policies and maximise the impact of development aid.

3.3 Participation and dialogue with NSAs also generate considerable added value. Given that the concept of development is no longer seen in purely economic terms, but also includes a political and social dimension, involving civil society is an essential contributing factor in setting up or consolidating democratic systems. It also plays a significant part in conflict prevention and resolution. The Commission's Communication on linking relief, rehabilitation and development (COM(2001) 153 final) marked a step in this direction, arguing that closer coordination between all the relevant actors, including civil society groups as well as NGOs and international organisations, is crucial in responding effectively to crises.

3.4 More recently, the Conclusions of the 5th regional seminar of ACP economic and social interest groups, held in Yaoundé from 21 to 23 May 2003, also emphasised the key role of civil society in preventing conflicts and social tensions, given the large number of coups d'état and civil wars that persist in developing countries.

4. Towards implementation of the participatory approach

4.1 The Commission's Communication on the participation of non-state actors in EC development policy (COM(2002) 598 final) illustrates how the EU is striving to put the participatory approach into practice in development policy. Overall, considerable efforts and energy have been expended to this end, but full introduction of the approach still seems some way off. This is in part due to the fact that rules and procedures – where they exist – are sometimes not clearly formulated, as well as to the evident difficulties inherent in any thorough-going reform.

4.2 Formal involvement of civil society at all stages in the formulation and implementation of development policy exists only in the Cotonou Agreement. Under the agreement, NSAs must be informed and consulted about cooperation policies; have access to resources in order to support local development; be involved in the implementation of projects and programmes in areas or sectors that concern them; and be provided with capacity-building support. In this regard, it would be helpful for NSAs to be brought into the preparation of national development strategies. Numerous

speakers at the ACP civil society forum organised by the EESC in December 2002 described a serious lack of information and involvement, specifically in cooperation programmes.

4.3 The Barcelona Process is of key importance in this regard. Under the process, the Euro-Mediterranean Partnership (Euro-Med) was launched in November 1995 with the aim of:

- establishing a common area of peace and stability;
- creating an area of shared prosperity;
- developing human resources, and promoting understanding between cultures and exchanges between civil societies.

The programme has received funding (especially from MEDA sources) and is operational in many fields.

4.4 Other agreements, programmes or dedicated funds, however, make no provision for compulsory consultation or involvement of third country NSAs, although in practice the Commission has consulted with various elements of civil society on a more or less informal basis.

4.5 There are a number of examples of this: human rights NGOs from the EU countries were consulted in the programming phase of the European Initiative for Democracy and Human Rights, although only after the programming document had been adopted were field missions undertaken and contact made with local NGOs; turning to humanitarian assistance, while ECHO does not directly finance third country NSAs, it views them as local partners essential to identifying local needs; similarly, the European Union has established an institutional dialogue with Latin America through the Rio Group and, at subregional level, through the San José Group and Mexico, the Mercosur countries and the Andean Community; the most recent regulation governing the ALA programmes has accepted various NSAs into the sphere of humanitarian cooperation and, most importantly, has recommended that relations between ALA and EU partners – NSAs in particular – be stepped up.

4.6 It thus emerges from the Commission's communication that a relatively large amount of attention is paid to civil society in granting funds to carry out projects, but that it is not yet involved in policy-formation. Third country NSAs are basically seen as partners or indirect recipients of funds, but not as bearing any active responsibility for shaping development policy.

4.7 In 2001, the Commission initiated a process of "deconcentration" of programming to its delegations, transferring resources and responsibilities to them with a view, precisely, to introducing a more participatory approach.

4.8 The Commission is currently attempting to implement a range of initiatives to achieve real participation of NSAs, in part through enhanced capacity-building support for them. As far back as 1976, the Commission established budget line B7-6000 to encourage the participation of

European civil society in the dialogue with the Commission on development policy, and this was augmented in 1992 with budget line B7-6002, specifically intended to strengthen capacity and mobilise decentralised actors in the developing countries.

5. Obstacles and problems

5.1 As has already been seen, the Commission generally expects NSAs to be brought into all the stages of the development process, from the formulation of national development policy to the preparation of national response strategies, as well as into the political dialogue, once the areas of intervention have been determined and, lastly, into implementation and review processes.

5.2 Strategy for the effective introduction of a participatory approach, however, runs up against a number of obstacles:

- there is still a noticeably high level of resistance on the part of most third country governments to dialogue with NSAs: even where such provision is made, there is virtually no real possibility for NSAs to take part in defining development programmes and strategies;
- the highly centralised administration of such countries constitutes a further obstacle which, because it does not encourage participation by actors who are not already at the centre, tends to marginalise local elements, especially in the least accessible – and often poorest – rural areas;
- there is a clear lack of specific rules and standards governing real participation by NSAs;
- civil society organisation in third countries is often of only the most rudimentary kind, and the main problem is frequently how to boost the capacity of the actors who are to participate in the process;
- a further problem is that of access to funding, closely tied in with that of dissemination of, and access to, information. Third country NSAs complain that there is often a total lack of any system for disseminating information;
- the established procedures for granting funding are in general excessively costly and complex, as the NSAs themselves frequently point out.

6. Role of the European Economic and Social Committee

6.1 Against the backdrop described above, the European Economic and Social Committee assumes a key role as an intermediary and supporter of organised civil society, as clearly established in the Treaty of Rome in 1957 and recently emphasised by the Treaty of Nice.

6.2 As a consequence of the relevant provisions of the Treaty of Nice, in 2001 a protocol was signed between the Committee and the European Commission. Its purpose is to strengthen links between the two institutions, recognising the Committee as an essential forum for dialogue between the European institutions and civil society. Article 14 of the protocol promotes this active intermediary role of involving organised civil society, also in third countries.

6.3 It should however be pointed out that the Committee has long been working in this direction. There has been a wide range of activities geared to launching and sustaining dialogue with the various components of third country civil society, some of which have official European Union status, including regional seminars, summits of economic and social councils, study groups, follow-up committees, initiatives under the ACP civil society forum, the meetings and consultation between European and ACP economic and social operators (explicitly acknowledged by the Protocol to the Cotonou Agreement), the Euro-Med dialogue, the EU-India Round Table, and the framework for relations with the candidate countries and others on the Union's eastern borders.

7. Proposals and recommendations

7.1 The Committee welcomes the Commission's steps to fully implement a participatory approach, reflecting civil society's essential role in development processes, as both target and, above all, an active agent in such processes.

7.2 While welcoming the approach adopted by the Commission, the Committee hopes that a common agreement will be reached in the short to medium term defining the practical arrangements and instruments for the participation of NSAs, culminating in a regulatory system conferring full legitimacy on dialogue. The starting-point for this dialogue must be the definition of precise objectives, models and common values to be promoted.

7.3 A "roadmap" must be prepared on the basis of broader and clearer selection systems in order to facilitate dialogue with NSAs and their participation, taking account not only of long-standing structures at local level, but also of more recent structures provided they appear to offer added value in terms of greater independence from governments. This need was highlighted by delegates to the Yaoundé regional seminar, with a call for clear eligibility criteria to be drawn up at national and local level in order to bring in all civil society stakeholders without exception.

7.4 The process of decentralisation to the delegations, which the Commission has commenced and which should be complete in 2003, must include mechanisms for a real exchange with third country NSAs. The delegations should therefore become a key factor in, and themselves a forum for, dialogue between civil society, national governments and the EU institutions. By virtue of their greater awareness of local circumstances, they should help define ways of optimising the financial resources used, and should assist NSAs in the transparent application of European funds. The Conclusions of the Yaoundé regional seminar specifically ask that each Commission delegation appoint an official to deal with relations with NSAs, as is already the case in some delegations.

7.5 The Committee recognises the particularly important role of NSAs from the EU countries in capacity-building for third country NSAs, while trusting that they will not automatically take the place of local actors. The Committee is convinced that the role of European NSAs in transferring know-how and boosting the capacity of their third country counterparts, so that they can work more effectively in the field, should be enhanced. European NSAs, however, have the readiest access to funding, and the risk that they might come to substitute third country NSAs should be avoided. All measures which could avert the growth of such an imbalance should therefore be stepped up.

7.6 The Committee welcomes the Commission's approach to boosting the capacity of third country NSAs, as it points to general information targeting various sectors of civil society, and the establishment or reinforcement of networks, including the use of the new technologies, as essential means. The Committee however urges that the importance of specific training initiatives also be considered.

7.7 Regarding means of access to funding, third country NSAs complain that even where well-structured NGOs meeting all the requirements of representativeness, transparency and democracy exist, they experience severe difficulty in gaining access to financing.

7.8 The EESC therefore considers it important to establish a constant and comprehensive flow of information at grassroots level. If development programmes are to achieve practical results, much broader participation by representative civil society organisations is essential.

7.9 For this reason, the Committee hopes that the procedures for access to European funds will be made easier, while complying with the rules of democracy and transparency. In particular, it hopes that the costs of submitting the relevant applications will be reduced. The language employed in the official documents is often excessively technical, and the documentation required very costly.

7.10 Concerning the use of funds for development policies, the Committee hopes that anti-corruption measures will also be strengthened. This should be one of the key criteria for granting funds.

7.11 To ensure that the participatory approach is implemented in practice, it is also proposed that arrangements be introduced to monitor the real involvement, in qualitative and quantitative terms, of NSAs in procedures for defining and assessing development policies in those countries receiving European funds. It is important, in this connection, that the strategies adopted by the Committee regarding impact assessment be examined and reinforced. The NSAs meeting in Yaoundé specifically called for such scoreboard monitoring to be taken into account by the ACP-EU institutions, including the Council of Ministers, the Joint Parliamentary Assembly and the European Commission in their own assessments. NSA involvement in development processes does not, of

course, end with access to finance, indeed, it only begins to be meaningful where NSAs can secure an active political role.

7.12 For the same reason, the Committee is convinced that initiatives by NSAs, such as the forum of employers' associations or the trade union committees within the Euromed and EU-Mercosur frameworks, must be supported by the Commission not only in order to strengthen social actors and increase cooperation between them, but also to ensure they are effectively involved in the political dialogue and in negotiations on bilateral regional agreements.

7.13 The Committee would also point out that inconsistencies and contradictions between EU policies and those of the Member States often occur. The EU must therefore act to set equal framework criteria for all the Member States, in order to make such policies more effective.

7.14 The Committee is convinced that full implementation of the participatory approach must necessarily take account of the objective of equality between the sexes. It therefore stresses the importance of boosting the role of women in cooperation policies, affirming their rights within development processes. It calls for dedicated gender equality initiatives to be launched, for focused training to be available to women, and for pro-active measures to be energetically implemented to ensure that women's interest groups are fully involved in development policies.

7.15 As suggested in earlier opinions, it would also be helpful for the World Bank, the International Monetary Fund and the International Labour Organization to join with the other European institutions in helping to strengthen and promote the social partners and civil society organisations in the developing countries.

7.16 Furthermore, the Committee regrets that only a very small portion of the funds (some 20%) are channelled directly to NSAs in the developing countries, which clearly runs counter to the recent participation-based approach which has been chosen as the method for strengthening development policies.

Brussels, 16 July 2003.

The President
of the European Economic and Social Committee

The Secretary-General
of the European Economic and Social Committee

Roger Briesch

Patrick Venturini

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N.B. Appendix overleaf.

RELEVANT OPINIONS BY THE EESC

CES 596/1997

Development aid, good governance and the role of the socio-economic interest groups

Official Journal C 287 of 22.9.1997, p. 44

CES 66/1999

World Trade Organization (WTO)

Official Journal C 101 of 12.4.1999, p. 43

CES 459/1999

Relations between the European Union, Latin America and the Caribbean: socio-economic interregional dialogue

Official Journal C 169 of 16.6.1999, p. 49

CES 561/1999

Debt relief in the combating of poverty in LDCs

Official Journal C 209 of 22.7.1999, pp. 48-52

CES 370/2000

Making sure that EC aid produces the best possible results

Official Journal C 140 of 18.5.2000, pp.55-59

CES 477/2000

Follow-up of the World Summit of Social Development

Official Journal C 168 of 16.6.2000, pp.34-42

CES 1191/2000

Integrating environment and sustainable development into economic and development cooperation policy

(COM(2000) 264 final)

Official Journal C 014 of 16.1.2001, pp.87-91

CES 478/2000

Follow-up to the Fourth World Conference on Women

Official Journal C 168 of 16.6.2000, pp. 42-47

CES 326/2001

Coping with globalisation - the only option for the most vulnerable

CES 932/2001

European Union negotiations with MERCOSUR and Chile: economic and social aspects

Official Journal C 260 of 17.9.2001, pp. 67-78

CES 1332/2001

Euro-Mediterranean partnership – review and prospects five years on

Official Journal C 036 of 8.2.2002, pp. 117-126

CES 726/2001

The preparation of a European Union strategy for sustainable development

Official Journal C 221 of 7.8.2001, pp. 169-177

CES 1494/2001

A sustainable Europe for a Better World

Official Journal C 048 of 21.2.2002, pp. 112-121

CES 692/2002

Communication from the Commission – Towards a global partnership for sustainable development

Official Journal C 221 of 17.9.2002, pp. 87-96

CES 521/2002

ACP-EU Partnership Agreement

Official Journal C 149 of 21.6.2002, pp. 38-45

CES 195/2002

Relations between the European Union and the countries of Latin America and the Caribbean

Official Journal C 094 of 18.4.2002, pp. 43-50

RESOLUTION
addressed to the European Convention

At its 393rd plenary session on 18-19 September 2002 (meeting of 19 September) the European Economic and Social Committee adopted this resolution by 167 votes to four with six abstentions.

1. Preamble

1.1 *At European level the Committee is the institutional forum for consulting, representing, informing and expressing the views of organised civil society, thereby allowing the representatives of Member States' economic, social and civic organisations to be an integral part of the policy-forming and decision-making process at Community level.*

1.2 *The Committee's special relations with Member States' economic and social councils or similar bodies, and with organised civil society in the third countries and geographical groupings with which the European Union maintains structured relations enhance the added value and legitimacy of its action in favour of a politically more accessible, more transparent and more participatory Europe. The close relations which the EESC has established with civil society organisations not represented in its midst also help boost this added value and legitimacy. The Committee intends to strengthen these relations.*

1.3 *In this resolution the Committee has decided to limit its comments to certain key considerations and standpoints vis-à-vis the debate on the future of Europe. It reserves the right to give its views at a later date on certain more specific matters dealt with by the European Convention.*

2. The European model of society

2.1 The EESC expects the Convention to redefine the European Union's constitutional foundations. This new definition will (i) be marked by a balance between cultural diversity and political unity and (ii) allow the European model of society to develop while at the same time fostering socio-cultural identities.

2.2 The work of the Convention concerns the very essence of the European identity and the European venture, and the values on which this venture is based, and is not concerned solely with "competences" and the distribution of powers.

2.3 As an expression of adherence to common values, culture is a basic element in the European identity. The Committee calls for the future constitutional Treaty to interpret the concept of culture in such a way that EU policy in this sphere helps to build a genuine community of values while at the same time guaranteeing the blossoming of national and regional cultures.

2.4 The Committee reiterates its support for the development of European Union citizenship.

2.5 This makes it necessary to define an institutional architecture that is endowed with a strong democratic legitimacy within which:

- (i) the powers and responsibilities of the institutions are defined more clearly and

(ii) the socio-cultural variety offered by European countries and the solid and continuous advances made by economic and social cohesion form the basic elements of a participatory European identity which is shared by all.

2.6 The Charter of Fundamental Rights constitutes in this respect an ethical, social and political commitment and is a key factor in creating this common identity. It reflects recognition of a community of rights and duties which all citizens endorse and embrace. The Committee calls for the Charter's incorporation in the constitutional Treaty.

2.7 The Committee thinks that the Union must assume a greater share of responsibility at international level and speak with one voice. It urges (i) that the Union be given the institutions which would enable it to conduct a genuine common foreign policy based in particular on the ideals of peace, democracy, solidarity and economic well-being, and (ii) that it support the development of civil societies in the partner countries and ensure their effective involvement in its cooperation programmes by providing for appropriate arrangements, as it has already done, at the suggestion of the EESC, in the Cotonou agreements and in the context of Mediterranean cooperation.

2.8 The EESC brings enhanced added value to the Union's action in the external relations sphere thanks to the structured dialogue it is continually developing with representatives of civil society in the applicant countries and with the partner countries of the Mediterranean, Africa, the Caribbean and the Pacific, Latin America, Russia and Asia.

2.9 The Committee thinks that the Union's competences with regard to justice and home affairs must be strengthened in order to respond to the public's concerns about combating crime in all its manifestations.

2.10 It is essential for the Union to be given the instruments needed to implement effectively a common immigration and asylum policy based on solidarity.

2.11 Policies for integrating immigrants need to be improved. The Committee calls on the Convention to examine the possibility of granting Union citizenship to third country nationals with long-term resident status.

3. Participatory democracy, civil dialogue and social dialogue

3.1 The Committee advocates that representative democracy be strengthened by developing participatory processes which allow civil society organisations to be involved at an early stage in the process of framing policy and preparing decisions and in implementing these decisions. By ensuring the participation of those directly concerned, civil dialogue is a key factor in enhancing the European Union's democratic legitimacy.

3.2 Without prejudice to its structure and competences, the EESC has a key part to play in organising the civil dialogue and is its natural focus.

3.3 In this regard, a clear distinction should be made between (i) dialogue with and between civil society organisations, and (ii) social dialogue. The European social dialogue is a mechanism with quasi-legislative powers. It is clearly defined in terms of participants, powers and procedures.

3.4 The participation and specific responsibilities of the social partners must be developed within the framework of moves to reinforce the European social dialogue.

3.5 The call for civil dialogue rests on the principles of democracy and subsidiarity. The subsidiarity principle not only concerns the distribution of powers between the various territorial levels, but is also the expression of a participatory conception of relations between public authorities and society and of the freedoms and responsibilities of citizens. When deciding who is to be involved in the preparation of decisions, account should thus be taken not only of territorial (vertical) subsidiarity but also functional (horizontal) subsidiarity, which is a major factor in good governance.

3.6 Both the social dialogue and the practice of co-regulation and self-regulation, which reflect a sharing of responsibilities between the institutions and interested parties, are part of this good European governance.

4. Economic and social governance

4.1 The EESC calls for economic policies to be coordinated in such a way as to make the most of the Union's potential for growth and employment, for the reinstatement of the Commission's right of proposal and mandatory consultation of the Committee in the procedure for drawing up the economic policy guidelines, for a better mix of macro-economic and structural policy instruments, and for a sustained dialogue between the various players involved in macro-economic policy, the social partners in particular.

4.2 The Committee calls for full employment to be mentioned explicitly in the constitutional Treaty as one of the objectives of the Union and for the relevant articles of this Treaty to state more clearly that economic and monetary policy must contribute to the attainment of the objective of growth and full employment.

4.3 The Committee calls for the Union to adopt the instruments necessary for making a success of the Lisbon strategy aimed at making Europe the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion.

4.4 The Committee also stresses that the success of the Lisbon strategy must be supported by the implementation of the Gothenburg Council conclusions, thus incorporating all the essential principles for the achievement of sustainable development.

4.5 The Committee also calls for:

- i) a strengthening of economic and social cohesion policy and the unification of procedures and arrangements in order to improve their efficiency and ensure that civil society organisations are involved effectively;
- ii) support for innovation and entrepreneurship in all its diversity in accordance with the lines of action defined in the European Charter for Small Enterprises in particular;
- iii) the insertion in the constitutional Treaty of a specific reference to the provision of services of general interest as being one of the areas that the Union, in close cooperation with the Member States, must develop in order to attain its objectives, and a provision ensuring that priority is given to the general interest goals pursued by the services concerned;
- iv) stronger instruments to combat financial fraud in cooperation with the Member States.

4.6 The Committee considers that, without prejudice to the Union's legislative powers, the open method of coordination constitutes an important instrument for furthering economic and social cohesion provided that the social partners and other relevant civil society players play an effective part. The Committee calls for a legal basis in the constitutional Treaty for this method - in the monitoring of which it intends to be involved.

4.7 With regard to the financing of Community policies, it is necessary to ensure that over the long term EU revenues are sufficient to finance commitments. The Committee urges that a new system of financing be introduced. Consideration should be given to boosting the Union's own resources.

4.8 The Committee calls for a lasting reform of the policy-forming and decision-making processes at Union level, based on the principles of solidarity, transparency, coherence, subsidiarity, proportionality and openness.

4.9 The simplification of legislative processes and of Community legislation itself is an urgent necessity and a prerequisite for enlargement; it will give economic and social players and the general public a better understanding of Community policies and the European integration process. In this context the EESC calls for the European institutions to adopt codes of conduct for simplifying the regulatory process, and the need to enhance the impact assessments which should accompany all draft regulations by including an examination of possible alternatives.

4.10 The Committee thinks that greater support should be given to co-regulation by combining a Community framework with input from the parties concerned in pursuit of greater flexibility and efficiency.

4.11 The Committee also requests that the constitutional Treaty give it the chance to fulfil its role even better by being systematically consulted upstream of the legislative process and in particular by receiving more requests from the other institutions for exploratory opinions.

4.12 As the Union extends the network of consultations to enhance the quality of democratic governance, the EESC considers it can act as a bridge between the Commission and organised civil society, as illustrated by the success of the recent Stakeholders' Forum on Sustainable Development in September 2002.

4.13 Finally, the EESC considers that it would be strengthened in its role if it were granted the status of institution in the new constitutional Treaty.

5. Conclusions

5.1 The Committee reiterates its belief that every effort must be made, at all levels, to involve European citizens fully in framing a blueprint for an enlarged Europe so as to give this project genuine substance. In the face of the European public's persistent concerns about a lack of transparency and involvement in the European integration process, it is vital that the Convention's work generate a vision of the future of Europe which encourages Europeans to support and identify more closely with this process.

5.2 The EESC reaffirms its willingness to continue to play in full its role in the European Convention and, in accordance with the resolution which it adopted on this subject¹, to contribute in particular to involving organised civil society as widely as possible in the debate on the future of Europe.

¹ Resolution on the future of Europe of 17 September 2001 – CES 1033/2001 fin

Sub-Committee
European Governance
(White Paper)

Brussels, 20 March 2002

OPINION
of the
Economic and Social Committee
on
European Governance - a White Paper
(COM(2001) 428 final)

On 30 July 2001, the Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on

European Governance – a White Paper
(COM(2001) 428 final).

At its plenary session on 12 and 13 September 2001, the Committee decided, under Rules 11(4) and 19(1) of its Rules of Procedure, to set up a sub-committee to prepare a draft opinion on the matter.

The sub-committee drew up its draft opinion on 12 March 2002. The rapporteur was **Ms Engelen-Kefer and the co-rapporteur Ms Pari**.

At its 389th plenary session (meeting of 20 March 2002), the Committee adopted the following opinion by 75 votes with four abstentions:

1. **Shaping the future of Europe with improved modes of governance: two reform processes – one objective**

1.1 In the framework of a wide and structured debate, the European Commission submitted its White Paper on European Governance on 25 July 2001. It thus set in motion one of the major reforms announced by Commission President **Romano Prodi** at the beginning of 2000. The thorough overhaul of the shape of the EU and the simplification and improvement of the European institutions' policymaking and working methods – on the basis of the present Treaty – are the aims of this reform in order to make the European Union more efficient, better understood, and to bring it closer to its citizens in a more open, coherent, transparent and responsible way.

1.2 At present the two reform processes – the debate on the European Union's future and the debate on governance – are moving forward in parallel. The European summit held in Laeken on 14-15 December 2001 fixed the composition of, and agenda for, the Convention, which is preparing the next intergovernmental conference. In setting up this Convention, the heads of state and government have given a major boost to the further development of democracy in Europe as for the first time citizens and their representatives will participate in the decision-making on the future shape of the European system of government, in the spirit of a more open and participative governance. The European Economic and Social Committee, the European social partners and the Committee of the Regions have observer status in the Convention. This is in accordance with the Committee's role as the institutionalised representative of organised civil society.

1.3 The European Economic and Social Committee welcomes the White Paper. It urges the Commission to implement the necessary reforms for good governance identified in the White Paper as this offers the chance to show the public that quick action is being taken to correct deficiencies in policy development and delivery and to better involve people in its work.

1.4 Furthermore, there is **an urgency for reforms in view of the next enlargement** - the magnitude of which has no precedent in the EU's history – and of the deepening of the European Union. Valuable time would be lost if the Commission and the other institutions were not to improve their working structures and methods before the next intergovernmental conference in 2004.

1.5 The European Economic and Social Committee actively pursues the issues of European governance, according to the Nice Treaty, as the institutionalised¹ representative of organised civil society. It does so under the double perspective of establishing new synergies between the institutions of the European Union and developing its role as a fundamental intermediary between the EU institutions and organised civil society. In that context, The EESC welcomes the Protocol between the Committee and the Commission of 24 September governing arrangements for cooperation in the spirit of a better European governance.

1.6 Over the past three years the Committee has organised debates² and has issued a number of opinions³ focusing more specifically on the way to ensure an effective participation of organised civil society. In previous opinions, the Committee has made a number of concrete proposals in this area. It is regrettable that several of these proposals have not been taken into account in the Commission White Paper.

1.7 In this opinion on the White Paper, the Committee will concentrate on the issues that concern it most and where it can bring added value. It focuses around three axes: the reasons and principles of better governance, the proposals for better involvement of civil society and for better regulation, and finally the role of the EESC.

¹ Article 257 of the EC Treaty “ The Committee shall consist of representatives of the various economic and social components of organised civil society, and in particular representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations, consumers and the general interest”.

² For examples:

- *Social economy and the single market* – 12 October 1999
- *First Convention of civil society organised at European level* – 15 and 16 October 1999
- *Choosing our future : shaping the 6th EU Environment Action programme – Views from civil society* – 7 March 2001
- *The Euro : can we anticipate all reactions ?* – 14 May 2001
- *Shaping the strategy for a sustainable European Union : views from civil society and public authorities* – 26 and 27 April 2001
- *Conference on the role of organised civil society in European governance* – 8 and 9 November 2001

³ See for instance:

- *"The role and contribution of civil society organisations in the building of Europe"* - OJ C 329 of 17 November 1999
- *"The 2000 Intergovernmental Conference – The role of the European economic and Social Committee* – OJ C 117 of 26 April 2000
- *"The Commission and non-governmental organisations : building a stronger partnership"* – OJ C 268 of 19 September 2000
- *"Strategic objectives 2000-2005"* – OJ C 14 of 16 January 2001
- *"Organised civil society and European governance : the Committee's contribution to the White paper"* – OJ C 193 of 10 July 2001.

2. Why reform European Governance?

2.1 The European Union has certainly made enormous strides yet many Europeans feel remote from its work for all the reasons very rightly mentioned in the White Paper – wrong perceptions, bad communication, inadequate involvement, and poor knowledge

2.2 Deficits in the EU's political objectives and measures have also been responsible for people's scepticism. The EU should avoid creating too high expectations, which it is not able to meet, thus generating mistrust and harming its credibility. A European identity will not emerge unless the common values shared by its citizens are translated into effective Community policies and tangible benefits across-the-board. The euro provides a clear illustration of the above argument. It is interesting to note how enthusiastically citizens embraced the new currency and participated actively in its successful introduction.

2.3 Europeans wish for a Europe that is secure, stable, with a social profile, a sound economic performance, which respects the environment, creating healthy living and working conditions and which ensures that basic goods and services are available to all members of society at a fair price. These comprehensive objectives, which also include respect for the Member States' cultures, must be recognised as common values, defined – and, if need be, extended – and pursued as such. Only then will it be possible for Europe's citizens to recognise the benefit of a common European identity and declare their support for it. The Committee will step up its efforts – especially in the light of enlargement and globalisation – to make the general public more aware of the importance of the European Union as a community of values.

2.4 Furthermore, the language used by the EU does not contribute to the understanding of the Union's work. The Committee would suggest that further publications of the Commission and Community legislation should be written in a more comprehensible language.

3. Principles of governance in the European Union

3.1 The Committee fully supports the five principles of good governance proposed by the Commission – openness, participation, accountability, effectiveness and coherence - as well as the analysis made. It is important that these principles are implemented in an efficient and responsible way. However, the Committee would stress that the White Paper's definition is not complete. Accountability means not only making clear the roles and responsibilities, but also to clarify to whom and in which way a person or body is accountable.

3.2 In addition to the five principles mentioned, the Committee would like to underline **subsidiarity as the basic and the most important principle of good governance**. It would like to reiterate that subsidiarity is not merely a principle of administrative technique and distribution of powers but the expression of a certain conception of the individual, its freedom, its responsibilities and the society it lives in. Society would work better if citizens had the feeling that the decisions

concerning them are taken at the most appropriate level. The appropriate level is not only determined by territorial criteria (European, national, regional and local) but also by functional criteria according to specific expertise (public authorities, economic community, social partners and other civil society organisations). When deciding who is to be involved in decision-making “**functional (horizontal) subsidiarity**” must be taken into account alongside “**territorial (vertical) subsidiarity**”, which both in their own right guarantee greater responsiveness to people’s concerns and greater efficiency. These two levels of subsidiarity should function in tandem complementing each other. The Economic and Social Committee forms an interface between territorial and functional subsidiarity, thus adding value to better European governance.

4. Proposals for change

4.1 Transparency and communication

4.1.1 The Committee welcomes the White Paper's proposal that measures be taken to make the working methods of the European institutions more transparent and better communicated. The more open policymaking is at EU level, the easier it will be for the general public and political stakeholders in the Member States to help shape and deliver Community objectives and measures and to understand them in their entirety and assess them fairly. The Committee naturally welcomes all efforts by the Commission and other European Institutions **to make every stage in policy-making and delivery clear and understandable.**

4.1.2 The Committee would like to point out that both the European Commission and the European Parliament have taken this principle on board to a large extent. Both institutions are fully willing to engage in transparent and constructive cooperation. However, the Council's lack of transparency gives cause for concern.

4.1.3 The Committee for its part has taken measures to make its working process more transparent and will develop even further its communications not only at European level but also at the level of Member States and candidate countries. The Committee will do so in collaboration with the Commission as indicated in their Protocol for cooperation.

4.1.4 **Accurate information, openness and proper communication** of European policies are not the task of the European institutions alone. Both political and civil society stakeholders in the Member States must also be involved. Therefore the Committee strongly supports the White Paper's request to the Member States to make an effort to promote the exchange of information and views between the European and the national, regional and local authorities and the organisations of the civil society. Here again members of the EESC can help to promote understanding in their own countries at different levels for EU matters in which they are involved.

4.1.5 This will require the use of all modern information media and the development of communication channels within the framework of an interactive dialogue with civil society and their organisations. As to the means of communication, it has to be taken into account that the use of new

information technologies differs from one Member State to another. The White Paper contains a number of proposals on this matter which have the Committee's support and which should be implemented urgently.

4.1.6 In informing citizens, the Committee would like to stress the **importance of education, which has not be taken into account by the White Paper**. Both formal (e.g. schools, universities and vocational training centres) and non-formal (e.g. civil society organisations, the workplace or trade unions) educational institutions have particularly important tasks to perform in this context. The use of participatory educational methods and organisations of informal learning is of great value. There is a need to educate all citizens, from children to adults, on the basic, elementary facts of the EU - why it exists, who are the members, how it takes decisions, which subjects are the responsibility of the European Union and which are not, how the Member States participate in the decisions. This will help European citizens not only in better understanding but also in being able to better judge the information they get.

4.2 Involvement of civil society

4.2.1 Grassroots involvement in all stages of policymaking is one of the main concerns of the White Paper. This influence is to be exercised, according to the White Paper, via civil society organisations acting within the framework of "structured consultation procedures". The Committee strongly supports this plan.

4.2.2 The White Paper lists a number of organisations, which occupy a "special place" within civil society. It emphasises the important role played worldwide by NGOs in development policy, but omits to mention organisations active in the fields of environment, social and consumer protection, human rights and culture in the widest sense. In the Committee's view, this seemingly arbitrary and incomplete list of a few civil society organisations does not reflect reality. It is all the more urgent to define the civil dialogue, the qualitative and quantitative criteria for representativeness and to make a clear distinction between "civil dialogue" and "social dialogue". The Committee is disappointed to note that the White Paper has not taken into account its previous proposal on the subject.

4.2.3 Concerning the **criteria of representativeness** for the selection of organisations to take part in the civil dialogue, they should be defined in order to ensure transparency and a democratic selection procedure. In the White Paper, the Commission decided not to propose criteria as was suggested by the Committee in its opinion of 25 April 2001.

4.2.4 In that opinion, the Committee identifies eight criteria, to which it would now like to add a further criterion on transparency. In order to be eligible, a European organisation must:

- exist permanently at Community level;
- provide direct access to its members' expertise and hence rapid and constructive consultation;
- represent general concerns that tally with the interests of European society;

- comprise bodies that are recognised at Member State level as representative of particular interests;
- have member organisations in most of the EU Member States;
- provide for accountability to its members;
- have authority to represent and act at European level;
- be independent and mandatory, not bound by instructions from outside bodies;
- be transparent especially financially and in its decision-making structures.

4.2.5 The Committee proposes again to discuss these criteria with the institutions and civil society organisations as a basis for future cooperation.

4.2.6 The Committee attaches great importance to the fact that the special role of the social partners within the framework of organised civil society is made crystal-clear. It therefore welcomes the White Paper's express reference to this special role and the special influence of the social partners. The task of the social partners within the framework of the Social Dialogue is an excellent example of the effective implementation of the governance principle at European level. The European Social Dialogue is a mechanism with quasi-legislative powers according to articles 137 and 138 of the Treaty. It is clearly defined in terms of participants, powers and procedures and has quasi-constitutional status⁴. It derives its distinctiveness from the special powers and responsibilities of its participants playing their role in an autonomous way. For this reason, their role and responsibilities cannot be transferred to other policy areas or actors. Hence the Committee's repeated reminder⁵ that it is vital to make a **clear distinction between "Social Dialogue" and "Civil Dialogue"**.

4.2.7 In this context, the Committee thinks that it is of fundamental importance to make it clear that the EESC is not the forum for Social Dialogue. It is in no way the task of the Committee to provide an alternative to the social partners. The Committee as the institutionalised representative of organised civil society derives its legitimacy from the fact that all its members, by virtue of their expertise, have been instructed by representative organisations from the Member States to play a constructive part in the European opinion-forming process in general. The Committee's added value is that opinion-forming within its four walls involves all civil society players, including those organisations which are not social partners.

4.2.8 However, because of its composition and the representative role which it is empowered to play under the Treaty of Nice, the Committee is very much predestined to play a key role in the definition and structuring of the **civil dialogue**. The Committee has been campaigning for years for a public democratic discourse at European level between the representatives of organised civil society and has – as an initial contribution to the discussion – described the essential features of this civil dialogue⁶. The Committee considers the establishment of such a **civil dialogue to be an**

⁴ Art. 137 and 138 TEC.

⁵ See footnote 3.

⁶ Quote opinion CES 811/2000, point 5.13.

essential instrument for applying the governance principles (openness, participation, accountability, effectiveness, coherence). In addition, the civil dialogue would, as a result of its principle of providing a public arena, make a vital contribution towards enhancing transparency and creating a European public arena as a sine qua non for a European identity.

4.2.9 The Committee would also point out that the White Paper presumes that European civil society is homogeneous, despite this not being the case even within the different Member States. The situation will get even more complicated with the future enlargement. The role of Member States in appointing EESC members, therefore, is crucial to ensuring that their particular interests and their model of society are adequately represented in order to have a representative and balanced body of the economic and social components of organised civil society in Europe.

4.2.10 The Committee supports the Commission's proposal to set up an on-line database with details of civil society organisations in order to increase openness and structure their dialogue with the institutions.

4.2.11 Even though civil society is to have a considerably greater say in future in the influencing of Community policies, it is clear that responsibility for drawing up legislation must remain with the official institutions, in the framework of representative democracy. The legislative and regulatory authorities have the ultimate responsibility for reconciling the general interest with the special interests of the various civil society organisations and ensuring that this balance is preserved.

4.2.12 In the context of increasing modes and fora for consultation, **clear rules and principles are needed to ensure proper coordination and to increase the coherence of EU consultation policy.** This will be even more important in the context of the future enlargement. To that end, the Committee, in the interest of transparency, efficiency and accountability, insists that the Commission fulfils its promise to publish the list of the 700 ad hoc consultation bodies and fully supports the intention of the Commission to **rationalise the existing consultative system** based on the above bodies mentioned.

4.2.13 Furthermore, the Committee welcomes the proposal of the Commission to adopt a **code of conduct with minimum standards for consultation.** The principle of transparency should be extended also to the consultation process: the outcome of consultations should be made public. It also supports the intention of the Commission to make the expert advice taken available to the public.

4.2.14 When **consulting on-line**, the problem of representativeness and of the weight the opinions expressed should carry in the decision making process is even more acute. The Committee believes the criteria of a representative organisation should be equally applied and the conditions of transparency respected.

4.3 Better policies, regulation and delivery

4.3.1 The Committee supports the proposals of the White Paper to **simplify and speed up the European legislative process**, as Community rules are increasingly complex and sometimes tend to add to existing national regulations rather than actually simplifying and harmonising them.

4.3.2 On the other hand, the White Paper has overlooked the contradiction between greater involvement of players - including civil society - at all levels and the desire for faster and more effective policymaking. More democracy requires more time. Faster legislation could involve risks. A balance should be struck between appropriate consultation and efficiency of legislation.

4.3.3 The Committee is disappointed by the White Paper's insufficient regard for the opinions which it has delivered in several stages since October 2000 on simplifying single market legislation⁷. At the Commission's request, the Committee has also prepared an exploratory opinion⁸ on the subject as an input to the preparation of the "Action Plan for Better Regulation" announced in the White Paper. The Committee supports a **well-structured programme for simplification**, with clear priorities, concrete timetables and means of monitoring and control. This programme should rely on a code of conduct for EU institutions. To date only the European Economic and Social Committee has adopted such a simplification code of conduct.

4.3.4 Concerning the ways to improve regulation and combine the different policy instruments the Committee believes that the necessity of EU legislation should be assessed on a case-by-case basis, based on the principles of proportionality and subsidiarity. Regulation should only be used if there is no a better alternative. The main stakeholders affected by the measure should be consulted when the appropriate model is assessed.

4.3.5 A **systematic and independent impact and cost-benefit analysis** is necessary prior to any proposal of legislation. The Commission has been carrying out impact studies for the last fifteen years, but their effectiveness remains limited as there is no guarantee that they are prepared independently, they do not include possible alternatives to the adoption of legislative acts, and often they remain internal while they should be systematically made public together with the relevant draft piece of legislation.

4.3.6 In addition to the analysis prior to any new legislative measure and when amending an existing one, an **impact analysis should be carried out on the final amended legislative act**. Often the final result, as decided by the legislators, is very different from the Commission's initial proposal, sometimes ending up with complicated, over-rigid and costly legislation.

⁷ Opinion of the Economic and Social Committee on *simplifying rules in the single market* – own-initiative opinion, Brussels, 19 October 2000 (OJ C 14 of 16 January 2001), and opinion of the Economic and Social Committee on *simplification* (additional opinion) – Single Market Observatory, Brussels, 29 November 2001 (OJ C 48 of 21 February 2002).

⁸ Opinion on the Communication from the Commission – simplifying and improving the regulatory environment (COM(2001) 726 final) CES 364/2002 of 21 March 2002

4.3.7 The Committee welcomes the suggestions in the White Paper concerning the increased use of **alternative regulatory instruments to legislation**. Nonetheless, the White Paper focuses mainly on co-regulation as one of the leading approaches to future regulation. The Committee advocates that all alternatives to legislative action be assessed on an equal footing and based on objective criteria of their pros and cons. A given model should not be granted greater attention unless it is the most suitable response to the policy issue concerned, to the expertise and fora available, and to the stakeholders represented.

4.3.8 The Committee wants to highlight the usefulness of instruments like self-regulation or voluntary agreements, which have proved to be effective mechanisms providing assessment, decisions and implementation. However, self-regulation should never impinge neither on fundamental rights nor on the basic principles underlying the building of the European Union.

4.3.9 The European Economic and Social Committee welcomes a greater use of the **open method of coordination**. This method though must not be confused with the legislative procedure and it should be made very clear that it is used in the areas where the primary responsibility rests with the Member States. Member States will rely upon commonly agreed policies implemented through national actions plans, peer reviews, exchange of best practice, benchmarking etc. This method is already being used in the area of social exclusion, employment, immigration and asylum policy as well as social security. The method, whilst fully respecting subsidiarity, means a new balance between legislative and non-legislative measures. The Committee warns, however, against any inflationary use of it and the risk of creating overlapping procedures and excessive bureaucracy.

4.3.10 The Committee also notes that the open method of coordination should be used on a case by case basis and the instruments – common guidelines, national action plans, exchange of best practices – should vary according to the particularities of the issue treated and the objectives set. However, the Committee believes that essential for the successful use of the tool is public and systematic evaluation of the progress made in the Member States.

4.3.11 **The Committee must also adapt its working methods to this new institutional development and play a more important role in it.** The work to be done in relation to the Council of Ministers and the European Council must be upgraded. The Committee must be given more opportunities to be heard on documents presented to the European Council and should be invited to informal Council meetings, in the framework of its competences.

4.3.12 The Committee would like to strike a note of prudence in the proliferation of **autonomous European regulatory agencies**. Before setting up a new agency, it should be proved that it would bring a clear added value and would not increase red tape and unjustified costs. These agencies should not add an extra layer to existing administrative structures but should become integrated into networks of expertise, exploiting the synergies between regional, national and European bodies. Furthermore, the organisation and activities of these agencies should be carefully supervised as important policies risk being shaped by them without being subject to democratic control and hence not repairing the “democratic deficit”.

5. Role of the European Economic and Social Committee in better involving citizens

5.1 Each institution has a role to play in ensuring that Europe's citizens are really involved in the European construction. The European Economic and Social Committee, as confirmed by the Nice Treaty, is the formal consultative body composed of representatives of the economic and social elements of organised civil society. It has a key role to play in the framing of Community legislation and is an essential link between Europe and organised civil society in the Member States as it provides for a permanent and structured forum for dialogue and consultation.

5.2 The Committee would like to emphasise three characterising elements that bring real added value to a better governance of Europe:

- Firstly, the Committee is used to working in a process that **promotes consensus** and aims at **finding the common interest within the different interests of civil society organisations represented in it**, even when these sometimes conflict initially. It is a fact that each organisation involved in the consultation process has the tendency to refer to its particular interests as a general interest. The Committee opinions, based on a “bottom-up” method of working, reflect a synthesis of views and a consensus that can help the Commission, the European Parliament and the Council in their task of ensuring the general interest whilst preparing and adopting their legislative acts.
- Secondly, the appointment of EESC members by the Member States selected for their experience and knowledge in a wide variety of relevant fields, guarantees that they have not only adequate expertise but also a strong knowledge of what is happening in their countries. This means that they are able to **provide well-founded, practical and balanced opinions** and estimate whether Community measures are acceptable in their countries.
- Thirdly, EESC members are able also to **promote understanding** for these measures in their countries and in an interactive dialogue explain to the members of the organisations they represent the relevance of the EU to their everyday lives, thus facilitating the necessary acceptance.

5.3 The Committee is the forum where civil dialogue is put on an official footing. It is willing to develop, with the cooperation of the Commission⁹, its role as a **forum for dialogue and consultation**, as this is an efficient way of involving in its work those parts of organised civil society that are not currently represented by its members. The Committee already does so by organising public events and hearings as mentioned in the previous opinion.

⁹ As mentioned in the Protocol.

5.4 The EESC, as a practical contribution to European governance, will pursue better synergies between European Institutions. It will:

- increase its efforts to implement the arrangements decided under the Protocol for cooperation with the European Commission;
- aim at creating similar mechanisms for closer cooperation with the Council, as indicated by the Spanish Minister for European Affairs during in his intervention at the Committee's Plenary Session on 17 January 2002;
- actively pursue the development of its relations with the European Parliament in accordance with the Action Plan for EESC/EP relations which the Committee's Bureau, adopted in October 2001¹⁰, and the European Parliament's resolution on European governance of 29 November 2001¹¹.

6. Summary

6.1 The European Economic and Social Committee welcomes the White Paper on European governance. It urges the Commission to implement in due course the reforms for good governance necessary to strengthen European citizens' confidence in the European project, as well as to prepare for the future enlargement and deepening of the European Union.

6.2 The EESC as the institutionalised representative of organised civil society actively pursues the issues of European governance. Over the past three years, it has organised debates and has issued several opinions making a number of concrete proposals in the area. Disappointingly, a great number of these have not been taken into account in the Commission White Paper.

6.3 The EESC fully supports the five principles of good governance proposed by the Commission. In addition to these principles, the Committee would like to underline subsidiarity – both functional (horizontal) and territorial (vertical) - as the basic and the most important principle of good governance. The Committee forms an interface between territorial and functional subsidiarity, thus adding value to better European governance.

6.4 The Committee emphasises the need to make the working methods of the European Institutions, especially those of the Council, more transparent. The Institutions, together with the political and civil society stakeholders in the Member States, should offer accurate and extensive information on European policies. Here the EESC has a role to play. To do this efficiently, the use of modern communication channels and interactive dialogue are needed.

¹⁰ DI 149/2001

¹¹ Point 12 of that resolution states that the European Parliament "proposes, following on from suggestions made by the Commission and the Economic and Social Committee, that an inter-institutional agreement on democratic consultation be concluded committing all three Institutions to commonly agreed consultation standards and practices at Union level."

6.5 The Committee would like to stress the importance of the thorough education of European citizens on the basic elements of the European construction by formal and non-formal educational institutes.

6.6 The Committee strongly supports the Commission's plan to involve civil society organisations in all stages of policy-making within "structured consultation procedures", and welcomes the proposal to adopt a code of conduct for consultation. However, there is an urgent need to make a clear distinction between "civil dialogue" and "social dialogue" and to establish criteria of representativeness for the selection of civil society organisations to take part in civil dialogue. To that end, the Committee re-iterates its proposal for criteria of representative organisation.

6.7 As to better regulation, the EESC supports the proposal of the White Paper to simplify European legislation. However, the White Paper does not come up with concrete proposals in this area and fails to take into account the different opinions delivered by the Committee on the simplification of single market legislation. In addition to simplification, the Committee calls for a systematic and independent impact analysis mechanism and objective assessment of alternative modes of legislation. It welcomes a greater use of the open method of coordination in the areas where the primary responsibility rests with the Member States. The Committee must adapt its working methods to this new institutional development and play an important role in it.

6.8 Concerning the value added by the EESC to European governance, the Committee would like to make the following points: the Committee offers a synthesis view of the opinions of European society to help the Institutions in their decision-making; the members of the EESC, nominated by the Member States, represent a pool of expertise of their respective fields and of their home country; the EESC members promote understanding of European policies in a two-way interactive dialogue both at European and national level.

6.9 The Committee is willing to develop, in cooperation with the Commission, its role as a forum for dialogue and consultation. The EESC will increase its efforts to implement the arrangements included in the Protocol for Cooperation signed with the Commission and will strive to create similar mechanisms of closer cooperation also with the Council and the European Parliament.

Brussels, 20 March 2002.

The President
of the
Economic and Social Committee

The Secretary-General
of the
Economic and Social Committee

Göke Frerichs

Patrick Venturini

Sub-committee on
Governance

Brussels, 25 April 2001

OPINION
of the
Economic and Social Committee
on
**Organised civil society and European governance:
the Committee's contribution to the drafting of the White Paper**

At its plenary session on 19 October 2000 the Economic and Social Committee, acting under Rule 23(3) of its Rules of Procedure, decided to draw up an own-initiative opinion on

Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper.

Under Rule 11(4) and Rule 19(1) of its Rules of Procedure the Committee decided to set up a Sub-committee to prepare the opinion in question.

The Sub-committee adopted its draft opinion on 4 April 2001. The rapporteur was **Mrs Sigmund** and the co-rapporteur was **Mr Rodríguez García Caro**.

At its 381st plenary session (meeting of 25 April 2001), the Economic and Social Committee adopted the following opinion by 84 votes, with two votes against and five abstentions.

1. Introduction

1.1 The process of European integration was launched over 50 years ago by Robert Schuman as a peace initiative. The initial focus was on economic measures to which a social component was added later. But European integration always had a political dimension. This requires the further development and if necessary introduction of new decision-making structures, especially in view of the adjustments required prior to EU enlargement. The Commission's response within the framework of its four strategic priorities for 2000-2005 has been to draw up a White Paper on "Governance" in the European Union. A working document¹ intended to structure a dynamic process of exchange which will be open and interactive was drawn up in preparation for this White Paper.

1.1.1 On 28 March the College of Commissioners discussed a document entitled "The possible approaches to European governance", which is to prepare the ground for the White Paper "For democratic European governance".

The Committee notes that this document clarifies and explains the issues addressed in the working document, which are now grouped under four broad approaches:

- understanding what Europe is all about;
- the challenge of participation and effectiveness;
- the tension between decentralisation and European unity;
- selectiveness, subsidiarity and proportionality.

1.2 This opinion represents an ESC contribution to the drafting of the Commission White Paper. The Committee has previously observed that one of the biggest challenges for European

¹ SEC(2000) 1547/7 final of 11/10/2000

governance is ensuring effective participation of organised civil society. It therefore focuses on this issue, which is a main theme of both the Commission working document and the current debate. The Committee believes that at this stage, when the focus is on fundamental and procedural questions, it can best contribute to the Commission initiative by providing analysis and proposals in this area. The final version of the White Paper should be adopted in July 2001, and the Committee also intends to deliver an opinion on that document.

1.2.1 The Committee is convinced that - as the representative of organised civil society² in the EU political and institutional system - its experience and working methods enable it to provide the work of the Commission with added value.

1.2.2 The Committee firmly believes that effective implementation of a new European concept for the way in which Europe is governed and administered must go hand in hand with appropriate institutional reform. It is therefore endeavouring in its own sphere to introduce the appropriate reforms in order to adapt its working arrangements to current requirements and make these more flexible. At the start of his term, the Committee's president identified eight priority objectives; a panel is currently reviewing the Rules of Procedure; an ad hoc group has drafted a strategic communication plan; and another ad hoc group is preparing specific proposals on how the Committee can best perform its role as the institution representing organised civil society at European level.

1.3 In anticipation of the launch of the debate about future EU governance, the Committee has over the past two years looked closely at the following issues in its opinions: "The role and contribution of civil society organisations in the building of Europe"³, "The 2000 Intergovernmental Conference - The role of the European Economic and Social Committee"⁴, "The Commission and non-governmental organisations: building a stronger partnership"⁵ and "Strategic objectives 2000-2005"⁶.

1.4 Concrete examples of how the Committee, as the institution representing organised civil society, is contributing to the reform of European governance are its proposals on simplifying rules in the single market⁷ and its simplification code of conduct.

2 See Article 257 TEC, as amended by the Nice Treaty: "An Economic and Social Committee is hereby established. It shall have advisory status. The Committee shall consist of representatives of the various economic and social components of organised civil society and, in particular, representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations, consumers and the general public."

3 OJ C 329 of 17/11/1999

4 OJ C 117 of 26/4/2000

5 OJ C 268 of 19/9/2000

6 OJ C 14 of 16/1/2001

7 OJ C 14 of 16/1/2001

2. General comments on the governance concept

2.1 Although the concept of governance is becoming well established in modern political parlance in all languages, it seems helpful to define the term more precisely. Calame and Talmant define governance as "the capacity of human societies to equip themselves with systems of representation, institutions, processes and intermediary bodies in order to manage themselves by intentional action. The capacity of conscience (the intentional action), of organisation (the institutions and intermediary bodies), of conceptualisation (the systems of representation) and of adaptation to new situations is a characteristic of human societies"⁸.

2.1.1 The Commission working document defines governance as encompassing "rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards accountability, clarity, transparency, coherence, efficiency and effectiveness".

2.1.2 In his speech of 18 September 2000 in Santander, **Commissioner Busquin** gave a neat definition: "Governance means public administration through the interaction of the traditional political authorities and "civil society": private stakeholders, public organisations, citizens"⁹.

2.2 The title of the working document, "Enhancing democracy in the European Union", describes both the means and the objective of the initiative, alluding only obliquely to the "**democratic deficit**" in European Union policy-making (an accusation frequently made).

2.2.1 The Committee does not wish in this opinion to address the issue of the "democratic deficit" that might result from an imbalance between the legislative and executive functions at Community level or from the difficulty of organising civil society participation in decision- and policy-making, an issue which will be dealt with below. However, it would stress that democracy always relates to a collective entity that regards itself as such¹⁰. Can such a collective identity be assumed to exist at European level? In the national context this role is played by the population, the "demos"; but in Europe we have to deal with the sum (or synthesis) of a number of identity criteria, which are together based on common values¹¹. A collective European identity could be created through communities based on interaction, experience and shared history. But the European Union is not an interaction-based community, it is hardly a historical community and only to a certain extent a

⁸ **Pierre Calame** and **André Talmant**, *"L'Etat au coeur, le Meccano de la gouvernance"*, Desclée de Brouwer, Paris 1997, p. 19. Taken from the Commission Forward Studies Unit, "Developing new modes of governance" (Working Paper 2000)

⁹ From SPEECH/00/313, "Science, Technology and Society in the 21st century"

¹⁰ Kielmannsegg in Jachtenfuchs/Kohler *"Europäische Integration"*, Leski and Budrich 1996, p. 54

¹¹ OJ C 329 of 17/11/1999, *"The role and contribution of civil society organisations in the building of Europe"*

community based on experience¹². Thus it would be more appropriate in this context to talk about lack of a common European awareness¹³.

2.2.2 European awareness will certainly be strengthened when Europeans in the 12 countries currently in the eurozone are connected with each other in their everyday lives by a single currency. Another very important instrument for developing a European identity would be a binding European Charter of Fundamental Rights, as noted in the Committee's opinion on that subject¹⁴.

2.2.3 The Committee wishes to stress that the distance between Europe's citizens and Brussels is not just a quantitative problem (distance), but above all a qualitative problem (experience), which must be addressed both by specific efforts to win people over and by providing specific opportunities for them to be involved. Information must not remain a one-way street, but must be improved to form a system of two-way communication in which people are no longer passive recipients of impenetrable facts. As long as people perceive decision-taking that affects them to be remote and unfathomable, it is understandable that their interest is constantly waning and sometimes turns to hostility. People must be given the opportunity to interact and participate in an appropriate way. This applies to measures both at European and at Member State level. In short, responsiveness to grassroots concerns must become a key feature of European policy. This also means constantly checking and clarifying that Community policies are coherent.

2.2.4 In this context the open coordination method used since the Lisbon Summit for implementing certain Community policies opens up interesting possibilities in terms of increasing the involvement of civil society organisations. For example, using this method for the programme to combat social exclusion would require the active participation both of the authorities in the Member States and of civil society organisations and other parties concerned, at local and European level. The Committee will monitor the new coordination method closely to ensure it genuinely involves civil society organisations in relevant policy areas.

3. Guidelines for reforming modes of European governance

3.1 It is a considerable challenge for the Commission's governance concept to strengthen and develop this European awareness and so make the activities and decisions of the European institutions more responsive to grassroots concerns. With well-coordinated and complementary measures, the governance concept could offer an appropriate way of involving Europe's citizens more closely in the joint task of building Europe through information, cooperation and participation and helping to make this European awareness develop from the grassroots level, starting with the people

¹² See footnote 10

¹³ *"Accroître l'efficacité et la légitimité de la gouvernance de l'Union européenne"* (Forward Studies Unit, CdP(99) 750)

¹⁴ OJ C 367 of 20/12/2000, p. 26, *"Towards an EU Charter of Fundamental Rights"*

themselves. The Committee is prepared to play a central role in realising this concept by acting as a bridge between Europe and its citizens.

3.2 Governance is accurately described as a governing and administrative culture that presupposes a consensus about certain terms, principles, rules and procedures. The Committee therefore feels it would be useful in the context of drawing up this opinion to look briefly at four key concepts which are invoked again and again in connection with new forms of governance.

3.3 **Legitimation:** legitimised action, or action that is authorised within a remit, always has several points of reference, that of the issuer of the remit, that of the remit itself and that of the aim of the remit. If the remit is to adopt legislation, then the electoral system, within the meaning of representative democracy, is surely the appropriate means of legitimisation¹⁵. However, where it is a question of influencing opinion-forming in a political process with specialist knowledge (representation of interests), appointment is an adequate basis for legitimisation. The Committee's members - by virtue of their appointment, their expertise and the fact that they are rooted in organised civil society in the Member States - are legitimised to exercise their right to participate in Europe's multi-tier system.

3.3.1 The "European democratic model" will contain many, but not only, elements of **participatory democracy**; it is designed as a model for cooperation and allows room to formulate new types of participation, while retaining many elements of **representative democracy**. This European political system is based on relatively recent structures and is thus, overall, more accessible than most Member States' systems. In this context, European governance must above all ensure effective representation of people's interests by giving their representatives a real say in matters. This is to be achieved by improving and, if necessary, transforming cooperation between the existing institutions at Community level in the interest of greater transparency, efficiency and accountability.

3.4 **Participation** means providing the opportunity to help shape an opinion-forming and decision-making process in accordance with democratic principles. This opportunity must already exist when the problem or the need to address it is identified. A basic precondition and legitimising basis for participation is adequate **representativeness** of those speaking for organised civil society. The Committee has addressed this question in the past¹⁶, and repeats its view that representativeness must be qualitative as well as quantitative. This is understood as meaning that representatives are able to participate effectively and constructively in the opinion-forming and decision-making process through the provision of appropriate organisational structures and expertise.

3.4.1 The Committee feels that, when consulting civil society organisations, the European institutions should check how representative these bodies are. The Commission has already addressed

¹⁵ Without prejudice to the tasks entrusted to the social partners in Articles 137 and 138, TEC.

¹⁶ OJ C 268 of 19/9/2000, "The Commission and non-governmental organisations: building a stronger partnership".

the question of criteria for representativeness¹⁷. This experience has shown that the criteria must also take into account differences between the Member States. Account should be taken of certain criteria when deciding whether an organisation can be recognised as entitled to participate at European level. The Committee proposes the following criteria for representativeness:

The organisation must:

- exist permanently at Community level;
- provide direct access to its members' expertise and hence rapid and constructive consultation;
- represent general concerns that tally with the interests of European society;
- comprise bodies that are recognised at Member State level as representative of particular interests;
- have member organisations in most of the EU Member States;
- provide for accountability to its members;
- have authority to represent and act at European level;
- be independent and mandatory, not bound by instructions from outside bodies.

3.5 **Consultation:** The Committee supports all initiatives that enable whoever is affected by a measure to express their views at the earliest possible stage. However, the working document does not mention the Commission's widely used practice of setting up committees, particularly advisory committees and groups of experts, whose number is steadily increasing¹⁸.

3.5.1 The setting-up of advisory committees and groups of experts must be considered in the light of the objective formulated by the Commission itself of improving **efficiency**, in the sense of "**institutional efficiency**", or the ability to fulfil the task in hand with reasonable resources, within a reasonable timeframe and with a reasonable cost-benefit ratio¹⁹. It is possible to assume, without exact figures being available, that there are some 600 such committees and groups, a fact which makes this objective seem all the more important.²⁰

17 Commission Communication: *"An open and structured dialogue between the Commission and special interest groups"* (SEC/92/2272 final)

"Communication concerning the application of the Agreement on social policy presented by the Commission to the Council and to the European Parliament" (COM(93) 600 final)

"Study of the representativeness of management and labour within sectoral European organizations - Open procedure" (OJ C 228 of 7/8/1996, pp. 24-25)

"Communication from the Commission on promoting the role of voluntary organisations and foundations in Europe" (COM(97) 241 final)

18 In 1987 already, Delbrück characterised this situation as "committee hypertrophy" - Wessels, *"Verwaltung im Mehrebenensystem"* in Jachtenfuchs/Kohler-Koch, Leske and Budrich 1996, p. 176

19 **Roland Bieber:** *"Die Demokratie und Entscheidungsfähigkeit in der EU"* in "Direkte Demokratie und EU"

20 *"Verwaltung im Mehrebenensystem"*, Wessel, in Jachtenfuchs/Kohler-Koch, Leske + Budrich 1996, p. 176

3.5.2 The Committee notes that however legitimate it may be to consult experts, the legitimacy of decision-making is not increased, even if this expertise helps to give decisions more technical validity. The Committee thus recognises the need for external expertise on certain Commission activities, but points out that in such instances major "policy shaping" takes place that is not subject to any control or legitimised participation. The Committee therefore proposes that the setting up of further committees should be reconsidered in the interests of transparency, efficiency and accountability, principles promoted by the Commission itself. In their present form such committees pose a problem in terms of efficient governance, transparency and legitimacy.

3.5.3 In its working document the Commission also says that more extensive consultations held earlier in the decision-making process should not make this process unwieldy or complicated. But in another part of the text it calls for consultation to extend down to the lowest - i.e. local - level, and even below the level of civil society organisations, i.e. to individual people. It remains to be seen whether the new information technology that it proposes as a means of achieving this will solve the problem and whether such an "electronic democracy" is really practicable.

3.6 In simplified terms, **subsidiarity** means that decisions should be taken at the level that is most appropriate for solving a problem. Subsidiarity is often equated with responsiveness to grassroots concerns. However, the concepts of a "decision-making level" and "responsiveness to grassroots concerns" encourage the mistaken assumption that subsidiarity is determined only by vertical - i.e. hierarchical and territorial - criteria. The basic idea here is to achieve efficiency through a particularly close understanding of problems; however, a close understanding of problems depends not just on territorial, but also on functional, criteria. When deciding who is to be involved in decision-making, this means that **functional subsidiarity**, as determined by specific expertise, must be taken into account as described in point 3.4. Functional and territorial subsidiarity are complementary concepts, and they each in their own right guarantee greater responsiveness to ordinary people's concerns and greater efficiency. The subsidiarity principle does not mean simply redistributing decision-making powers, but also - and perhaps principally - redistributing the responsibility shared by institutions and organised civil society players at every level. The idea of an interactive network that is inherent in the governance concept is also fully consistent with these two facets of subsidiarity.

4. **Role of the European Economic and Social Committee in European governance**

4.1 The Committee is both a forum for dialogue and the institutional platform that enables representatives of the Member States' economic, social and civic organisations to be an integral part of the Community decision-making process. Under the role assigned to it by the Treaties, and by virtue of its composition and the knowledge of its members, the Committee is a key player as the representative, centre of information and mouthpiece for organised civil society, and thus an essential bridge between Europe and its citizens, thereby complementing their political representation by the European Parliament and the representation of local and regional authorities by the Committee of the Regions.

4.1.1 Although its mandate is primarily to issue opinions, the Committee has gradually diversified its activities with the aim of helping to ensure effective involvement of organised civil society in opinion-forming and decision-making, and promoting a Europe that is closer to its citizens.

4.1.2 Once it has entered into effect, the Nice Treaty will confirm the Committee in its role as the Community institution representing the leading forces of organised civil society. This treaty will give the Committee further scope to really play its role as the link between Europe and organised civil society and as a permanent and structured forum for dialogue and consultation at Community level. It will thus become a vital part of European governance²¹.

4.2 On this basis the Committee reaffirms the need to involve civil society organisations more specifically and more fully in the political process. This applies - given the territorial and functional aspects of subsidiarity - both at the different territorial levels - (national, regional and local) and in the different sectors of civil society, as represented in the Committee. In this connection, the Committee will consider how its members can increase acceptance of the EU in the Member States through grassroots actions and with the support of their organisations.

4.3 **Committee opinions** are drawn up in a process that reflects civil society dialogue and is geared to achieving a consensus. The Committee's working methods provide for a "bottom-up" process where decisions are reached by involving a steadily widening circle of people. The vote in plenary session reflects a synthesis of views that may initially have been conflicting, based on the different interests of the civil society organisations represented in the Committee. Within this decision-making process the members are able to gather an optimum amount of information, which often means that their views change as a result of discussion. The added value of this process is that each Committee member can try to reach a consensus on the basis of his or her position and can gauge to what extent this position can also evolve. The Committee's opinions thus accurately reflect the views of organised civil society.

²¹ President's inaugural address, 29/11/2000

4.3.1 In the interests of the transparency that the Committee itself is calling for, it will consider whether and, if necessary, how it could record the different initial positions of its members.

4.3.2 The Committee sees its consultative role as more than just delivering opinions; it considers participation to extend from the point when a problem is identified to the stage immediately preceding the taking of the decision. This wider view of participation, which includes evaluation and monitoring, is particularly valid for specific problem areas (e.g. the single market, the euro, enlargement).

4.3.3 An example of this global approach is the recent evaluation of the new open coordination method introduced by the Lisbon Summit²². The Committee notes that this new method of coordination requires the participation of all organised civil society in implementing the strategy. It also points out that the applicant countries, especially the representatives of organised civil society, have to be involved in the process without delay.

4.3.4 The success of the Single Market Observatory (SMO), which was set up in 1994 at the request of the Community institutions in order to monitor the working of the single market and propose improvements if necessary, testifies to the added value provided by the Committee's activity in this sphere and to the benefits of developing such activities. With the aid of an interactive information network that collects data provided by "users" of the single market (PRISM: Progress Report on Initiatives in the Single Market), the SMO is able not just to identify obstacles to the completion of the single market, but also to spread good practice, facilitate information transmission and encourage cooperative arrangements²³.

4.4 **The Committee as a barometer of socio-political development:** The appointment of ESC members by the Member States guarantees that they have a strong connection - because of their work, too - with what is happening in their countries. This means that they will be able to estimate whether Community legislative measures are acceptable in their countries, but also to promote understanding for these measures in their countries and to explain to the general public the relevance of the EU to their everyday lives.

4.4.1 With a view to ensuring that legislative proposals meet people's needs, the Commission can draw on this fund of experience at a pre-drafting stage by asking for exploratory opinions. The Committee can also provide useful information whenever the EU's position on an international issue has to be broadly based, drawing on the views of civil society. In a quite general way, the Committee can serve as an early warning system for socio-political developments and make suggestions for useful measures at an early stage, before conflicts arise or threaten to become difficult.

²² CES 236/2001 of 28/2/2001: "*The mid-term review of the three processes that underpin the European Employment Strategy*".

²³ PRISM initiative (Progress Report on Initiatives in the Single Market) of the Single Market Observatory (www.esc.eu.int/omu_smo/prism).

4.5 Specifically, the Committee's work takes the form of:

- **referrals under the EC Treaty:** these opinions are generally issued too late, however, i.e. at a point when the Commission has already in many cases consulted interest groups and so completed an initial opinion-forming process. There is a causal link between the timing of the Commission's referral and the effectiveness of the Committee's work, i.e. the earlier the Commission consults the Committee, the more useful its work is for the Commission. Normally the Committee should already be consulted by the Commission at the stage when the need for action or legislation is first identified. The Committee could then make a useful contribution to analysing the problem and finding solutions, so that its work provides as much added value as possible for the Commission. However, it should also be consulted again later on in the decision-making process, for example when new positions are discussed and additional expertise seems to be called for under the co-decision procedure;
- **exploratory opinions:** the Committee carries out a forward analysis on behalf of an institution and formulates proposals on a given subject. The Commission has taken up the Committee's suggestion of consulting it at an early stage on two recent occasions; exploratory opinions on "Human rights in the workplace"²⁴ and "Towards an EU strategy for health and safety at the workplace" are currently in preparation;
- **own-initiative opinions:** these allow the Committee to address certain issues directly, without a referral, to speak on matters of general interest and give its views about topical and politically important issues.

4.5.1 The Committee is for ever widening the circle of those involved in its work beyond its members, which is also helping it to develop as a forum for dialogue and consultation:

- **public events:** by holding public events, the Committee helps to create an open forum in Europe for discussing key European issues with a broad range of civil society organisations (see "First European convention of organised civil society") and considering self-contained subject areas (e.g. the annual European Consumer Day on 15 March);
- **hearings:** these have become an increasingly popular instrument for the Committee. The aim is to enable as many civil society organisations as possible to participate in the drafting of opinions too (not only in Brussels, but also in the Member States), and to ensure that its work also reflects the views of those civil society organisations that are not represented by its members.

24 Adoption scheduled for July 2001

4.6 The ESC and EU external relations

One of the Committee's priorities is to promote the development of a pluralistic, participatory democratic model in the applicant countries and other geographical regions with which the EU maintains structured relations, and to establish appropriate mechanisms for consulting civil society in the countries and regions concerned²⁵.

4.6.1 In the context of enlargement the Committee feels that it is not enough for the applicant countries to adopt Community laws (the Community "acquis"), but that it is just as important for them to create structures that enable them to apply and monitor these laws (social "acquis"):

- The Committee supports the applicant countries' "institution building" through bilateral joint consultative committees²⁶ and is trying to promote the setting up of equivalent civil society structures to those existing in the Member States.
- It is involving organised civil society in the applicant countries more and more in its proceedings.

4.7 **The ESC as the forum for organised civil society:** At the "First European convention of organised civil society", held in October 1999, the Committee considered possible ways of involving in its communication process those parts of organised civil society that are not currently represented by its members. The first proposals were adopted in its opinion "The Commission and non-governmental organisations: building a stronger partnership"²⁷. An ad hoc group is currently drawing up proposals for practical implementation.

4.8 The Committee has tried to explain in several opinions and other statements that it is not the forum in which social dialogue takes place. Social dialogue has its own clear legal basis, enshrined in the Treaty²⁸, and represents a special, highly qualified form of governance based on the particular remit of the social partners (especially their ability to conclude binding agreements) and its own specific objectives. In addition, an embryonic public debate has begun to develop with the increased involvement of organised civil society, a debate that the Committee feels should be structured. This **civil dialogue** is also one form of governance, and the Committee feels that its aims, structures, procedures and participation criteria should be more closely examined and defined. An initial analysis containing proposed definitions can be found in its opinion "The Commission and

25 Cf. *Meeting of representatives of EU/Latin America/Caribbean civil society* (June 1999) and *EU-India Civil Society Round Table* (January 2001).

26 These currently exist for Poland, Hungary, Bulgaria and Romania, and one is soon to be set up for Slovakia.

27 OJ C 268 of 19/9/2000

28 Articles 137 and 138, TEC

non-governmental organisations: building a stronger partnership"²⁹. Accordingly, the Committee feels that civil dialogue should have the following features:

- in principle, all members of organised civil society (and therefore the social partners, too) should participate in the civil dialogue;
- the civil dialogue should not take the place of or compete with the social dialogue, but provide an adjunct;
- the civil dialogue can be conducted between the representatives of organised civil society alone or between them and a Community body or institution; it can cover horizontal or vertical issues and thus take the form of either a general or sectoral dialogue;
- the civil dialogue should be provided with the structures which it requires to operate; its remit should be mainly in the socio-economic sector, apart from those areas covered by the social dialogue³⁰, but should also embrace the environment, consumer matters, development, human rights, culture and all other questions which are important for civil society in all its component parts³¹;
- civil dialogue players should also be responsible for ensuring that non-EU countries and especially the applicant countries are familiarised with the organisational structures and forms of communication of organised civil society. These countries must also be helped to form or develop similar structures.

The Committee has also already done considerable groundwork on defining the civil society organisations that are to participate in civil dialogue³².

4.8.1 Civil dialogue could become the key instrument for participation in the European democratic model. Civil dialogue is based on public debate, which extends to legislative matters. However, it will be essential to bear in mind that **consultation and participation are two different forms of involvement that are governed by different conditions.**

4.9 **Annual conference:** The Committee supports the European Parliament decision of 10 December 1996³³ "to hold an annual debate in the form of a special part-session of Parliament,

29 OJ C 268 of 19/9/2000

30 i.e. matters relating to social negotiation under Articles 137 and 138 of the Treaty

31 One example of structured civil dialogue would be ESC participation in informal Council meetings in these areas.

32 OJ C 329 of 17/11/1999: *"The role and contribution of civil society organisations in the building of Europe"*

33 *"Resolution on participation of citizens and social players in the Union's institutional system"*, paragraph 11

attended by the Commission and the Council, on the general guidelines for economic policy, and that the debate should be preceded by a preparatory conference of the European Parliament with representatives of the Economic and Social Committee and the Committee of the Regions". This pragmatic approach to interinstitutional cooperation should be extended to other areas.

4.10 **The future of Europe:** The Commission's governance team was set up in summer last year and therefore had to base its work on the practical and legal situation prior to Nice. The outcome of the Nice summit has required that new discussions be held on technical issues but also on the decision about new decision-making structures in the run-up to the intergovernmental conference planned for 2004. The Committee does not think this makes the governance issue any less relevant: on the contrary, the Commission's work on governance is vital in paving the way and clearing the ground for future discussions about Europe's future.

4.10.1 There already seems to be a consensus that better instruments must be created to prepare for the next intergovernmental conference and also that the list of topics appearing in the declaration about the future of the Union is not exhaustive. The Commission and European Parliament have so far indicated that they would prefer to establish a structure along the lines of the Convention used for drawing up the EU Charter of Fundamental Rights

4.10.2 The Committee believes that organised civil society should be fully involved in the whole process of preparing the Intergovernmental Conference and that its involvement should not be limited to the public debate which, under the Declaration on the future of the Union annexed to the Treaty of Nice, must take place before the European Council in Laeken. Although it had the right to express its views to the Convention drawing up the European Charter of Fundamental Rights, the Committee believes that it could be a considerably more effective link in future between institutional dialogue and the broad public debate if, in accordance with its remit, it was a full part of the definitive structure.

5. **Enhancing the Committee's role in the context of new European governance**

5.1 Each institution has a role to play in ensuring that Europe's citizens are really involved in the European venture and can influence it, through the organisations that represent them. The Committee has already realised that it - like the other institutions - must adapt to the challenges facing the European Union. However, this also means, as observed above, that new synergies must be created between the Committee and the other institutions in the context of improving European governance.

5.2 In his address to the plenary session on 20 October 1999, the President of the European Commission, **Romano Prodi**, recognised this need for a new partnership between the Commission and the Committee. This partnership should be spelt out in the cooperation agreement currently being negotiated between the Committee and the Commission.

5.3 This agreement, which will lead to the establishment of a refurbished framework for cooperation, should promote the development of new forms of partnership and formalise those that already exist³⁴, so that the Committee can increase the added value of its activity.

5.4 The Committee proposes that similar agreements be concluded with the Council and the European Parliament, since this alone will enable it to effectively play its role in the new system of European governance, both in terms of its consultative tasks and as a forum for dialogue and consultation and a link with organised civil society.

5.5 In this context, the Committee urges the Commission, the Council and the European Parliament to consider the following proposals and guidelines:

- 1) **Referring to the Committee at the earliest possible stage:** the Committee has already indicated that consulting it at an early stage enhances the added value of its involvement in the opinion-forming and decision-making processes, and it therefore calls on the Commission, Council and Parliament to request more exploratory opinions, which must not be limited to future legislative measures, but could also be drafted prior to the preparation of, for example, green papers.
- 2) **Effectiveness of the Committee's consultative role:** to be as effective as possible, the Committee must not just be consulted at the earliest possible stage, but must also be involved throughout the whole decision-making process. The Committee not only feels it is necessary to have an overview of its proposals that are accepted, but also hopes that in future the Commission, Council and Parliament will provide reasons for not taking its proposals on board.
- 3) **Helping to fix specific requirements for cooperation between the European institutions and civil society organisations:** the Committee is offering, with the help of the institutions and civil society organisations, and on the basis of the proposal formulated in point 3.4 above, to draw up a list of criteria for representativeness which could serve as a precondition for such cooperation. It is also prepared to take charge of monitoring.
- 4) **Helping to develop civil dialogue:** the Committee is willing, with the help of the parties involved in civil dialogue and on the basis of work it has already done, to provide a closer definition of the dialogue and its structures, objectives and procedures. At the same time, the Committee can provide the impetus for a new pragmatic approach to civil dialogue.
- 5) **Annual conferences:** following the example of the European Parliament, all institutions should hold annual conferences on specific topics.

³⁴ The latest example is the hearing of organised civil society held by the Committee, at the request of and in collaboration with the Commission, on 26 and 27 April 2001, on the subject of sustainable development.

6) **Role of the Committee in the debate about Europe's future:** the Committee sets great store in being involved at the earliest possible stage in discussions about the structure of the future decision-making processes, so that it can act as the institutional link between the interinstitutional debate and the broad public debate about the future of Europe. It also intends to involve civil society players from the applicant countries in its discussions about Europe's future.

6. Meeting the challenge of the new governance concept

6.1 To sum up, the Committee welcomes the reaffirmed intention of the Commission to make the processes by which civil society is involved in legislative or executive decision-making more transparent, predictable and structured.

The Commission is now considering the following option as one way of achieving this objective:

- focusing on enhancing the consultative role of the Committee and if necessary establishing additional guidelines to promote the ongoing development of European civil society structures;
- giving socio-economic interest groups a key role in drawing up provisions (e.g. by developing new forms of self-regulation or co-regulation within the existing regulatory system).

On the basis of the guidelines and proposals in this opinion, the Committee supports such an approach and trusts that the Commission will be guided by it and opt for it when drafting the White Paper.

6.2 Finally, the Committee reiterates its readiness to meet the challenges of the new governance concept and to make its contribution to institutional reform. Thus on 19 December 2000 its Bureau decided to lay down operational measures that would help the Committee to be an even more effective representative of and institutional broker for organised civil society in its dealings with the organisations concerned and the Community institutions. In this context, the President of the ESC indicated on 29 November 2000 that the Committee needs an external "corporate identity"³⁵.

³⁵ The prime importance of such a measure was also made clear in the President's inaugural speech on 29 November 2000: "*The ESC should, in the near future, press ahead, with the support of all concerned, with the process of promoting an internal awareness of the distinctive nature of the Committee; this process must be backed up by a corresponding process of external promotion of this distinctive character in order to enable us shortly to reach a conclusive agreement on the Committee's role, the reason why it exists and the purpose of its activities in a period marked by rapid change and in the light of the large number of new tasks to be assumed by the Committee. We will be able to achieve this goal if we avoid getting bogged down in ideological debates and concentrate on the challenges facing us.*"

The Committee believes that a medium-term strategy should be drawn up in cooperation with the institutions and European bodies representing organised civil society.

The Committee is convinced that the following specific initiatives would accelerate the developments desired by all interested parties:

1. **"Forum for civil society"**: this is the Committee's unofficial title for the platform it wishes to set up to provide ongoing support for open dialogue and exchanges of opinion and experience between civil society organisations, whether or not they are represented on the Committee. The Committee would very much like to see the European bodies send their representatives regularly to these meetings.
2. **Exploratory opinions**: these already provide the Commission with an effective instrument for decentralisation; Committee analyses of topical issues carried out for the Commission could replace green papers and lighten the Commission's workload.
3. **Hearings**: experience has shown that hearings enhance the Committee's expertise and are also a good way of improving responsiveness to grassroots concerns. The Committee will therefore continue to expand in this area and also organise hearings in Member States whenever possible.
4. **Strengthening organised civil society in the Member States**: the Committee would also like to promote the further development of social and civil dialogue structures in the Member States where necessary, by stepping up its cooperation with existing Economic and Social Councils and similar institutions. The Committee advocates and supports the establishment of advisory institutions representing organised civil society in those Member States which do not yet have them.
5. **Measures relating to enlargement**: the Committee is supporting the applicant countries not just by developing consultation mechanisms based on the Community model³⁶, but also by increasing the involvement of existing civil society organisations in its discussions, or in its information strategy. In this context it will also try to set up more Joint Consultative Committees.
6. **Dialogue with organised civil society in other regions with which the EU maintains relations**: the Committee will step up this dialogue, or where necessary initiate contacts (on behalf of the Commission)³⁷.

³⁶ See for example the Warsaw Conference, 7-8 December 2000

³⁷ See the EU-India Civil Society Round Table (January 2001)

7. **Role and contribution of organised civil society to the dialogue about the future of Europe:** from the Committee's point of view, it is evident that "good governance" must also be the leitmotiv for all efforts in the framework of the "post-Nice process", and it will discuss this in detail in a separate opinion.

The specific proposals set out above are examples and in no sense exhaustive; they represent a first step towards enhancing the Committee's role in the context of the governance concept. The Committee believes that the long-term success of governance depends on a medium-term consensus being reached on certain key concepts and processes, e.g. in relation to civil dialogue (participants, objectives and procedure) or the ongoing shaping of European civil society. This will require the development of criteria agreed with all those concerned, procedural rules and "monitoring". The Committee is willing to make an active contribution and to take on specific tasks in this area.

Brussels, 25 April 2001

The President
of the
Economic and Social Committee

The Secretary-General
of the
Economic and Social Committee

Göke Frerichs

Patrick Venturini

Sub-committee
THE COMMISSION AND NGOs

Brussels, 13 July 2000

OPINION
of the Economic and Social Committee
on
the Commission discussion paper
**"The Commission and non-governmental organisations:
building a stronger partnership"**
(COM(2000) 11 final)

On 25 January 2000, the Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on

The Commission discussion paper "The Commission and non-governmental organisations: building a stronger partnership"
(COM(2000) 11 final).

At its plenary session on 26 and 27 January 2000, the Committee decided, under Rules 11(4) and 19(1) of its Rules of Procedure, to set up a sub-committee to prepare a draft opinion on the matter.

The sub-committee drew up its draft opinion on 28 June 2000. The rapporteur was **Mrs Sigmund**.

At its 374th plenary session (meeting of 13 July 2000), the Committee adopted the following opinion by 92 votes to 16, with 21 abstentions:

1. Introduction

1.1 The Commission discussion paper entitled "*The Commission and non-governmental organisations: building a stronger partnership*"¹ sets out proposals for more efficient cooperation between the Commission and NGOs and for making better use of the funds provided for this purpose. This paper is part of the Commission's general reform programme and marks a response to socio-economic restructuring and the greater importance of NGOs. The number of civil society organisations which are ready and able to be players in a model for a Europe-wide participatory democracy has significantly increased over the last twenty years. These representatives of organised civil society point quite rightly to the added value which they can contribute to the integration of Europe. Attention is drawn in this context to the Committee opinion of 10 December 1997 on cooperation with charitable associations as economic and social partners in the field of social welfare² and its opinion of 28 January 1998 on the role of voluntary organisations and foundations in Europe³.

1.2 The Committee gave detailed consideration at a convention⁴ last year to the *role and contribution of civil society organisations in building Europe*. In preparation for this convention, the Committee adopted an opinion⁵ on 23 September 1999, which as well as providing a historical

1 COM(2000) 11 final

2 OJ C 73 of 9.03.1998, p. 92

3 OJ C 95 of 30.03.1998, p. 99

4 First convention of civil society organised at European level - 15/16.10.1999

5 OJ C 329 of 17.11.1999, p. 30

analysis of civil society, also took a look at its main features and the criteria to be met by representative organisations. This opinion also proposed how and with what means the Committee might best perform the task assigned to it by the Treaties of acting as a forum for organised civil society. The results of this *first convention of civil society organised at European level* (October 1999) confirmed the importance of the Committee as an institutional forum for organised civil society. During this convention the Commission also called on the Committee to step up its initiatives in this area.

1.3 The ideas and proposals contained in the Committee's opinion of September 1999 should be regarded as forming an integral part of this follow-up opinion. The present opinion also reflects the points made in the debates at last October's convention and the conclusions drawn up following the hearing of representatives of civil society organisations held on 28 April 2000.

1.4 The purpose of this opinion is to consider the Commission discussion paper against the background of the Committee's intention to act on the guidelines for action set out at the convention in collaboration with the representatives of organised civil society. In so doing, the Committee by no means intends to interfere in procedures that have already proved to be effective on the ground. However, the members of the Committee intend to assume their responsibilities as representatives - within the meaning of Treaty Article 257 - of organised civil society⁶ and are ready to contribute, by offering the benefit of their expertise, to the creation of synergies between civil society organisations and the Community institutions. As the Committee is the only EU institution which represents the full spectrum of civil society organisations, it is both ideally suited and well able to bring the corresponding added value to this project.

1.5 For this reason the Committee will merely assess the fundamental and substantive aspects of cooperation between the Commission and NGOs. Questions relating to the allocation and use of budgetary funds which the Commission touches on in its discussion paper will not be discussed unless they involve fundamental issues which are relevant in the context of this opinion.

2. General comments

2.1 The Commission itself emphasises the close link between its discussion paper and its proposals for administrative reform, pointing out that "*it is clear that specific proposals must be established as a coherent part of the process of overall administrative reform*"⁷. The question of how it can facilitate the activities of NGOs and improve the existing consultation procedures is considered by the Commission in the context of how to improve transparency and accountability and how to enhance the efficiency and coordination of the Commission's working relations with NGOs.

⁶ Article 257 of the Treaty specifies inter alia that "*the Committee shall consist of representatives of the various categories of economic and social activity ...*".

⁷ See point 1.1, final paragraph.

The Committee welcomes the Commission's efforts to eliminate recognised shortcomings on the ground in its cooperation with NGOs and to adopt measures which will make even more efficient cooperation possible. This is how the title of the discussion paper is to be understood in the Committee's view.

2.1.1 The Committee sets great store by the Commission's discussion paper which it regards as a valuable initial contribution by the Commission to the task of improving the basis for cooperation with NGOs by putting forward proposals of an administrative nature. The Commission rightly recognises that, in the interests of its own credibility, it is essential for it to put forward concrete measures as soon as possible for acting on the operational principles which it identifies (efficiency, accountability, transparency, responsibility and service). The EU public has become sceptical about programmes announced from Brussels. Words must therefore be translated into deeds. For this reason the Committee endorses the pragmatic approach adopted by the Commission with a view to facilitating and improving the scope for involvement on the part of the public or their representatives through the creation of clear structures for participation. The Commission's efforts in this respect fully coincide with the goals set by the Committee, which is also seeking to make its contribution to the creation of an area of freedom, security and respect for the law in Europe. In the Committee's view a number of reforms have still to be carried out and the appropriate legal and administrative provisions have to be adopted before participatory democracy and "closeness to the people" can be said to have really been achieved in Europe.

2.1.2 However, it also seems vital in the Committee's view to define the remit of the Commission discussion paper clearly so that misunderstandings are avoided and false hopes are not raised. The Commission should therefore have stated clearly that its key aim in presenting its discussion paper is to make its partnership with NGOs more effective at EU level, rather than to help define and implement the civil dialogue.

2.2 It is absolutely clear that the social partners and European NGOs, within their respective spheres of responsibility, are and must also remain the Commission's preferred consultative partners. This does not, however, exclude consultation, in particular cases, of national or perhaps even regional or local NGOs. Such consultations could take place in cases where the experience of the organisations concerned could help to bring about solutions and where a corresponding organisation does not (yet) exist at EU level.

2.2.1 The Committee therefore urges the Commission not to exclude national NGOs that are not yet represented at European level from the process of dialogue and consultation as a matter of course but rather to consult them in exceptional cases. In this context it is of the utmost importance for NGOs to establish strong organisational structures at national level, thereby enabling them to pave the way for the establishment of strong European networks, on the basis of the "bottom-up" principle.

2.2.2 In the Committee's view it is, however, essential for NGOs wishing to participate in the consultation process to establish national and then European structures. They must cooperate

among themselves by, for example, creating networks or establishing federal machinery in order to engage in effective dialogue between themselves and with the Community institutions.

2.2.3 In this context the Committee considers that the Commission should take concrete steps to encourage the process of establishing EU-level structures; this would be in line with the stated desire in the discussion document to rationalise procedures for dialogue and consultation with NGOs.

2.2.4 The Committee regards it as essential for the Commission to draw up a list of clear criteria and procedural rules in respect of funding. As far as the criteria are concerned, NGOs should be representative and self-financing, and the procedural rules should include provision for multi-annual budgeting (in order to enable NGOs to undertake longer term planning) and regular auditing and assessment, involving the establishment of the necessary management and monitoring systems. Steps must be taken to ensure that political considerations do not affect funding decisions. The Committee will play an active role in helping to draw up these criteria and rules and NGOs must also be involved in this exercise. In the Committee's view, such funding arrangements - implemented and monitored on the basis of objective criteria - are also vital if European NGOs are to avoid having to turn to commercial sponsors or national "pressure groups" in order to enable them to proceed with their work. By implementing the above arrangements, the Commission would pave the way for consultations with independent partners in a future civil dialogue.

2.2.5 The question of how to assess the degree of representativeness of NGOs will assume key importance in connection with the abovementioned list of criteria. If representativeness were to be measured solely by the number of members of NGOs, that would be tantamount to failing to grasp the basic principles of civil society. Civil-society initiatives often come to the fore in areas where there is not (yet) a general awareness of a problem, such as was the case in the environment field some years ago. NGOs therefore very frequently find themselves mandated by minorities to work against the majority. A good example of this can be found in the trade-union tradition: when they were established, trade unions did indeed represent the common interest but they did not (yet) have a representative number of members. Without wishing to jump the gun as regards decisions on deliberations and consultations, the Committee would, however, point out that assessment of the degree of representativeness of NGOs must under no circumstances be based solely on quantitative criteria - it must also involve qualitative criteria. Whether or not NGOs are representative can therefore not be established exclusively on the basis of the number of members whom they represent. The judgement must also take account of the ability of such bodies to put forward constructive proposals and to bring specialist knowledge to the process of democratic opinion-forming and decision-making.

2.3 The term "civil dialogue" is referred to time and again in discussions about the possible ways in which organised civil society could become a player at Community level. It would seem that people using the term "civil dialogue" do not necessarily agree on what the prerequisites and framework for this dialogue are to be, who is to participate and what objective is to be served. A certain number of organisations have already demanded that the civil dialogue be given a legal basis.

In the Committee's view a series of preliminary questions, especially as regards purpose, content, procedures and organisational aspects, first need to be resolved.

2.3.1 The Committee, in its capacity as the institutionalised representative of civil society organisations as a whole, will also play a constructive role in bringing about public discourse on this matter. In the Committee's view, the civil dialogue - a sine qua non for the European model of participatory democracy - must be provided with a general organisational framework and content before being developed in the areas where it already exists in part.

2.3.2 In its opinion on the 2000 Intergovernmental Conference the Committee proposed that Article 257 of the EC Treaty be amended to read as follows: "*The Committee shall consist of representatives of the various economic and social components within organised civil society*". The Committee appreciates the Commission's positive appraisal of this proposal and trusts that the IGC will approve it. Such endorsement would enable (organised) civil society to become a legal concept and make it possible to clarify, on the basis of law, any outstanding questions relating to participation in a civil dialogue.

3. **Non-governmental organisations**

3.1 The upsurge in the development of NGOs in many areas of life in recent decades was both the reason for and result of enormous socio-economic change and the growth in political awareness. Therefore, NGOs represent a mirror image of this process to some extent. Since this process of change is by no means over, it is scarcely possible to set out a conclusive definition of NGOs. This is clear even from their name, which is in the negative and merely states what NGOs are not. Hence the Committee welcomes initiatives to find a positive definition, such as using the term "civil society organisations".

3.1.1 In the main, NGOs are growing in importance and their tasks, responsibilities and powers have developed considerably. A number of them are already active outside the local area where they were formed and now come under EU law. However, because of their background, field of activity and structure, NGOs generally remain grassroots associations, which by their very nature are close to the people and promote participatory democracy. Collectively, they should also seek to foster the well-being of society in all components.

3.1.2 In this context, the Committee points out that NGOs do not cover all civil society players. As the Committee noted in its opinion of 29 September 1999, the social partners, in particular, form the core of civil society organisations, which have expanded as a result of the abovementioned evolution, embracing, above all, the large number of NGOs in many areas. The common characteristics which the Commission ascribes to NGOs in point 1.2 of its document and to which it alludes elsewhere are not peculiar to such organisations. The Commission also fails to take account of the wide range of organisations. The Committee would refer here to its aforementioned opinion of last September, and especially to sections 5 to 7.

3.1.3 The Commission stresses that "*the decision-making process in the EU is first and foremost legitimised by the elected representatives of the European people*". In response, the Committee would point out that legitimate action at Community level cannot be reduced simply to the territoriality principle and the election mechanisms associated with representative democracy. The weakness of the principle of the (numerical) democratic majority is particularly highlighted in cases of low turn-out at elections. It may well happen that, although elected representatives exercise their mandate by virtue of having received a majority of the votes cast, this majority does, in numerical terms, constitute only a minority of the electorate. This does not, however, prevent these elected representatives from claiming to derive their legitimacy from a (fictitious) absolute majority. The Commission refers to the democratic legitimacy of the elected representatives of the people; a further basis for legitimacy is constituted by appointments made on the basis of specialised knowledge, as is the case with both the members of the Committee and representatives of NGOs. This situation ties in with the work on developing and consolidating a "*participatory model of civil society*" and formulating policies which "*provide an opportunity to strengthen confidence in the democratic system so that a more favourable climate for reform and innovation can develop*"⁸.

3.1.4 Participatory democracy requires that parties who are affected by legal provisions should be involved in the opinion-forming process at the earliest possible stage and should be given the opportunity to bring their wishes to bear in this process and to put forward their proposals. This principle, in particular, chimes with the participatory model of civil society, under which a form of civil dialogue is already being practised via a public discourse.

3.1.5 The Committee, for its part, forms an integral part of this participatory model of civil society by virtue of the fact that its members belong to civil society organisations in the Member States, be they national, regional or local organisations.

4. Building a stronger partnership between the Commission and NGOs

4.1 The Commission emphasises at several points in its paper the various forms of cooperation with NGOs and the fact therefore that the rules governing cooperation with NGOs are bound to differ. Nonetheless, the Commission states in its conclusions that it needs "*to establish a more coherent approach to its relations with NGOs*", and considers it desirable "*to provide for general coordination of the relationship between the Commission and the NGOs by a horizontal department.*" Because different NGO groups work in a variety of ways and fields, the Committee thinks that such a department should not deal with specific domains but should primarily confine itself to exercising a coordinating role and providing a better information service. Such a "one-stop" shop, which, for example, would provide information about EU programmes or assistance for aid claimants, would be a further important step towards the creation of a Citizens' Europe.

⁸

See point 5.1 of the aforementioned Committee opinion of September 1999.

4.1.1 This department could also (i) be responsible for ensuring that best practice is employed in carrying out the consultations, on the basis of a number of joint principles still to be determined, without in any way jeopardising the distinctive features of NGOs' various sectors of activity, their structures and the resultant needs and (ii) contribute towards greater transparency. The Committee called for such transparency for voluntary organisations and foundations in its aforementioned opinion of 28 January 1998. In adopting such a horizontal blueprint for information provision and coordination, which should also encompass national NGOs, the Commission would go a long way towards establishing more democratic communication structures, which would cater more for citizens' concerns.

4.1.2 In the same context and as a general rule, it is vital that the conditions in which consultations take place (especially as regards duration of consultation, availability of documents in different language versions, and provision of the requisite human resources) enable European NGOs to pursue a "bottom up" approach in their relations with their members and to implement, within their own structures, the transparency which they rightly demand of the Commission. The credibility of NGOs' stances depends on participatory democracy being practised in their midst, too.

4.2 The strengthening of the partnership with NGOs, which focuses on the management side, presupposes a clear definition of the NGOs with which the Commission wishes to cooperate in future. The Commission is planning to draw up "*its own ... criteria for selecting the NGOs*" and lists some possible criteria, such as "*previous participation in committees and working groups*" and "*their track record as regards competence to advise in a specific field.*" In the latter case, the Commission would again be the judge if its approach were to be accepted. In order to reduce the impression that a monolithic system of selection will be created, the Commission concedes later that "*self-selection by the NGO community through the appointment of representatives can be a useful alternative.*" This alternative is illusory, however, for it does not refer to the criteria but only to the subsequent technical procedure for the appointment of representatives.

4.3 A selection procedure which implies de facto that new NGOs have practically no chance of fulfilling the criteria ("*previous participation in committee and working groups*") is unacceptable. This method of selection is also contrary to the very nature of civil society, which should be seen as a dynamic and not as a static phenomenon, and would also mean an inadmissible perpetuation of the status quo by not permitting the recognition of any new structures or new forms of organisation for NGOs.

4.4 However, the Commission itself does not seem to regard this proposed solution as definitive, since later on in connection with the desire for greater transparency it suggests that "*the issue of whether joint criteria should be agreed between the NGOs and the Commission should be considered.*" Regardless of this, these criteria should be objective, transparent and made public. The process used to define these criteria should also be participatory and involve NGOs.

4.4.1 The consultations which the Committee held in the course of drawing up this opinion revealed a lack of consensus, including amongst NGOs, in favour of establishing an official

consultative status for NGOs and, in particular, of a system of accreditation for such bodies. The Committee calls on the Commission to give detailed consideration to the pros and cons of such a system, in the light of the practices in force at the UN and its specialised bodies and at the Council of Europe.

4.4.2 Regardless of the criteria which might finally be applied for admitting NGOs to consultations with the Commission - criteria which the Committee itself intends to help define by organising hearings - the Committee would already stress that this selection procedure must not lead to the creation of fixed consultation structures and procedures. It must above all be open, transparent and as simple to administer as possible in order to take full account of the evolving nature of European civil society. The list of selected NGOs will have to be public, and there will have to be a complaints body to which NGOs can turn if they feel that they have been unfairly rejected. The Commission should also state why it has rejected an NGO. At all events the views of the Committee should be ascertained in this procedure.

4.5 The Commission would go a long way towards making its partnership with NGOs more transparent if it were to publish regular assessments and submit them to NGOs for comment. For the sake of comparison and effective benchmarking, these reports should provide a regular update of the Commission's cooperation with NGOs in general. The Committee also called for such reports on voluntary organisations and foundations in its aforementioned opinion of 28 January 1998.

4.6 The Committee would reiterate its view, as stated above, that the Commission should specify more clearly that the present - entirely commendable - attempt to build a stronger and better partnership amounts simply to an attempt to improve existing consultation mechanisms in terms of management and content. Its sole intention is to let the Commission's work benefit in the best possible way from NGOs' great technical and strategic expertise in certain sectors. It is not the a priori creation of structures for a civil dialogue in general.

5. **Civil dialogue**

5.1 The need for a European form of public discourse at Community level between representatives of civil society organisations has increased as a result of their growing importance. Organised civil society's wish for a "civil dialogue" as a democratic and public opinion-forming process has been made clear and is also accepted in principle by public institutions. It is agreed in principle that Europe needs to be more politically open, that decision-making processes must be more transparent and that ways and means must be found of reviving the general public's interest in Europe. In this context the representatives of organised civil society have a special responsibility and role to play as intermediaries vis-à-vis the general public.

5.1.1 As the Committee has already pointed out in its opinion of last September, the Commission itself is planning the building over time of a strong civil dialogue at European level to take its place alongside the policy dialogue with the national authorities and the social dialogue with

the social partners⁹. The specific nature of the latter, as regards both the powers and tasks of the players involved, must, of course, be safeguarded in this context.

5.1.2 In the Committee's opinion the Commission should start, however, by clarifying the definition of a few terms in connection with the civil dialogue. The Committee itself is prepared to carry out the groundwork in conjunction with NGOs and to draw up basic material for discussion in joint talks with NGOs.

5.1.3 At all events, the civil dialogue should - in the Committee's opinion - have the following features¹⁰:

- in principle, all members of organised civil society (and therefore the social partners, too) may participate in the civil dialogue;
- the civil dialogue should not take the place of or compete with the social dialogue, which has its own exclusive, clearly-defined participants and remits;
- the civil dialogue can be conducted between the representatives of organised civil society alone or between them and a Community body or institution; it can cover horizontal or vertical issues and thus take the form of either a general or sectoral dialogue;
- the civil dialogue should be provided with the structures which it requires to operate; its remit should be mainly in the socio-economic sector¹¹, apart from those areas covered by the social dialogue, but should also embrace the environment, consumer matters, development, human rights, culture and all other questions which are important for civil society in all its component parts;
- civil dialogue players should also be responsible for ensuring that non-EU countries and especially the candidate countries are familiarised with the organisational structures and forms of communication of organised civil society. These countries must also be helped to form or develop similar structures.

In this context the Committee would urge European Union NGOs to support the development of civil society organisations in the candidate countries by establishing cooperation structures and procedures for information exchange and consultations and, in particular, by creating pan-European networks.

⁹ See point 9.3 of the Committee opinion of September 1999 and the Commission Communication on promoting the role of voluntary organisations and foundations in Europe (COM(97) 241 final).

¹⁰ See, too, the Committee opinion of September 1999.

¹¹ As demonstrated by the invitation issued to the European platform for NGOs in the social sector to attend the informal meeting of Ministers for Social Affairs in Lisbon, 10-11 February 2000.

6. Conclusions

6.1 The Commission does not devote a separate section to the "civil dialogue" in its discussion paper, but it does refer to "*fostering the development of civil dialogue and civil society at the European level*" and to the Commission "*offering dialogue to the NGOs as representatives of civil society*".

6.2 The Committee thinks that it is particularly important, for the reasons indicated above, to define the terms very clearly straightaway: the form of consultation referred to by the Commission can and should take place within the framework of the civil dialogue, but does not represent the civil dialogue as such, which must be defined more widely from both the institutional and civil society angle.

6.3 The Committee reiterates its readiness to take on its role in full within the framework of the civil dialogue. It regards its task as being neither to act as the spokesman for all NGOs nor to be the body through which NGOs must deal with the EU institutions. As the catalyst initiating this public discourse, it wants instead to contribute to the further development of the European Union on the basis of the principles of freedom and democracy and with due regard to human rights and the basic freedoms. The members of the Committee, as the immediate representatives of the interests of organised civil society, will help to ensure that this development responds to the concerns of the general public within the framework of a pluralist and participatory democracy. The Committee would like to play a part in ensuring that this civil dialogue creates a political openness in Europe which offers transparency and not only permits but even demands participation. It intends in this way to take practical action to create synergies between civil society organisations and the Community institutions, and to bring added value to the measures being taken by these organisations to create a Europe which is closer to Europe's citizens.

6.4 The Committee is fully aware that it is not able to influence the appointment of its members. In accordance with the principle of subsidiarity, this is the responsibility of the Member States. For this reason, one of the Committee's priorities is to find means of involving more representatives of Community-level civil society organisations in its work and in the implementation of concrete initiatives as part of an ongoing process. The tripartite structure of the Economic and Social Committee will have to be respected in this context.

6.4.1 As a follow-up to the first convention on civil society organised at European level (October 1999) and bearing in mind the comments made in the preceding paragraphs, the Committee has set itself two priority goals here, namely (i) to establish bases for cooperation with organisations representing civil society at European level which wish to cooperate and (ii) to serve as a bridge between civil society organisations - both within the EU and in the candidate countries - and the Community institutions.

6.4.2 With regard to enlargement, the Committee considers that one of its principal tasks is to assist the institution-building process in the candidate countries. The Committee is convinced that it will not be sufficient to take over the *acquis communautaire*; appropriate structures will also have to be created to ensure that this body of law is implemented by consolidating the European model of representative democracy, which alone will further the implementation of participatory democracy. Work in this field will undoubtedly occupy an important place in the future strategy of the Committee.

6.4.3 At the first civil society convention, the Committee was strongly encouraged, especially by the Commission, to embark on this path. Also welcomed were the initiatives which the Committee had already taken and which it intended to pursue further with a view to assisting the institution-building process in the candidate countries.

6.4.4 In the light of the above and the hopes raised by the convention, the Committee declares that it is willing to consider setting up an organisational structure for carrying out the appropriate work and, in particular, to consider the possibility of establishing within its midst a civil dialogue observatory, to serve as a forum for discussion and interaction. European NGOs, in particular, would be involved in the work of this observatory.

6.4.5 The main tasks to be performed by this observatory could include:

- drawing-up criteria for assessing the representativeness of NGOs, in conjunction with NGOs and the Commission;
- assessing the various accreditation models for NGOs (Council of Europe, UN) and discussing with NGOs and the Commission the feasibility of establishing a system of accreditation for NGOs;
- monitoring the development of civil society organisations and the civil dialogue at European level;
- assessing the means which need to be employed to enable NGOs to be more involved in the EU decision-making process and, in particular, in the formulation of policy;
- supporting the development of civil society organisations in the candidate countries;
- formulating proposals for the implementation of joint initiatives between the Committee and NGOs.

6.4.6 These tasks could be achieved by:

- collecting and circulating general information about European civil society and its representative organisations;

- creating, with the help of experts, a documentary database on civil society organisations;
- organising regular consultations and hearings, as well as meetings and conferences;
- organising information seminars for civil society organisations from the candidate countries, in cooperation with the Commission in particular;
- launching a periodical publication on the civil dialogue, thereby giving organisations not represented on the Committee the chance to express their views.

6.5 The Committee thinks that each institution has a role to play in ensuring that the public is fully involved in the European venture and can actively and effectively take part in the building of Europe and influence its development. With this aim in mind, it is convinced that close cooperation between the various EU institutions and bodies is also essential. The Committee would reiterate its willingness to take action in this direction within the framework of an open dialogue on the establishment of new forms and structures for participation. It fervently hopes that its actions receive the support of the other institutions, and especially the Commission.

Brussels, 13 July 2000.

The President
of the
Economic and Social Committee

The Secretary-General
of the
Economic and Social Committee

Beatrice Rangoni Machiavelli

Patrick Venturini

**Subcommittee
Civil society organisations**

Brussels, 22 September 1999

OPINION
of the
Economic and Social Committee
on
The role and contribution of civil society organisations in the building of Europe

At its plenary session on 28 January 1999 the Economic and Social Committee decided, under Rule 23(3) of its Rules of Procedure, to draw up an own-initiative opinion on:

The role and contribution of civil society organisations in the building of Europe.

In accordance with Rules 11(4) and 19(1) of its Rules of Procedure the Committee set up a subcommittee to prepare its work on this subject.

The subcommittee adopted its draft opinion on 30 August 1999. The rapporteur was **Mrs Sigmund**.

At its 366th plenary session (meeting of 22 September 1999) the Economic and Social Committee adopted the following opinion by 116 votes to 2, with 13 abstentions:

1. Introduction

1.1 On the initiative of its president, **Mrs Rangoni Machiavelli**, the ESC will hold a conference in October this year to discuss the role and contribution of civil society organisations in the building of Europe. Specific proposals are to be drawn up by three working groups. The topic chosen is a logical follow-up to the approach developed by the Committee in its 1992 opinion on a Citizens' Europe¹. The conference is not therefore intended to be a "one-off" event, but a prelude to the Committee's programme for the next few years.

1.2 The present ESC opinion has been prepared by a subcommittee so that the event can be facilitated through appropriate preparatory work. The subcommittee members did not see it as their role to propose ready-made solutions; rather they have tried to organise the subject matter, identify the key players and define the institutional framework for concrete proposals. The final part of the report contains specific proposals that could serve as a basis for discussion in the conference's working groups.

2. General comments

2.1 People at the end of the 20th century are experiencing far-reaching changes which affect not just the substance but also the structure of their lives.

2.2 The end of 19th century saw the creation in Europe of social laws which would lead in the 20th century to the welfare state. Their importance for peace, political freedom, economic performance and social cohesion is unquestionable. But there is also a need to respond to new challenges, such as globalisation, though many questions as to the form and content of these changes remain unanswered.

¹ OJ C 313 of 30.11.92, p. 34

2.3 A reform debate is of course also taking place at European Community level. The evolution of objectives between the time of the founding treaties and the Amsterdam Treaty necessitates structural reforms that should be set in train without delay.

2.3.1 It should not be forgotten that the driving force behind European integration was not the economic dimension alone, but the desire to safeguard peace, which is indeed the first thing mentioned in the preamble to the ECSC Treaty (safeguarding world peace; contribution which an organised and vital Europe can make to civilisation; helping to raise the standard of living).

2.3.2 Accordingly, the remit of the European Union has since expanded to embrace not just the original, purely economic, spheres but also the environment, health and consumer protection, as well as education, social policy and employment.

2.3.3 All this illustrates that European integration should be seen not as a single event, but as a process that is not only subject to change but also capable of responding to change. This is how we should interpret the preamble to the Maastricht Treaty, in which the European Union is not defined for all time, but the process is deliberately left open by referring to "an ever closer Union".

2.4 The European Union must currently address such sensitive and sometimes very emotionally charged issues as enlargement, common foreign and security policy and a whole host of institutional matters. At the same time it faces low confidence among its citizens, who accuse it of inefficiency, point to democratic deficits and call for greater responsiveness to grassroots opinion. European integration needs the commitment and support of ordinary people more urgently than ever before, and at present it does not seem to have enough of either.

2.5 It is precisely in connection with this issue of (inadequate) responsiveness to grassroots opinion that the notion of "civil society" is constantly being mentioned. This concept is cited and invoked in the most diverse contexts, and its relevance is not always obvious. It is almost as if "civil society" has become a vogue expression that is often used without any clear indication of what the speaker really means. Experience has shown that a discussion is only fruitful if agreement is first reached on the basic premises. The subcommittee therefore felt it was essential first to describe the historical background and development of civil society, and then, using scientific theories, to provide a definition of the concept² that actually reflects political reality.

3. **Historical overview**

3.1 The concept of civil society in Western political thought has undergone differing interpretations throughout its history. It is important to transcend these now by providing an all-embracing definition.

² See points 6.1 and 7.1

3.2 Until the Enlightenment, civil society denoted a particular form of political organisation, namely one that was subject to the rule of law. For Aristotle, the *koinonia politiké* was a dimension of society that encompassed and prevailed over all other dimensions. Cicero talked about a *societas civilis*. This political definition of civil society still applied in the Middle Ages, although it took on the new connotation of the antithesis to religious community. The term was thus secularised. It is interesting to note that according to this interpretation, "civil society" and "state" are virtually synonymous. Thus *good citizenship* is the moral value associated with civil society, which in the Roman tradition means members of civil society fulfilling their duties as citizens.

3.3 From about 1750 onwards the expression came to mean almost the opposite. Civil society was no longer bound up with the notion of the state, but increasingly represented a counterweight to the state. This was because the emerging bourgeoisie with its liberal world view appropriated the concept to denote a social sphere separate from the political sphere, comprising the market and people's private lives. The associated moral and social ethic was no longer "good citizenship" but "good breeding", i.e. good manners and impeccable social conduct.

3.4 It was this liberal approach that Ferguson had in mind when he sang the praises of civil society. It was precisely this apolitical interpretation that disturbed 19th century philosophers such as Hegel and Marx, who attacked it for being biased and one-sided. They identified civil society largely with the bourgeois individualistic world view and the formalised regulation of relationships through civil law.

3.5 Liberalism and socialism crossed swords over the concept of civil society, now defined as the antithesis of the political sphere: liberalism saw civil society as the stronghold of individual freedom and contractual relations, socialism saw it as the expression of oppression and the class divide.

3.6 Since the 19th century, however, a number of political and social thinkers have been trying to transcend this clash between an "ancient-medieval" and a "modern-bourgeois" version of civil society, and, within the latter, between the liberal and socialist versions.

3.7 A new interpretation of modern civil society, inspired by Tocqueville, Durkheim and Weber, is emerging, based on four principles:

- *Civil society is typified by more or less formalised institutions*: this institutional network forms an autonomous social sphere that is distinct from both the state and from family and domestic life in the strict sense. These institutions have many functions (not just economic, but also religious, cultural, social, etc.) and are crucial to social integration;

- *Individuals are free to choose whether to belong to civil society institutions*: they are never forced to join any of the associations, businesses or groups which make up civil society, either through a political commitment or supposedly "natural" allegiance to a particular group;
- *The framework of civil society is the rule of law*: the democratic principles of respect for private life, freedom of expression and freedom of association provide the normative framework of civil society. Although civil society is independent of the state, it is certainly not an area outside the law;
- *Civil society is the place where collective goals are set and citizens are represented*: civil society organisations play an important role as "intermediaries" between the individual and the state. The democratic process could not take place without their mediatory role.
- Civil society introduces the dimension of subsidiarity, a concept derived from Christian doctrine, which opens up the possibility of establishing levels of authority which are independent of the state but recognised by it.

4. Civil society: the common denominator for democratic movements in Europe

4.1 Social changes in Europe have helped to provoke a broad international debate over the past few years, in theory and in practice, about the term "civil society". Remarkably, citizens' groups and movements from western and eastern Europe are addressing the matter together, despite their very different histories. This has become a much-debated subject in the search for a social model that offers a middle way between unbridled individualism and the trend towards total authoritarian collectivism.

4.2 Whereas in western Europe and the United States the main question was how ordinary people could rebuild a sense of solidarity and so strengthen the social ties which a community needs, the initial concern in central and eastern Europe was to dismantle the central government control inherited from the Communist system.

4.3 The difficulties currently besetting both western and eastern European countries are not purely economic, social and financial. They are mostly related to internal changes in the way civil society is organised, and to the limits of state action in a complex society.

4.4 The countries of central and eastern Europe had not succeeded, and in certain cases have still not completely succeeded, either in building confidence in the new institutions or in creating the necessary structures for the existence of a strong civil society. This situation is particularly relevant for the European Union in the context of enlargement. The ESC, too, has launched a large number of initiatives to support this reconstruction process in the CEEC, and these activities have a high priority in its current work programme.

5. An attempt to define civil society

5.1 There is no hard and fast definition of civil society. Because the term is so closely associated with specific historical developments in individual societies and so normative, it can be defined only loosely, as a society that embraces democracy. Civil society is a collective term for all types of social action, by individuals or groups, that do not emanate from the state and are not run by it. What is particular to the concept of civil society is its dynamic nature, the fact that it denotes both situation and action. The participatory model of civil society also provides an opportunity to strengthen confidence in the democratic system so that a more favourable climate for reform and innovation can develop.

5.2 Some components in the concept of civil society

5.2.1 The development of civil society is a cultural process, and "**culture**"³ therefore determines the definition of civil society and has a bearing on all the concepts listed below. If we take the very broad definition of culture as a code of values that apply to the members of a society, then culture also shapes the areas in which civil society operates.

- **Pluralism:** In a pluralist society every member of the community determines his or her contribution, and the community tries to improve the conditions of co-existence. This applies not only to the substance but also to the form of action taken; thus civil society also links diverse social groups through the way in which ideas are exchanged and social contacts established, thus lending some stability to their communication efforts. What is remarkable is that this public discourse is not purely factual, but that the parties involved also exchange value judgements. However, this co-ordination of different views and perspectives does not happen automatically, but requires a constant will to achieve consensus. In a pluralist society, all individuals recognise each other as having equal rights and engage with each other in a public debate. All this takes place on the basis of **tolerance** and **free will**. An example is the democratic culture of the multiparty political system.
- **Autonomy:** Ordinary people determine the pattern of their social actions themselves. These must take place, however, within a state that has been fashioned by its citizens, a state that provides the framework for society to function through basic rights anchored in a constitution. But autonomy also requires independent institutions that protect non-material values - such as education, religion and culture - that guarantee human dignity, a basic right of which the state is not the sole guarantor.

³ In broad terms culture can be said to define the past and presently prevailing system of values and needs (material or not material); culture determines the hierarchy of values and needs as well as the 'means' by which values are served and needs are satisfied or met.

- **Solidarity:** Civil society is underpinned by a "culture of solidarity", which manifests itself in a willingness to place limits on one's own interests and take on obligations as the prerequisite for acting in the common interest. People's actions are determined by their own lives (culture, upbringing, education, experience) and they benefit from their interaction with others.
- **Public awareness:** Civil society establishes a climate of communication and so creates a social context of "political awareness". This political awareness is characterised by very grassroots-oriented patterns of communication. The **information society** has become very relevant to such awareness. Even if, as a kind of "non-organised civil society", the information society is still to a certain extent an elite community, it is likely to provoke radical changes, not only in the shape of civil society but also in the way it operates.
- **Participation:** in a flourishing democracy there are two ways in which citizens can be politically represented or active:
 - i) through a range of political institutions at different levels: citizens participate mainly by taking part in election debates and subsequent ballots;
 - ii) through the action of interest groups and citizens' initiatives: people belong to groups that build up expert and grassroots knowledge of the social issues in question. These bodies also participate in public information and communication processes, so helping to create a general perception of the common good. The term "civil society" implies this type of participation.
- **Education** is a fundamental element of civil society. The basic values of human society are communicated through education. Those involved in education establish the principles according to which civil society develops. On no account therefore should education policy be the sole preserve of the state.
- **Responsibility:** civil society is not just the place where individual rights are exercised: these rights are accompanied by obligations in the common interest. In fulfilling these obligations, members of civil society must be accountable to the other members. This is why civil society is the ideal context for practising a particular type of "good citizenship", because it is a community of interests.
- **Subsidiarity:** The grassroots level plays a primary role in this political and social system; higher authorities only come into play when lower levels cannot cope. In the context of civil society, subsidiarity must also be understood as an external factor, i.e. as a recommendation that citizens themselves should be left to deal with matters that concern them.

5.3 Civil society in the current debate

5.3.1 The theoretical discussion is broadly based on three approaches:

- The **liberal tradition** sees the citizen as an economic, rational element of society defined primarily in terms of his or her rights and duties. Citizens organise themselves in interest groups and ensure that the state guarantees universally valid, individual freedoms. Civil society is realised through the broadest possible application of individual rights. The focus is on applying liberal principles.
- According to the **theory of communitarianism**, citizens are members of a community established on the basis of values they themselves have defined. People must adapt their behaviour to the objectives of the community, which for its part must act as a system of links between individual and state.
- The third theoretical approach is **discursive democracy**, which lies somewhere between the liberal and communitarianist positions; this theory is based on the concepts of communication and interaction: civil society creates a "political awareness" in which democratic debate not only generates opinions, but also establishes standards, so that the information process also becomes a decision-making process through which civil society agrees on common values. These values - for example in the sphere of justice or protection of minorities - must then be implemented by the democratic institutions (the state).

6. State, market and civil society

6.1 There is no doubt that the social state based on the rule of law has enhanced the development of political freedom, economic strength and social cohesion. The typical dual model of former political and economic theories, which revolved around the two poles of "state" and "market", more or less ignored all relationships outside that context, relationships that most closely reflect human and social reality.

6.2 The concept of civil society is thus very important as the third component of the state system. Whereas the "statist society" model sees the citizen first and foremost as a citizen of the state (in relationships determined by the state), the "market society" model sees the citizen as a market player. The citizen as a member of civil society (*homo civicus*) mediates between the two, by embodying all three aspects (*homo politicus*, *homo economicus* and *homo civicus*).

7. Civil society organisations

7.1 Civil society organisations can be defined in abstract terms as *the sum of all organisational structures whose members have objectives and responsibilities that are of general interest and who also act as mediators between the public authorities and citizens*. Their effectiveness is crucially dependent on the extent to which their players are prepared to help achieve consensus through public and democratic debate and to accept the outcome of a democratic policy-making process.

7.2 Civil society organisations can also be viewed dynamically as a locus of collective learning. In complex societies, which cannot be run on a centralised basis, problems can only be resolved with active grassroots participation. Various forms of social experimentation and forums for pluralist discussion are a prerequisite for an "intelligent" democracy that can generate an ongoing process of social learning. In this sense, civil society is a "school for democracy".

7.3 This also applies by analogy to the Community sphere, where the role of the nation state is also relativised by the process of European integration and people increasingly sense that the nation state's traditional claims to sovereignty no longer reflect social reality. Employment and environmental problems and issues of welfare and social justice can no longer be dealt with exclusively at national level.

8. **Players in civil society organisations**

8.1 Civil society organisations include:

- the so-called labour-market players, i.e. the social partners;
- organisations representing social and economic players, which are not social partners in the strict sense of the term;
- NGOs (non-governmental organisations) which bring people together in a common cause, such as environmental organisations, human rights organisations, consumer associations, charitable organisations, educational and training organisations, etc.;
- CBOs (community-based organisations, i.e. organisations set up within society at grassroots level which pursue member-oriented objectives), e.g. youth organisations, family associations and all organisations through which citizens participate in local and municipal life;
- religious communities.

9. **The role of civil society organisations at Community level - the civil dialogue**

9.1 In the context of European integration, civil society organisations have also been set up at Community level, though their make-up and representativeness vary. These organisations range from ad-hoc lobby groups to highly organised associations, all claiming representation and co-decision rights for their particular area of interest. However, only those with a certain basic organisational machinery and which are qualitatively and quantitatively representative of their particular sector can be expected to make a positive contribution to European integration.

9.2 One common feature of these civil society organisations at European level is the intermediary role they which they have taken over from the national level. The European social partners are a case in point, having employed their communication strategies in a Community-level institutionalised negotiation process. This social dialogue is essentially a decision-making process based on consensus; since the coming into force of the Amsterdam Treaty, the parties in this process act on a quasi-constitutional basis. The importance of social dialogue in core areas of social policy, especially labour relations, is undisputed. Of particular interest, however, is the fact that it serves as a model for applying a form of communication intrinsic to civil society, in which dialogue is a constantly developing, goal-oriented process. The social partners have thus set standards for a new type of political culture which should embrace areas outside the social dialogue.

9.3 There have already been numerous efforts to set up structures for democratic discourse alongside the social dialogue at European level. In the Commission, Directorate-General V plays a key role in promoting civil dialogue at a practical level. It initiated the first European Social Policy Forum, held in March 1996, where the concept of "civil dialogue" was introduced. In its Communication "Promoting the role of voluntary organisations and foundations in Europe"⁴, the Commission took up this suggestion and set as a political objective "the building over time of a strong civil dialogue at European level to take its place alongside the policy dialogue with the national authorities and the social dialogue with the social partners". In its opinion on this Communication⁵, the Committee discussed the question further, observing that: "By organising themselves, citizens provide themselves with a more effective means of impressing their views on different society-related issues on political decision-makers. Strengthening non-parliamentary democratic structures is a way of giving substance and meaning to the concept of a Citizens' Europe."

9.4 Civil dialogue is set to become the communication forum for Community-level civil society organisations. However, it would be wrong to see it as providing an alternative to, or as competing with, the social dialogue. Rather, civil dialogue should be considered a necessary complement to the social dialogue, in which the social partners - depending on the areas to be dealt with - will participate just as all the other relevant players in civil society. It is in Europe's interest to improve and develop all structures which allow its citizens to participate in the common project of European integration.

9.5 A political awareness must be developed in Europe that provides transparency and requires cooperation. In modern societies it is the mass media above all that create such political awareness, but the media tend not to be very interested in European issues. Reports are generally limited to topical matters and allusions to incompetence which are intended to boost sales. So it is hardly surprising that people's distrust of "Brussels", which they equate with aloof bureaucracy and opaque decision-making structures, has grown. "Out of touch with ordinary people" and "democratic deficit" have become catchwords associated with Europe.

4 COM(97) 241 final

5 OJ C No 95 of 30/3/1998, p. 99

9.6 Civil society organisations at European level therefore have the important task of contributing to a public and democratic discourse. Through its remit as a forum for civil society organisations, the Committee can ensure contact with grassroots concerns and contribute to the democratic policy-making process. Its members speak directly for civil society organisations, and together they represent that network of interactions, the "real world", that forms the necessary basis for action in a civil society.

9.7 In this connection the Committee regrets that both the communication "Promoting the role of voluntary organisations and foundations in Europe" and the report on the Second European Social Policy Forum 1998 mention only the Commission and the European Parliament as forums for civil dialogue, omitting any reference to the Committee.

10. **The Economic and Social Committee as the representative of civil society organisations**

10.1 By setting up the Economic and Social Committee, the Rome Treaties gave sectoral interest groups access to the European decision-making process and made the Committee the representative of civil society organisations at Community level. Hence, the Committee can trace its special role as the representative of civil society organisations back to both its institutional status and remit, as well as its membership. It should therefore set a clear course for the further development of civil dialogue at the conference in October.

10.2 **Committee members**

10.2.1 Under Article 257 of the EC Treaty, the Committee comprises "representatives of the various categories of economic and social activity, in particular, representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations and representatives of the general public". This purely indicative list is deliberately left open, as best befits the evolving nature of civil society organisations.

It is not clear whether current membership of the Committee really reflects social changes that have taken place over the past 40 years.

10.2.2 Committee members are generally nominated by national organisations, but they are not bound to follow those organisations' instructions. In other words, they are independent. But members naturally reflect in their work the reasons for which they were nominated. In this way they represent the pluralist interests of civil society organisations. In addition, the Committee's members must respect their duty to serve the common interest: "The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Community." (third paragraph of Article 258 of the EC Treaty). This means that political decision-making in the Committee is not the automatic outcome of competition between interest groups, and its way of working more or less reflects the *modus operandi*

of civil society organisations. The particular process for drafting opinions in the Committee (study group - section - plenary session) is also consistent with the principle of consensus, which is the basis for negotiated action in civil society. Thus any lack of diversity in the membership of the Committee is partly offset by the rules governing the exercise of their activities and the form of the decision-making process.

10.2.3 The Committee's legitimacy as the representative body of civil society organisations derives not only from its status as an institution of the European Community, but also from the existence of its three Groups. The Committee incorporated this right to form groups from the Council's nomination guidelines of 1958 into its Rules of Procedures, in the first place presumably to simplify its work. But the intention was also to make clear that the Committee was a forum not for national delegations but for European organisations with similar interests. Thus the Committee also sees itself as speaking on behalf of civil society organisations.

10.3 Role of the Committee as a Community institution

10.3.1 The Committee's role as a consultative body is best summed up in terms of its relationship with other bodies, particularly the European Parliament: the Committee guarantees the implementation of the participatory model of civil society; it enables civil society to participate in the decision-making process; and it helps reduce a certain "democratic deficit" and so underpins the legitimacy of democratic decision-making processes.

10.3.2 Democracy manifests itself through the will of the people, which is expressed through majority decision-making. For the minority to accept the will of the majority, there must be a degree of agreement between them: they must have a common identity. This is not usually a problem at national level, where (in a broad interpretation of the "demos" concept) this identity is defined by a common nationality (or residence in a particular area), and a common culture, language and set of values.

10.3.3 However, when it comes to democratic policy-making at European level, additional identity criteria are required to create a European identity. If European Union citizenship is defined simply as the sum of all national citizenships, then a "European" must be the sum (or synthesis) of several national identity criteria, which all derive from a common tradition and the values of democracy and human rights.

10.3.4 This means, however, that the democratic process at European level - even more so than at national level - must provide a range of participatory structures in which all citizens, with their different identities and in accordance with their different identity criteria, can be represented and which reflect the heterogeneous nature of the European identity.

10.3.5 The European Parliament is elected by Europe's citizens in their capacity as national citizens (residing in a particular Member State), i.e. exercising their democratic rights as part of their national (territorial) identity.

10.3.6 But people's identity is also defined by membership of interest groups in the diverse shape of civil society organisations. These identity criteria, relating to people's role in civil society organisations, are not covered by representation in the EP. It is precisely these identity criteria, however, which are taken into account by the Committee as the representative of civil society organisations; this enables the Committee to promote democratisation at the European level, and to show Parliament that it provides genuine added value in the democratic European decision-making process. The Committee cannot compete with Parliament, in power terms alone, but it complements Parliament's legitimacy in a way that makes sense.

11. Measures to support the role of the Committee

11.1 **Cooperation with the Commission:** The Committee currently maintains close working contacts with the Commission which both sides feel to be satisfactory. Contact should nevertheless be established with individual Commissioners so as to ensure that the Commission requests an opinion from the Committee at an earlier stage in its decision-making process. Particularly in matters concerning its interest groups, the Committee should be consulted as early as possible so that it can decide to draft an own-initiative opinion if it wishes.

11.2 **Cooperation with the Council:** Each Presidency generally lays down certain programme priorities. The Committee should build on the already effective cooperation during the preparatory phases and organise accompanying measures during each Presidency (own-initiative opinions, hearings and local events, and joint initiatives with the presidency-in-office).

11.3 **Cooperation with the European Parliament:** The Treaty of Amsterdam empowers the Parliament (or its committees) to ask the Committee for opinions. The interinstitutional working group on ESC-EP relations has a key role to play here, with far-reaching political implications. If solid foundations can be laid for future cooperation, people's current feeling of remoteness from the European institutions could perhaps be reduced, and citizens could be reminded, through their representative organisations, of their responsibility for Europe and motivated to become involved.

11.4 **Cooperation with the Committee of the Regions:** local and regional representation of interests in the COR does not conflict with sectoral representation in the Economic and Social Committee; on the contrary, in many cases it is complementary. Mutual benefits could be won here too. A first step in this direction was taken by the Bureau this July, when a liaison group with the COR was set up to monitor the follow-up to a Committee opinion on "Exploitation of children and

sex tourism"⁶ and implement with the COR one of the proposals in this opinion, the setting-up of a European network of child-friendly cities.

The Committee should do more to encourage such practical forms of cooperation.

12. Creating a "civil society" action plan in the Committee

12.1 The Committee is the right forum in which to further broaden civil dialogue, and it should therefore make appropriate arrangements as soon as possible for this dialogue also to be conducted with those civil society organisations that are not currently represented in the Committee. This would be a crucial contribution to developing the model of participatory democracy.

12.2 The Committee is the institution in which civil society organisations meet. It is therefore proposed that an appropriate "civil society" organisational structure be set up to introduce initiatives in the following spheres, under an action plan to be implemented in the near future:

- events within the Committee, as well as hearings outside the Committee, which could give more people the opportunity to participate. The possibilities this would provide for opinion-forming and goal-setting through dialogue could represent a valuable contribution to the development of civil dialogue;
- interinstitutional contacts could also be consolidated and developed within this framework, with round tables of outside experts preparing joint opinions;
- there is also considerable scope to make more use of contributions from experts, which are often of high quality. Working up these contributions - where they address civil society issues - into press or scientific reports would not only further the knowledge of Committee members but could also be of interest to the wider public.

12.3 The ESC is the forum for development of a European identity: as already mentioned, European identity has many levels and comprises different criteria, first among which is the acceptance of a common code of values based on respect for human dignity and human rights.

- The German Presidency of the Council launched an initiative to draft a Charter of Basic Rights. At the Cologne summit, the German Minister for Justice noted that establishing a common code of values is of such fundamental importance for Europe's citizens that the highest possible degree of democratic legitimisation is desirable.
- As the representative of civil society organisations, the Committee can make a decisive contribution to this democratic legitimisation. It will prepare an own-initiative opinion on the

⁶ OJ C No 284 of 14/9/1998, p. 92

subject, and will also give its views during the committee procedure for drawing up a list of basic rights, which will be determined in more detail under the Finnish Presidency.

- Even in the preparatory stages the Committee can ensure that as many as possible of the relevant players from civil society organisations are involved, by organising its own consultation procedures and hearings.

12.4 The Committee is the bridgehead of civil society organisations in the context of EU enlargement:

- In the run-up to enlargement, the Committee's involvement in helping to set up civil society structures in those countries that do not yet have them, or in which they are not yet complete, cannot be overstated. As well as legal, economic, social and political action, integrating new members into the Community requires comparable structures, in order to actually implement the shared value system referred to above.
- The Committee has already done a lot of work to facilitate the setting-up in the candidate countries of bodies similar to the Committee, or to the national economic and social councils: it is working in joint consultative committees with those authorities in the applicant countries that are responsible for setting up these bodies. It is organising exchange programmes and in certain cases is also providing assistance with technical and administrative matters. With the help of the relevant sections and other administrative departments concerned, more positive steps could be taken in this direction through the action plan proposed in point 12.2.

13. Summary

New types of political entity - and the European Union in the post-Amsterdam period is such an entity - call for new ideas. In times of change, the so-called paradigm shift that characterises our present era, there is a need for visionary ideas and joint efforts to implement them. For Europe in particular this period preceding a possible enlargement poses a major challenge: to establish a common European identity based on a common value system, in addition to achieving major socio-economic goals.

The Committee has the opportunity to support this process of development and contribute to European integration as envisaged in the Maastricht and Amsterdam Treaties.

Brussels, 22 September 1999.

The President
of the
Economic and Social Committee

The Secretary-General
of the
Economic and Social Committee

Beatrice Rangoni Machiavelli

Patrick Venturini

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N.B.: Appendix overleaf.

APPENDIX
to the
OPINION
of the Economic and Social Committee
(in accordance with Rule 47(3) of the Rules of Procedure)

The following amendment was rejected but received more than 25% of the votes cast:

Amendment proposed by **Mr Nyberg**

Point 12.1

Insert the following after the 2nd sentence:

"The various activities occasioned by this broader dialogue should also help to boost participation for non-ESC members from organisations currently represented in the Committee."

Reason

In addition to the problem of organisations for which the ESC is currently unable to find room, we have trouble spreading the message of what the Committee actually does even within our own organisations. Moreover, some of the expertise within our organisations remains untapped in the ESC's regular activity. It should be possible to harness this expertise in various internal or external arrangements, thus making the people involved more aware of our work.

Voting

For	: 27
Against	: 40
Abstentions	: 11

Brussels, 8 April 1992

INFORMATION REPORT
of the
Sub-Committee
on
The Citizens' Europe

Rapporteur: Mrs RANGONI MACHIAVELLI
Co-Rapporteur: Mr JENKINS

CES 955/91 fin E//AH/PM/CAT/hm/ht

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Procedure

On 25 April 1991, acting under Article 24 of the Rules of Procedure, the Economic and Social Committee decided to draw up an Information Report on "The Citizens' Europe" and a Sub-Committee was set up in accordance with Article 17 of the RP.

This Sub-Committee was made up as follows:

- Chairman:** Mr NOORDWAL
- Rapporteur:** Mrs RANGONI-MACCHIAVELLI
- Co-Rapporteur:** Mr JENKINS
- Members:** Mr ARENA
Mr BERNIS
Mr BORDES-PAGES
Mr BURNEL
Mr de KNEGT
Mr HILKENS
Mr JASCHICK
Mr LANDABURU DA SILVA
Mr LIVERANI
Mr McGARRY
Mr MERCIER
Mr PERRIN-PELLETIER
Mr PETROPOULOS
Mr PROUMENS
Mr ROSEINGRAVE
Mr SANTILLAN
Mr SCHADE-POULSEN
Mr SCHMITZ
Mr SILVA
Mr STRAUSS
Mr WHITWORTH
- Experts:** Mr PINDER (for the Rapporteur)
Mr BERETTA (for the Co-Rapporteur)
Mrs HERTOGS (for Group II)
Mr WARD (for Group III)

The Sub-Committee met on the following dates:
29 May 1991, 8 July 1991, 19 September 1991, 2 October 1991, 12 November 1991, 22 January 1992 and 18 March 1992.

The Sub-Committee adopted the Information Report unanimously on 18 March 1992.

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FOREWORD

Citizens are individuals seen in the context of the full range of their personal, civic, vocational, economic, social and family rights and duties, applied with a view - here examined - to a transnational Community based on freedom and justice shared by all.

1. General Overview - What sort of Citizens' Europe?

1.1. Purpose of the Information Report

1.1.1. European citizenship must represent more than just the sum of twelve national citizenships.

As the European Community moves towards closer Union, its policies and actions must be rooted in a Union-wide form of democratic legitimacy and popular consent. This is why the European Parliament has repeatedly stressed that European Union and Community Citizenship are inter-linked: they must go hand in hand. The Economic and Social Committee has frequently likewise argued, notably in the context of the "1992" process, that the aim of the European Community is not exclusively to achieve an internal market. It is to achieve a better quality of life and closer relations (Article 2 of the Treaty). A "Citizens' Europe" is the real goal, in which the quality of everyday life is improved and better guaranteed by a "European dimension", in the context of a European Constitution.

1.1.2. In this connection and that of a European Community taking shape as "an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured" (Single European Act, Article 13), the "Citizens' Europe" which most easily springs to mind is one in which individual citizens may move to, reside in and work or become established in any Member State, on the basis of equal opportunities, mutual recognition of qualifications and diplomas and equal treatment as regards social protection, welfare and education. Much of this is now regarded as "acquis communautaire", even if in practice the exercise of such common established rights and accompanying duties and obligations will require more time and attention.

1.1.3. At the same time, a "Citizens' Europe" comprises everyday "freedoms", rights and duties, but also goes beyond them; it is about constructing a firm and durable, transnational model of citizenship. It is about filling the "democratic deficit" at European level, developing a civic and social "Union", enabling Europe's citizens better to control their own destinies, and about reinforcing the European Parliament and other democratic institutions whose role is to represent European citizens and defend their rights, duties and interests.

1.1.4. With a view to the second phase of democratic and institutional strengthening of the Union (1996), the main thrust of this report is to present these general themes and to highlight the following specific points:

1. The need for EC accession to the European Convention for the Protection of Human Rights and Freedoms, together with the incorporation into the Treaty of the Declaration of Fundamental Rights and Freedoms of the European Parliament.
2. The need in particular for a Treaty provision banning discrimination on ground of sex, colour, race, opinions and beliefs.
3. The need, on the basis of the elimination of obstacles and practical application of the "four freedoms" (free movement of goods, persons, services and capital), to assert equality of rights and duties for all citizens of the Union.
4. The need for proper democratic accountability at European level guaranteed through legislative powers for the European Parliament, transparent Council decision-making procedures, and full appreciation of the rule of law through the Court of Justice.
5. The need for the European Parliament to be elected according to a uniform electoral system providing proper representation of all political currents.
6. The need for the Treaty unequivocally to enable the proper application of the Social Charter and Social Protocol Agreement to all citizens concerned throughout the "European Union" as a whole.
7. The need for a similar EC commitment to wider social and societal rights¹ in fields including the environment, consumer protection, cultural heritage, vulnerable and disadvantaged groups, privacy, data protection, the role of socio-professional groups and safeguarding the family².

¹ Individual rights enjoyed by specific groups or categories of citizens, such as the elderly, the disabled, the sick, etc.

² Conclusions of the meeting of the Council of Ministers for family affairs of 29 September 1989 (see OJ No. C 277/2, 1989).

8. **The need for an EC Budget in keeping with "European Union" and capable of making a greater contribution to economic and social cohesion and to training and the alleviation of unemployment.**
9. **The need to devise Community policies for employment and vocational training, involving social dialogue and the increasingly active participation of other interest groups.**
10. **The need for the Economic and Social Committee and the new Committee of the Regions to carry out and develop their functions independently, but to similar purpose, putting participatory democracy and their representative status to work in the interests of the European Union.**
11. **The proposal to organize a quadrennial "Young Europe Convention".**

1.2. **Background**

1.2.1. The notion of European citizenship has been expressed over the years in varying degrees of elucidation:

1.2.2. As early as 1973, the **Copenhagen Summit** issued a Communiqué on European Identity.

1.2.3. The **1974 Paris Summit** gave consideration to granting European citizens specific rights within a "Community legal area".

1.2.4. In 1975, the influential **TINDEMANS Report** on European Union included a chapter on a "People's Europe" and on rights and solidarity.

1.2.5. The **1984 Fontainebleau Summit** gave consideration to a new Community dimension closer to the citizens.

1.2.6. In 1985 the **ADONNINO Report** (Ad Hoc Committee on a People's Europe) made proposals on freedom of movement for Community citizens, right of establishment, right of residence, etc.

1.2.7. The **1985 Milan Summit** approved these proposals and issued a mandate to the Commission to pursue them.

1.2.8. In 1988, the Commission published a **Communication on a People's Europe** concentrating on awareness of European identity, symbols, culture, youth exchanges, a European dimension to education, the environment, "1992" and citizenship.

1.2.9. In December 1989, the **Community Charter of the Fundamental Social Rights of Workers**, endorsed by the Heads of Government of 11 Member States, stressed in its preamble the need to ensure "equal treatment" and "to combat every form of discrimination, including discrimination on grounds of sex, colour, race, opinions and beliefs."

1.2.10. The run-up to "1992" and the intergovernmental conference on Union indeed helped to concentrate minds and accelerate some specific political action:

1.2.11. In June 1990 the **Dublin Summit** discussed European Union and Community citizenship, notably as regards human rights, political and social rights, free movement.

1.2.12. In October 1990 the **Spanish Government** subsequently presented its proposals (endorsed by the Commission) on Union and European Citizenship. It focused on "supplementing" rather than replacing national citizenship, on fundamental rights, and on a parallel development of Community competences on social matters, health, education, culture, environment and consumer protection.

1.2.13. In November 1990 the **European Parliament** proposed a **Resolution** on Community citizenship to the intergovernmental conference, calling for the inclusion in the new Treaty of a declaration of fundamental rights and freedoms based on the European Convention for the Protection of Human Rights and Fundamental Freedoms and on constitutional rights in Member States, and incorporating rights specific to Union citizenship such as the right to move and reside freely throughout the Union.

1.2.14. In December 1990 the **Rome Summit** expressed support for the concept of European citizenship, with specific reference to civic rights, social and economic rights, protection of EC citizens outside the Community borders, and an ombudsman for the defence of citizens' rights.

1.2.15. In May 1991 the "**Initial Contributions**" by the Commission to the intergovernmental conference on political union included a chapter on Union citizenship which proposed a definition of the concept, EC accession to the European Convention on the Protection of Human Rights and Fundamental Freedoms, a general principle prohibiting discrimination on the grounds of nationality, basic civic and social rights and obligations, an EC ombudsman, etc.

1.2.16. In May 1991, the **ETUC Congress** likewise adopted a report and declaration on EC Citizenship, highlighting the link between citizens' rights and trade union rights.

1.2.17. In November 1991, the **European Parliament BINDI Report** on Union Citizenship outlined the concept of a new "additional" form of citizenship, re-proposing the list of human rights and fundamental freedoms which should be enshrined in the Treaties, and stressing basic civic and social rights, notably the right to vote in any Member State, unlimited free movement within the Union and guaranteed diplomatic protection by any Member State.

1.2.18. The whole process has culminated, as a result of the Maastricht Summit of December 1991, in the notion of 'Union Citizenship' now being incorporated in the Treaty. This includes the right of each citizen to move and reside freely within the territory of the EC, to vote and stand as a candidate at municipal and European Parliamentary elections in the Member State of residence, to be entitled to diplomatic or consular protection by any Member State, to be able to petition the European Parliament, and to have access to an EC Ombudsman. The firm commitment to a single European currency by 1999 is also of vital practical importance to an authentic Union of Citizens. So too is the limited, but fundamental, step forward, under the revised version of Article 189 of the Treaty, empowering the European Parliament, "acting jointly with the Council", to "make regulations and issue directives, take decisions, make recommendations or deliver opinions" in certain fields of Community activity. Whilst the "democratic deficit" still exists, some progress in the right direction has been made. The new Committee of the Regions is also a step forward, as is the recognition of the role of the Economic and Social Committee and its budgetary autonomy.

1.2.19. European citizenship is now officially established in terms of both the rights and duties imposed thereby. But notions of what European citizenship really means remain hazy or at best only partially expressed. This report does not pretend conclusively to fill this gap, nor to supply an exhaustive list of European Citizens' rights and duties. It does however seek to contribute to the on-going debate and to express at this historic juncture the standpoint of Europe's socio-professional representatives on what sort of Citizens' Europe we might envisage.

1.3. A Europe of cultural diversity and common values

1.3.1. A Citizens' Europe is not an "identikit", all-inclusive, all-embracing "melting pot".

1.3.2. The key to a Citizens' Europe is its unity and diversity of culture, its pluralism of thought and tradition, its appreciation of Christian heritage and appreciation of other faiths as well as of humanistic and secular values and principles, and its fundamental attachment to liberty, social justice, tolerance, human rights and the Rule of Law. The Citizens' Europe "ethos" is firmly rooted in these common democratic values and respect for human dignity. These common values inspired the contemporary European idea and the concept of trans-national democracy which, unlike the confines of narrow nationalism, can give full expression to diversity, better access to choice and quality, and which can better assure a true understanding between peoples.

1.3.3. These common democratic values, and their transnational expression, are the "ethical" foundations of a Citizens' Europe - the first stage as such of its realisation. Economic and social rights are indissolubly linked to civil and political rights: together these citizens' rights constitute the cornerstone of a free, democratic society founded on respect for human rights.

1.3.4. European social and sociological research ought to be developed and supported with the aim of increasing an understanding of the influence of cultural patterns, of attitudes and behaviour on the role of government and concepts of regional, national and European identity.

1.4. A "Civic Europe"

1.4.1. A dynamic, efficient and democratically-accountable European Union logically invokes the notion of Community Citizenship, based on these values expressed and upheld through a basic Community legal framework which should fully recognize and protect human rights and fundamental freedoms.

1.4.2. The changes to the Treaty, incorporating Union Citizenship, need to be analyzed and amplified in this sense, and in relation to the (non-binding) European Convention on Human Rights and Fundamental Freedoms of the Council of Europe. This would constitute the second stage in the consolidation of a Citizens' Europe.

1.5. A "wider" and "deeper" Europe

1.5.1. **"The European Community has undoubtedly acted as a political magnet and a reference point for Eastern Europe in the recent and often dramatic social, civic and democratic events (...) a magnet as a People's Europe in which civic standards and democratic behaviour are guaranteed by the Rule of Law, by individual awareness and by social responsibilities. In an increasingly interdependent international setting, accountable self-determination will require a supranational democratic framework, for which the People's Europe is an embryo in terms both of basic rights and free movement - two vital aspects of liberty hitherto lacking in Eastern Europe. The Community has a responsibility to uphold and extend these rights..."³**

1.5.2. As the Committee has frequently argued, the widening and deepening of the EC must be complementary, not conflictual, and the Citizens' Europe "ethos" is central to this. Deepening is a logical pre-condition for widening. At the same time, as a unique transnational union of democracies, the Citizens' Europe is seen as a source of protection by the emerging democracies to the east, and as a dynamic "area" in the development of closer ties with EFTA countries. This "attractiveness," and the inevitable perspective of a "wider Europe", should be the source of enrichment and motivation for a "deeper" form of Union, as sought by most prospective Members, in order to ensure the efficiency, durability and democratic control of the whole process which they want to join.

1.5.3. An authentic and continually evolving Citizens' Europe must therefore be accorded a more concrete form, in parallel to the widening of the Community horizon. This third stage of development, building on the common democratic and civic values outlined earlier, needs to be considered according to the principles of consensus and social justice by which the Citizens' Europe should set its standards and for which it should strive.

³ ESC Opinion on Social Developments in the Community in 1989 (OJ C 225 of 10 September 1990), points 3.1. and 3.2.

1.6. A "Social Europe"

1.6.1. "Social policy goals and priorities(...) form an integral part of a People's Europe"⁴. In this context "EC social policy has a crucial role to play (and) must be allowed to do so on a firmer and clearer footing than hitherto".⁵ This is why the Committee called upon the 1991 intergovernmental conference to take account of the need for "balance and parity" between the social and economic aspects of the Treaty and revisions to it, and to allow a more complete use of Articles 100a and 118a in order to tackle cross-border labour market problems and promote basic social rights throughout the EC⁶.

1.6.2. The grindingly slow progress at Council in applying the EC Social Charter and Social Action Programme indicated that there was insufficient political will on the part of some national governments to achieve this vital and integral goal of a Citizens' Europe. The Protocol on Social Policy resulting from the Maastricht Summit may help "unblock" the deadlock, in so much as the heads of government of the 12 Member States "authorise" the 11 Member States signatories to the Social Charter to have recourse to the EC "institutions, procedures and mechanisms" in order to apply many of the key policies of the Charter on the basis of qualified majority voting. But it is to be regretted that, within the new Treaty on Union, not all "Euro-citizens" from the 12 Member States will be able to benefit from the Social Charter of Fundamental Rights and the new provisions for its application. It should also be noted that the Committee and European Parliament alike have consistently argued in favour of a substantial widening of the Social Charter, in order to cover both "workers" and other social groups and individual citizens through generally applicable, basic societal rights.

1.7. A Europe of higher standards, achievement and protection

1.7.1. A Citizens' Europe, built on strong democratic and civic foundations and "in pursuit of social justice (in) an area of liberty allowing for private initiative and the development of collective undertakings"⁷, should help achieve higher standards in education and training, in commerce and design, in economic activity and social wellbeing.

1.7.2. For a Europe "without frontiers" should be a continual springboard of ideas, of cross-referencing, of "networking", of cross-fertilisation, of contact and access to what is best being done or conceived. This qualitative approach for a dynamic Citizens' Europe should also apply to the

4 ESC Opinion on Social Developments in the Community in 1987 (OJ C 203 of 8 August 1988), point 3.4.

5 OJ C 225 of 10 September 1990, op. cit., point 5.3.

6 Ibid.

7 ESC resolution on an EC Action Programme 1989-1992, OJ C6 of 7 January 1989, point 1.3.

achieving of better services, better health protection and welfare, better consumer protection and a better environment.

1.7.3. The Community's commitment to high standards in these fields is clearly laid down in Article 100a (3) of the Treaty, which states that "The Commission, in its proposals ... concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection." This "quality requirement", in the words of Pascal Fontaine, "is a guarantee that the basis for common action will not be the lowest common denominator in the Member States, but that it will, on the contrary, constrain governments with backward policies in this area to align themselves on the highest standards."⁸

- In terms of environmental protection, the incorporation into the Treaty of the "polluter should pay" principle, and the recognition of EC competence concerning the evaluation of environmental impact, together constitute a substantial EC-wide and EC-controlled set of rights and obligations. Progress in this field will no doubt increase as a result of qualified majority voting in Council, and should be accompanied by the closer involvement of European citizens and their environmental protection agencies in monitoring the rights, obligations and standards laid down.
- With respect to Community competence for consumer protection, now reaffirmed in the Treaty, the European core of consumer guarantees, already registered, must be extended, as the internal market of some 340 million consumers takes shape. This should be accompanied by easier EC-wide access to the courts for consumers and their representatives.

1.8. A Europe of free thought, free movement, freedom of information and the right to privacy

1.8.1. Whilst such rights exist in varying degrees in the Member States, the only firm EC action or protection is in the free movement of persons, capital and goods. The "free movement" of personal data is now massively on the increase and European citizens are in obvious need of protection in this area. A Citizens' Europe must stand for transparency and for freedom of information as well as freedom of access to the ideas, media and cultures of third countries. It must not degenerate into a "fortress" of controls and checks on its citizens (or on other persons legally resident in Member States).

1.9. A Europe of economic and social cohesion

1.9.1. Strengthening the Community's economic and social cohesion has become the natural consequence of the frontier-free market and should run parallel to it. This implies a far-reaching effort to reduce differences in living standards and equal economic opportunity between regions, one which

⁸ Pascal Fontaine "A Citizen's Europe: Europe on the move", Commission publication CC-60-91-773, Brussels, Luxembourg 1991, page 24

was partly set in motion in February 1988 when the Community decided to double the budget appropriations for structural expenditure⁹.

1.9.2. The appropriations rising to ECU 14 billion by 1993 for the development of less-favoured areas and for the integration of young and long-term unemployed people into the labour market are a modest necessity for a Community whose "essential objective" is constantly to improve the living and working conditions of its citizens.

1.9.3. The decision at Maastricht, to "reaffirm that the promotion of social and economic cohesion is vital to the full development and enduring success of the Community", is welcome, as is the agreement to set up the "Cohesion Fund" by the end of 1993 for EC financial contributions to projects concerning the environment or trans-European Networks in Member States with a per capita GNP of less than 90% of the Community average.

1.9.4. Good use both of the Structural Funds and of the new Cohesion Fund would require greater participation by "European citizens" through their various action services, pressure groups and socio-professional organisations.

1.10. A "Young Europe"

1.10.1. It is vital for a Citizens' Europe to nurture its young citizens and prepare their future, to broaden their horizons, to enable better participation in and access to the European dimension, to help them become more "Europe conscious".

1.10.2. This is one area where practical progress has been achieved in recent years, notably through new EC exchange programmes for young people such as Youth for Europe, ERASMUS, LINGUA, COMET, PETRA, EUROTENET and (further afield) TEMPUS. The European Youth Forum, the European University Institute, the College of Europe... are also commendable examples of involving and preparing young people for their future Europe. Those fortunate enough to participate in such schemes should become "messengers of Europe" and report back to schools, higher education and training institutes and to other fora involving less privileged young people.

1.10.3. For indeed, many young people remain outside and untouched by such EC schemes, and often excluded from the mainstream of European society in general (the unemployed, those in precarious jobs, in poverty, on the margins of society). More thought must be given on how to assure all young people a stake in a Citizens' Europe, in the Europe of today and tomorrow.

1.10.4. EC activity in this context should be stepped up, notably as regards jobs and school:

- Whilst the Maastricht Summit rightly highlighted EC competences as regards training and education, it must be noted with regret that youth unemployment in the EC is again on the

⁹ Pascal Fontaine "A Citizen's Europe", op.cit., page 18

increase, at double the rate for the labour force as a whole (16% as against just over 8%), young people accounting for around 35% of the total number of unemployed across the Community and for 30% of the long-term unemployed. The time has surely come for specific EC resources to be set up to address youth unemployment, together with the promotion of cohesive EC-wide policies on the right to training and of clearer support measures for entry into the labour market.

- At the same time, the EC might be more imaginative in promoting the "European dimension" at school. For example, in addition to exploiting the EC competences established at Maastricht as regards pedagogical material, language teaching and the encouragement of mobility throughout Europe, perhaps the EC and the competent national authorities might consider involving all young Europeans at secondary and training school in the organisation of a quadrennial "Young Europe Convention". The starting point would be to support secondary and training schools throughout the Community in holding elections from amongst their pupils to regional Young European Councils. These Councils could in turn select delegates for the "Young Europe Convention" itself. The advantage of such an EC initiative would be to 'get through to' and directly involve young people at all levels, from local to trans-national, in debating and registering their views on Europe. Perhaps the Commission and European Youth Forum could give some consideration to this suggestion.

1.11. A Europe of "Solidarity" between generations and citizens

1.11.1. As we move towards 1993, the designated European Year of the "Elderly and Solidarity between Generations", the Committee would reiterate that a Citizens' Europe must be sensitive to the needs of all age groups in the development of a more efficient, competitive, but also more caring society. The European Community has a role to play here, even if a clear Community competence in this field has not yet been established. A Citizens' Europe must likewise be more attentive at all competent levels to the needs and role of people with disabilities. There should be formal and informal programmes for life-time education to take account of the needs of all these groups.

1.12. A Europe of "Solidarity" with the rest of the world

1.12.1. European integration must embody a sense of responsibility and solidarity towards all the peoples of the world, helping to make and preserve peace, the promotion of freedom and human rights, and the economic and social progress of the less developed countries.

1.12.2. There can be no "fortress Europe": Europe must listen to and work with all countries, particularly its neighbours in North Africa and Eastern Europe, together with others which have been shaped by European culture, such as the nations of Latin America.

2. **The various stages towards a Citizens' Europe**

2.1. **Stage 1: The "Treaty on the Union"
- Union Citizenship and a Community Legal Area**

2.1.1. Within the scope of the Treaty prior to Maastricht, it was difficult to locate any particular notion of transnational, Community citizenship, other than perhaps in Article 7, which states that "any discrimination on grounds of nationality shall be prohibited". The "ever closer union" envisaged in the preamble was among the "peoples of Europe", not the "citizens of Europe".

2.1.2. Now, as a result of Maastricht, the "Treaty on European Union" has a specific chapter on Citizenship of the Union, thereby recognizing the link between European Union and Community citizenship, and incorporating this concept within the new Treaty.

2.1.3. **The Treaty on the Union is quite clear here:**

"This Treaty marks a new stage in the process creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizens".¹⁰

It goes on to explain, if not to define, the term "citizenship" as follows :

"Citizenship of the Union is hereby established.

Every person holding the nationality of a Member State shall be a citizen of the Union.

Citizens of the Union shall enjoy the rights conferred by this Treaty and shall be subject to the duties imposed thereby".¹¹

2.1.4. The specific rights directly provided by the Treaty (primary legislation) are presented as follows:

- Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States (...).

¹⁰ Treaty on European Union - Common Provisions, Article A.

¹¹ Ibid., Part 2, Citizenship of the Union, Article 8.

- Every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides, under the same conditions as nationals of that State. (...).
- Every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate in elections to the European Parliament in the Member State in which he resides, under the same conditions as nationals of that State (...).
- Every citizen of the Union shall, in the territory of a third country in which the Member State of which he is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that State (...).
- Every citizen of the Union shall have the right to petition the European Parliament (...).
- Every citizen of the Union may apply to the Ombudsman".¹²

2.1.5. The establishment through the Treaty of such "new" Union citizens' rights would represent a major step forward in terms of European citizenship. Most points listed had already been proposed or supported both by the European Parliament and the Economic and Social Committee¹³, as well as by the European Commission. They should be accompanied by a specific list of corresponding duties, which must include respect for the rights of others and the obligation not to discriminate against any person resident in the Community on grounds of sex, colour, race, opinions and beliefs.

2.1.6. The Treaty on the Union stops short, however, of a Community legal framework giving full protection of human rights and fundamental freedoms.

2.2. Stage 2: Fundamental Rights and Freedoms

2.2.1. The Committee, in this connection, has already clearly stated its position in favour of:

*"a trans-national display of the Community's firm attachment to basic civic and democratic rights, for example, EC accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms - a fitting condition and protective rallying point for future membership."*¹⁴

¹² Treaty on European Union, op. cit., Citizenship, Articles 8a-8d.

¹³ See for example the ESC Opinion on voting rights (OJ C 71 of 20 March 1989).

¹⁴ OJ No. C 255 of 10 September 1990, op. cit. point 5.4.

2.2.2. The European Parliament, for its part, has called:

*"for the incorporation into the Treaties of the declaration of fundamental rights and freedoms approved by the European Parliament on 12 April 1989; (...) for the Court of Justice to have jurisdiction for the protection of these fundamental rights vis-à-vis the Community with the possibility of direct access to the Court of Justice for Community citizens after national appeal procedures have been exhausted (for the Community to ...) accede to the European Convention on Human Rights"*¹⁵

2.2.3. Likewise, the European Commission's "Initial Contributions" to the intergovernmental conference on political union also proposed that:

*"Every Union citizen shall be entitled to invoke the rights guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms, which the Union accepts."*¹⁶

2.2.4. The new Treaty on the Union stresses that Member States' systems of government are "founded on the principles of democracy", and goes on to mention that "the Union shall respect fundamental rights as guaranteed by the European Convention"¹⁷, but it does not actually propose direct accession to the Convention.

2.2.5. The European Parliament's Declaration of Fundamental Rights and Freedoms¹⁸, which identifies citizenship on the basis of transnational rights, confirms traditional rights and adds new ones; the traditional rights (right to life, security, equality before the law, freedom of thought and expression, and particularly the right of movement, association and petition) link up with rights connected with access to information and confidentiality of occupational and working-condition data, conservation of the environment and consumer protection.

2.2.6. Emphasis is also put on the importance of the Community acceding to the Convention, in order to guarantee the exercise of rights, for instance in cases where their exercise may be impeded by transnational aspects.

2.2.7. Some of these rights have already been discussed. Others are dealt with below.

15 See Second Interim Report of the Committee on Institutional Affairs on the Intergovernmental Conference (MARTIN), Doc. A 3-166/90 of 25 June 1990, point 16 'Fundamental Rights and Freedoms and a Citizens' Europe'; plus Interim Report on "Union citizenship" (BINDI) Doc. A3-0139/91 of 23 May 1991, Resolution, Point M.1.

16 SEC(91) 500, Article X.2.

17 Treaty on European Union, op. cit., Common Provisions, Article F

18 OJ No. C 120, May 1989, page 51. The "General Provisions" of the Declaration are set out in Appendix I.

2.3. Stage 3: Basic Community Social Rights and Societal Rights¹⁹
· "concurrent competence"

2.3.1. In the current situation, a clear reference point for primary or secondary EC legislation in this field is provided by the Community Charter of Fundamental Social Rights²⁰, which sets out the need for EC-wide policies on free movement, employment conditions, living and working conditions, social protection, freedom of association and collective bargaining, vocational training, equal treatment for men and women, information, consultation and participation of workers, health protection and safety at the workplace, protection of children and adolescents, of elderly persons and of disabled persons.

2.3.2. It was hoped that the Treaty on the Union could further implementation of the Community Charter of Fundamental Social Rights, and highlight and speed up the decision-making process necessary for the adoption of basic social and "societal" rights identified earlier as an "integral" part of a People's Europe.

2.3.3. Except for the right of free movement for all EC citizens, now firmly incorporated in the body of the Treaty, the Maastricht Treaty on the Union does not in fact provide a new mechanism which might facilitate the proper application of the Social Charter throughout the twelve Member States.

2.3.4. The Protocol Agreement on Social Policy appended to the Treaty on the Union does, however, provide for qualified majority voting amongst eleven Member States for Directives in the following policy fields:

- improvement in particular of the working environment to protection workers' health and safety;
- working conditions;
- the information and consultation of workers;
- equality between men and women with regard to labour market opportunities and treatment at work;
- the integration of persons excluded from the labour market²¹.

¹⁹ See footnote 1.

²⁰ See Community Charter of Fundamental Social Rights of Workers - Workers Commission Cat. No. CB-57-89-483 (ISBN 92-826-).

²¹ Treaty on European Union, Protocol on Social Policy and Agreement, Annex IV.

2.3.5. Whilst these new provisions might represent a major breakthrough for eleven Member States, the Committee finds it hard to accept that, in a Union of twelve, the "European citizens" of one particular Member State should be treated in a discriminatory manner. Moreover, the legal implications of 12 Member States "authorising" eleven to have recourse to the "institutions, procedures and mechanisms" of the European Community, in order collectively to promote basic social rights throughout most though not all of the Union, remain rather dubious. The Social Charter and the Social Protocol Agreement should apply to all citizens concerned throughout the Union as a whole.

2.3.6. It is nonetheless worth noting that, as regards the social provisions set out in the Social Protocol Agreement under Article 2(1), it is stated that "the Community shall support and complement Member States' activities" in the given fields²². This is in line with the concept of "concurrent competence" and "subsidiarity" (first proposed by the European Parliament in its 1984 "Draft Treaty establishing the European Union" - Spinelli). Hence Article 3b of the Treaty on the Union clearly states:

*"In the areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community."*²³

2.3.7. The official and perhaps legal interpretation of "subsidiarity", especially as it relates to social policy fields of action potentially subject to qualified majority voting under Article 2 of the Social Protocol Agreement, is evidently of crucial significance to the development of the Citizens' Europe and will certainly be the subject of more vigorous debate.

2.3.8. The Committee and Parliament have also argued for a substantial widening of the EC Social Charter, in order to include the following, broader societal rights:

"(...) A. Generally Applicable Standards

- *right of all sections of society to social security cover;*
- *right of all sections of society to social welfare, safety and health protection;*

²² Treaty on the Union, op. cit., Article 2.1.

²³ Ibid., Article 3b of the Provisions Amending the EEC Treaty.
It might also be worth recalling the European Parliament's definition of "subsidiarity":

"The Union shall only act to carry out those tasks which may be undertaken more effectively in common than by Member States acting separately, in particular those whose execution requires action by the Union because their dimension or effects extend beyond national frontiers.

(EP Draft Treaty Establishing the European Union, Article 12).

- *right to education;*
- *right to protection of privacy and the integrity of the personal sphere, in particular in connection with the use of computerized systems and data banks;*
- *right to protection of personal property and definition of the restrictions placed thereon by society;*
- *right to equality of opportunity and treatment, and elimination of any form of discrimination;*
- *rights of the child, mother and family to legal and economic protection;*
- *rights of the elderly;*
- *right of workers, producers and consumers to form associations freely for the purpose of setting up undertakings such as cooperatives and mutual societies founded on the solidarity principle;*
- *right of consumers to health protection; full and objective financial information and free choice of goods and services;*
- *right to protection of the environment;*
- *right of preservation of the cultural heritage;*²⁴

The Treaty on European Union has made headway on some of these matters, notably as regards qualified majority voting on environmental policy decisions, on EC competence for consumer protection, and in recognizing appropriate EC competences in the fields of public health and culture. More effort and mobilization of citizens' and socio-professional groups are required in order to make more rapid progress towards the practical implementation of these new competences.

2.4. Stage 4: **Towards a genuine application of European Citizens' rights . accountability**

2.4.1. It would appear from inter-ministerial negotiations on European Citizenship that a majority of the Member States tend to prefer not to incorporate the various rights proposed into the Treaty in a way which would ensure their direct applicability. There is certainly as yet no majority to insert the EC Social Charter or the Parliament's Declaration of Fundamental Rights and Freedoms into the revised Treaty.

²⁴ See ESC Opinion on Basic Community Social Rights - OJ No. C 126/4-12, III, A.

2.4.2. In terms of secondary legislation, however, recent developments in the **Court of Justice** could lead to a decisive breakthrough of European Citizens' rights. Indeed the EC advocate general has recently stated that, in his view, any citizen who has suffered a loss as the result of his or her government failing to implement EC law, or being in breach of any EC Directive, would be entitled to compensation.

2.4.3. If the Court of Justice adopts this as a general legal guideline, the precedent set could lead to individual EC citizens being able to take legal action themselves against their governments, for failure to implement Community rules.

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3. A Citizens' Europe: resuming the initiative after Maastricht

3.1. Socio-economic aspects

3.1.1. The Maastricht conclusions represent a further step towards the achievement of a Citizens' Europe, with the Treaty establishing the concept of European Citizenship.

3.1.2. The Committee continues, as in the past, to see the objectives of the Community's Social Charter as linked with those of the Citizens' Europe in that the Social Charter lays down a legal framework on which to base the rights and duties common to both.

3.1.3. A legal framework of Community rights does not in itself guarantee their effective implementation, but does indicate a set of common standards for different cultures and, above all, for different conditions thereby contributing significantly to a balance between the two socio-economic processes underpinning the Community: the market and the on-going dialogue between its economic and social components.

3.1.4. The major changes on the world scene, the current redistribution of economic and social power and the changing pattern of development raise new and complex questions, the solution to which will depend to a large extent upon the capacity for dialogue of those representing the various social interests, categories and groups concerned.

3.1.5. The Maastricht agreement committing the Commission, *inter alia*, to consulting the social partners before submitting proposals in the field of social policy, is of undoubted importance. However, many other interest groups (farmers, craftsmen, traders, small and medium-sized businesses, the professions, consumer and ecological groups, and representatives of cooperatives, mutual societies, non-profit associations and families) are expressing a legitimate wish to increase their capacity for participation in decision-making on economic and social development.

3.1.6. Democracy, development and social justice are intimately linked; consequently economic growth must be in a position to offset the profound economic and social imbalances which still exist between the various regions and groups of citizens. It needs to be borne in mind that, while the European standard of living has risen significantly, millions of citizens within Community borders continue to live under conditions of severe poverty and social exclusion. The benefits of liberal market forces will not be equally distributed throughout the EC. The right to equal opportunity should be applied irrespective of location in the Community. Priority ought to be given by the EC to identifying possible ways of enhancing the quality of life *inter alia* by means of technological innovation.

3.1.6.1. Any society which allows a permanently disadvantaged underclass to grow within it will create groups of "non-citizens" who do not identify with the values on which that society is based and will eventually constitute a pool of alienated individuals wide open to organized crime and political extremism.

3.1.6.2. There is a very real danger that economic development will take little heed of economic and social cohesion in a Europe exposed to ever-fiercer world competition.

3.1.7. At the current stage, as ambitious European union goals, such as a single currency and a common foreign policy, are set, the establishment of a framework of citizens' rights could help gear all Community initiatives in to the aim of balanced development and full implementation of the union Treaty.

3.2. Legal aspects

3.2.1. Since agreement on legal definitions tends to facilitate the emergence of more comparable socio-economic conditions throughout the Community, it responds to the need to guarantee citizens' enjoyment of the four freedoms in the internal market.

3.2.2. This means removing legal obstacles such as the delayed embodiment in national law of Community directives, or procedures which from one State to another - or even within individual States - apply differently to home citizens and those from other Community countries.

3.2.3. The barriers erected by disparities in areas such as language rights, the approach to equality of opportunity between the sexes and races, or concerning physical handicap, divergent forms of vocational training and differing rules for access to employment in the public and semi-public sectors must all be dismantled.

3.2.4. All these aims can only be achieved gradually, but the on-going process of bringing national legislation into line with Community standards can only benefit from the definition of an overall framework.

3.2.5. Such standards should ensure equal rights for all citizens. This should also facilitate the creation of conditions in which it would be more difficult for individual or collective entities, whether public or private, to evade their responsibilities.

Citizenship is a token of belonging to a community in which each member takes part in implementing the wishes of the whole, submitting himself to them without loss of personal freedom, since he is obeying rules which he himself has had a say in drawing up. A democratic society can only be freely constructed around positive values shared by citizens who are equal in freedom.

European citizenship is therefore not simply the sum of 12 national citizenships, but constitutes an "added value", enriching and adding to them all.

The Chairman
of the Sub-Committee

Philip H. NOORDWAL

The Rapporteur
of the Sub-Committee

Beatrice RANGONI MACHIAVELLI

The Secretary-General
of the
Economic and Social Committee

Jacques MOREAU

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N.B.: Appendices overleaf.

APPENDIX I: EUROPEAN PARLIAMENT'S DECLARATION OF
FUNDAMENTAL RIGHTS AND FREEDOMS

"GENERAL PROVISIONS

*Article 1
(Dignity)*

Human dignity shall be inviolable.

*Article 2
(Right to life)*

Everyone shall have the right to life, liberty and security of person.

No-one shall be subjected to torture or to inhuman or degrading treatment or punishment.

*Article 3
(Equality before the law)*

- 1. In the field of application of Community law, everyone shall be equal before the law.*
- 2. Any discrimination on grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status shall be prohibited.*
- 3. Any discrimination between European citizens on the grounds of nationality shall be prohibited.*
- 4. Equality must be secured between men and women before the law, particularly in the areas of work, education, the family, social welfare and training.*

*Article 4
(Freedom of thought)*

Everyone shall have the right to freedom of thought, conscience and religion.

*Article 5
(Freedom of opinion and information)*

- 1. Everyone shall have the right to freedom of expression. This right shall include freedom of opinion and the freedom to receive and impart information and ideas, particularly philosophical, political and religious.*
- 2. Art, science and research shall be free of constraint. Academic freedom shall be respected.*

*Article 6
(Privacy)*

1. *Everyone shall have the right to respect and protection for their identity.*
2. *Respect for privacy and family life, reputation, the home and private correspondence shall be guaranteed.*

*Article 7
(Protection of family)*

The family shall enjoy legal, economic and social protection.

*Article 8
(Freedom of movement)*

1. *Community citizens shall have the right to move freely and choose their residence within Community territory. They may pursue the occupation of their choice within that territory.*
2. *Community citizens shall be free to leave and return to Community territory.*
3. *The above rights shall not be subject to any restrictions except those that are in conformity with the Treaties establishing the European Communities.*

*Article 9
(Right of ownership)*

The right of ownership shall be guaranteed. No one shall be deprived of their possessions except where deemed necessary in the public interest and in the cases and subject to the conditions provided for by law and subject to fair compensation.

*Article 10
(Freedom of assembly)*

Everyone shall have the right to take part in peaceful meetings and demonstrations.

*Article 11
(Freedom of association)*

1. *Everyone shall have the right to freedom of association, including the right to form and join political parties and trade unions.*

*Article 12
(Freedom to choose an occupation)*

1. *Everyone shall have the right to choose freely an occupation and a place of work and to pursue freely that occupation.*
2. *Everyone shall have the right to appropriate vocational training in accordance with their abilities and fitting them for work.*
3. *No one shall be arbitrarily deprived of their work and no one shall be forced to take up specific work.*

*Article 13
(Working conditions)*

1. *Everyone shall have the right to just working conditions.*
2. *The necessary measures shall be taken with a view to guaranteeing health and safety in the workplace and a level of remuneration which makes it possible to lead a decent life.*

*Article 14
(Collective social rights)*

1. *The right of negotiation between employers and employees shall be guaranteed.*
2. *The right to take collective action, including the right to strike, shall be guaranteed subject to obligations that might arise from existing laws and collective agreements.*
3. *Workers shall have the right to be informed regularly of the economic and financial situation of their undertaking and to be consulted on decisions likely to affect their interests.*

*Article 15
(Social welfare)*

1. *Everyone shall have the right to benefit from all measures enabling them to enjoy the best possible state of health.*
2. *Workers, self-employed persons and their dependants shall have the right to social security or an equivalent system.*
3. *Anyone lacking sufficient resources shall have the right to social and medical assistance.*
4. *Those who, through no fault of their own, are unable to house themselves adequately, shall have the right to assistance in this respect from the appropriate public authorities.*

Article 16
(Right to education)

Everyone shall have the right to education and vocational training appropriate to their abilities.

There shall be freedom in education.

Parents shall have the right to make provision for such education in accordance with their religious and philosophical convictions.

Article 17
(Principle of democracy)

1. All public authority emanates from the people and must be exercised in accordance with the principle of the rule of law.

2. Every public authority must be directly elected or answerable to a directly elected parliament.

3. European citizens shall have the right to take part in the election of Members of the European Parliament by free, direct and secret universal suffrage.

4. European citizens shall have an equal right to vote and stand for election.

5. The above rights shall not be subject to restrictions, except where such restrictions are in conformity with the Treaties establishing the European Communities.

Article 18
(Right of access to information)

Everyone shall be guaranteed the right of access and the right to corrections to administrative documents and data concerning them.

Article 19
(Access to the courts)

1. Anyone whose rights and freedoms have been infringed shall have the right to bring an action in a court or tribunal specified by law.

2. Everyone shall be entitled to have their case heard fairly, publicly and within a reasonable time limit by an independent and impartial court or tribunal established by law.

3. Access to justice shall be effective and shall involve the provision of legal aid to those who lack sufficient resources otherwise to afford legal representation.

*Article 20
(Non bis in idem)*

No one shall be tried or convicted for offences for which they have already been acquitted or convicted.

*Article 21
(Non-retroactivity)*

No liability shall be incurred for any act or omission to which no liability applied under the law at the time when it was committed.

*Article 22
(Death penalty)*

The death penalty shall be abolished.

*Article 23
(Right of petition)*

Everyone has the right to submit written complaints and petitions to the European Parliament.

The procedures shall be laid down by the European Parliament.

*Article 24
(Environment and Protection of Consumers)*

1. The following shall form an integral part of Community policy:

- the preservation, protection and improvement of the quality of the environment;*
- the protection of consumers and users against the risks of damage to their health and safety and against unfair commercial transactions.*

2. The Community institutions shall be required to adopt all the measures necessary for the attainment of these objectives.

FINAL PROVISIONS

*Article 25
(Field of application)*

1. *This Declaration shall afford protection for every citizen in the field of application of Community law.*
2. *Where certain rights are set aside for Community citizens, it may be decided to extend all or part of the benefit of these rights to other persons.*
3. *A Community citizen within the meaning of this Declaration shall be any persons possessing the nationality of one of the Member States.*

*Article 26
(Limits)*

The rights and freedoms set out in this Declaration may be restricted within reasonable limits necessary in a democratic society only by a law which must at all events respect the substance of such rights and freedoms.

*Article 27
(Degree of protection)*

No provision in this Declaration shall be interpreted as restricting the protection afforded by Community law, the law of the Member States, international law and international conventions and accord on fundamental rights and freedoms or as standing in the way of its development.

*Article 28
(Abuse of rights)*

No provision in this Declaration shall be interpreted as implying any right to engage in any activity or perform any act aimed at restricting or destroying the rights and freedoms set out therein."

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APPENDIX II: SUMMARY OF COMMUNITY'S CHARTER OF
FUNDAMENTAL SOCIAL RIGHTS

1. *Free movement of workers throughout the EC*
 - . *plus family*
 - . *recognition of diplomas or equivalent occupational qualifications*
 - . *improvement of living and working conditions of frontier workers*
2. *The right to choose and engage in an occupation*
 - . *fair remuneration*
 - . *equitable wage*
 - . *terms of employment*
 - . *access to public placement services*
3. *Improvement of living and working conditions*
 - . *working time*
 - . *regulation of collective redundancies and bankruptcies*
 - . *weekly rest period*
 - . *conditions of employment according to law, collective agreement or contract of employment*
4. *Social protection*
 - . *adequate social protection*
 - . *sufficient resources and social assistance*
5. *Freedom of association and collective bargaining*
 - . *freedom to join or not a trade union*
 - . *collective agreements*
 - . *social dialogue at European level*
6. *Vocational training*
 - . *every worker of the EC must be able to have access to vocational training*
7. *Equal treatment for men and women*
 - . *must be assured and developed further*

8. *Information, consultation and participation of workers*
 - . *must be developed taking account of national practices*
 - . *shall apply to companies of a European dimension*
 - . *particularly in cases of technological change, restructuring, collective redundancy procedures*

 9. *Health protection and safety at the workplace*
 - . *harmonisation of conditions while maintaining improvements made*
 - . *appropriate training, information and consultation*

 10. *Protection of children and adolescents*
 - . *minimum employment age (15 years)*
 - . *equitable remuneration*
 - . *following compulsory education, entitlement to vocational training and access to employment*
 - . *working time conditions (night work prohibited)*

 11. *Elderly persons*
 - . *retirement and pension entitlement, sufficient resources, medical and social assistance*

 12. *Disabled persons*
 - . *social and professional integration*
 - . *training, accessibility, mobility, transport, housing.*
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