1. **BACKGROUND**

The first step towards a statute for European associations was made in 1984, when the European Parliament passed a resolution.

This initiative was at that time driven by two types of concern:

- the need to take seriously the *citizenship* dimension of the European Community, by formalising one of the rights inherent in citizenship, i.e. the right of *association*. Without an instrument establishing this right in practical terms, it remained a largely theoretical right;

- the desire to continue European integration at the time when the Single Act was being finalised: without prejudice to the subsidiarity principle, the idea was to create an *optional* instrument that would be recognised throughout the Community.

This initiative was welcomed at the time. However, since it was part of a process that included, inter alia, the European company (*Societas Europaea*) and cooperatives statutes, it has made no progress for almost fifteen years due to the negotiations on the directive on employee participation, a directive inextricably linked to the regulations establishing those statutes.
It was not until the Nice summit in December 2000 that agreement was reached on that directive, thus enabling the European company statute to be adopted quickly, soon followed by that for cooperatives.

Over time, the initial motivating factors have become stronger and indeed more numerous:

- stronger, inter alia in the light of the adoption of Article 47 of the Constitutional Treaty on participatory democracy and calls for a Europe that is closer to its citizens;

- more numerous, with the addition of calls to cut red tape, which could result from single registration of associations wishing to carry out activities in several Member States; and of calls for greater transparency of associations, which is considered a priority at every level of the European Union, and is all the more necessary for associations if they are governed by national laws that are as numerous as they are varied. This imperative was given added impetus by the initiatives taken to combat terrorism.

2. **ASSESSMENT OF THE CURRENT SITUATION**

These debates recently resumed following the European Commission's decision to withdraw the draft statutes in the name of administrative simplification, which is in fact what they are supposed to achieve.

In reality, it would appear that the Commission's main motivation lies in the lack of a realistic prospect of this project being completed in a short enough time. It is now time to rebut this pessimistic prognosis, and we have a number of arguments with which to do so:

- The European Economic and Social Committee itself, in an opinion dated 14 December 2005¹, has stated that "work on the adoption of statutes for a European Association and a European Mutual Society, which has unfortunately been broken off, should be continued".

- In another opinion dated 14 February 2006², the EESC restates its belief that the statute for a European association "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" and that "The principles contained in Article I-47 of the Constitutional Treaty should, in the Committee's view, provide an

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² Opinion on The representativeness of European civil society organisations in civil dialogue.
incentive to re-examine the issue”. “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 2003.”

➢ The UK presidency of the EU, in its conclusions, invites the Commission to carry out an impact assessment on the legislative proposals before withdrawing them "if appropriate”.

➢ The European Parliament, in its joint resolution on the Commission work programme for 2006, calls on the Commission "not to withdraw its proposal on European mutual societies and European associations".

➢ On 23 November 2005, the ECVO sent a letter to Commissioner Verheugen to express its disappointment at the decision to withdraw the proposals for statutes for European associations and mutual societies.

➢ The platform of European NGOs in the social sector, one of the main organisations representing civil society at European level, wrote in October 2005 to the President of the Commission, Mr Barroso, to ask him to reconsider his decision to withdraw the European statute for associations.

3. QUESTIONS FOR FURTHER CONSIDERATION

In its current form, the draft statute draws both on the initial work and on the other statutes adopted in the meantime at European level for companies and cooperative societies.

During the debates that took place in the Council of Ministers' working group on company law, it seems that the main difficulties related to the following areas:

➢ The definition of an association: "any persons-centred organisation subject to a non-distribution constraint". In other words, what is sometimes referred to as the non-profit rule applies to the members, and not to the association itself. Moreover, this definition does not prevent an association from carrying out economic activity, but most existing legislation subjects them to limits of varying degrees of strictness in this area.

➢ Accreditation: under most national law, prior accreditation by an administrative authority is not required; however, such accreditation is required if certain benefits are to be granted, in particular tax breaks.
Consequences of a possible European statute in the various Member States (social and fiscal legislation, etc.): this argument does not seem to us to be relevant, in that national provisions continue to apply both in social and fiscal terms.

Some non-governmental organisations are concerned that, despite its claim to be optional, this statute might in reality become compulsory if an association is to benefit from certain types of European funding. In addition, some networks are concerned that the granting of legal personality might give rise to constraints that the simple status of de facto association makes it possible to avoid.

Finally, the eurosceptics are opposed in principle to Europe having any powers in an area that in their view is reserved to national authorities. On this subject, it is worth noting the objective alliance of those who take this view and some business circles who want European statutes to be limited to commercial companies.

4. **PROPOSAL**

EESC resolution explicitly calling on the European Commission and the future presidencies to continue the debate on the draft statutes for European associations and European mutual societies.

P. De Bucquois
Vice-President