Participative Democracy and Civil Dialogue: a retrospective overview of the story written by the EESC
Foreword by Luca Jahier  
President of Group III

Glancing through the following pages, and also the many other pages of the documents mentioned in the extensive bibliography, one is struck by three emotions.

The first is one of deep respect and gratitude towards those previously held the responsibilities we hold today and towards the many colleagues and experts who, over the years, helped build up this large and impressive body of thought on civil dialogue and participatory democracy.

The second is one of pride: pride in belonging to an institution that has been able to make such a significant and defining contribution to the development, in the European public sphere and in interinstitutional dialogue, of a concept that, just fifteen years ago, was difficult even to translate into some languages and has today at long last become common practice and, most importantly, is now part of the Treaty on the Functioning of the European Union, with the oft-cited Article 11 of the Lisbon Treaty, which entered into force in December 2009.

The third is a sense of responsibility. Responsibility first and foremost to recover this record and share it with many others, as an organisation with no informed awareness of its roots is an organisation with no future. This is the primary aim of this compendium: to collate in a systematic way the bulk of this thought and provide it to EESC members and to the various European and national organisations from which each of us comes and carries out his or her main task as a player in organised civil society. The second aim is not to consign this record to the archives, but bring it back into play in the new phase that is now opening before us.

It is now up to us to put flesh and bones on our institutional achievements, to accompany the progressive development of this second pillar of our Europe's democratic life: participatory democracy. And ultimately, along with all the Institutions of the EU, to build a new and important phase in vertical and horizontal civil dialogue that is able to involve all the various national civil societies, which have the potential to understand the growing costs of "non-Europe" and thus relaunch a renewed Community method.

From its beginnings in the distant past, the EESC has accompanied this process, developing its own consultative function. Above all, over the last fifteen years, it has become a place of important innovations and permanent forms of structured civil dialogue, both at European level and on an international scale. In this respect, Group III has always played a leading and driving role, so that all the stakeholders it represents from the socio-economic, civic, professional and cultural sectors have increasingly been able to contribute, together with employers' and employees' representatives, to building the "European home of organised civil society", an important, permanent hub of this process of civil dialogue, which is increasingly sought-after in every quarter.

Bearing in mind the liberating and constructive power represented by civil society in the extraordinary events that, more than 20 years ago, made possible the reunification of Europe, a power that is now reappearing in all its amazing freshness and strength in the countries of the southern Mediterranean, we will work to make this compendium a tool to renew the important work the EESC does each day and to ensure that it is increasingly fit for purpose.
When I was elected president of the EU’s Economic and Social Committee in October 1998 I announced that I wished to place civil society at the heart of my programme, enhancing its role as a bridge and link with the European institutions.

Ever since its inception in 1957, the EESC has been striving to bring Europe closer to the people. In November 1988 the Commission asked it to give thought to the possible contents of a Community charter of basic social rights, and a year later the document on Basic Community social rights was approved. In 1992 a subcommittee was set up to draft a report followed by an own-initiative opinion on The Citizens’ Europe, for which I was rapporteur.

The first civil society convention (October 1999) was the next step in building on the commitment to European citizenship as a guarantee of basic social rights, in the belief that a democracy is only strong if it is rooted in a responsible, participatory civil society.

The EESC report (rapporteur: Anne-Marie Sigmund, Group III President) for the first convention of EU organised civil society spelt out the foundations for this: a set of more or less formalised bodies set up on a voluntary basis, regulated by law, the place where collective goals are set and citizens are represented.

People asked me: why “organised civil society”? I explained: "Because the problem to be addressed is ensuring the true representativeness of a host of bodies and associations. The fact that civil society is organised means that our partners already form structured bodies and associations at EU level, and can provide a conduit that links ordinary people's concerns on specific issues with the Union's decision-making process."

Addressing the first convention, Jacques Delors stated: "In promoting civil society you are pioneers and, as such, you must be aware of the risks involved."

As president of the EESC I replied that we were ready to take risks because we were motivated by an ambitious goal – pushing back the frontiers of democracy in Europe.

At the second convention, held in November 2001, I recalled what I had said and added that in the meantime we had become even more ambitious, as we now saw a need to push back the frontiers of democracy in a globalised world.

The pillars of civil society are many and varied: trade-union and employers' associations; sectoral bodies; commercial and crafts organisations; cooperatives; professional associations; consumer, environmental and family associations; social NGOs. These are the intermediary bodies which act as mouthpieces for the public's expectations and demands, not out of self-seeking protection of vested interests, but because the relationship between legitimate interests, rights and responsibilities underpins the universal nature of democracy, at the heart of which is civic-mindedness and a spirit of...
community. The EU institutions have also recognised that sound policies call for the involvement and support of the people, via the bodies which represent them (Article 257 of the Nice Treaty, 2000).

Organising civil society at national level in each Member State is no simple matter, but doing it at EU level is vital.

Clearly defined criteria for representativeness are the only way to avoid discrimination and make organised civil society more transparent and objective, thereby boosting its influence within a dynamic, open process at European level.

Representativeness is a precondition for participation, as it confers legitimacy. And the EESC deserves credit for having set out a series of defining criteria in one of its opinions.

In the consultation process, the aim of the EU institutions is to learn the views and draw on the expertise of civil society players, without imposing prior conditions. Consultation nevertheless remains a vital component of civil dialogue, which represents the structured, regulated dialogue between the EU and all the European organisations representing civil society.

Participatory democracy is not a substitute for representative democracy, but it is an essential complement to it. Economic and political globalisation risk moving the decision-making process ever further away from the people who have to apply and adhere to the decisions taken. This is a further reason for closer involvement of ordinary people in order to enable civil society to prove its worth and strengthen participatory democracy.

An intricate and far-reaching civil society network is developing within the EU and will help to close the Union's longstanding democratic deficit: reference to organised civil society means a combination of sovereignty of the people, representation grassroots involvement.

There are calls for "European Civil Society Network Building", borne out by the growing number of initiatives involving civil society, such as the international forum launched by the European Commission in Bergamo and attended by Mario Monti, President of the Bocconi university of Milan and former European commissioner for competition policy.

I have often asked myself how we managed to achieve the goal which Group III had set, given that at the start of the Nice summit of heads of state and government the majority of Member States opposed it.

Then the answer came to me in the words of Victor Hugo: "There is nothing more powerful than an idea whose time has come."
**Foreword by Anne-Marie Sigmund**  

As president of Group III from 1998 to 2004, president of the Committee from 2004 to 2006, and rapporteur for some of the opinions quoted in this compendium, I – along with others – have had the privilege of helping to shape this long-term information and opinion-forming process.

The entry into force of the Lisbon Treaty on 1 December 2009, with its provisions on democratic principles – in particular Article 10(3) and Article 11 – and the adoption of the Regulation on the European Citizens’ Initiative on 14 February 2011 (NB insert date of publication in OJ here) have given new currency to all our previous deliberations on participatory democracy in all its forms, and have made it necessary for all stakeholders to take action.

I am grateful to the president of Group III, Luca Jahier, for his initiative of producing this brochure summarising what the Committee has already achieved and adopted in this field: I think this "acquis" is a valuable asset that needs to be developed further.

The European Economic and Social Committee has always described itself as "a bridge between Europe and organised civil society" – and thus its citizens – and has been keen to ensure that the transfer of knowledge is not just a one-way street, but that the messages coming out of its consensus-based procedures then feed into a true process of communication. Through countless conferences, seminars, hearings, stakeholder forums and other initiatives, the Committee has worked hard to promote dialogue between the citizens and the bodies representing them, and also with the European institutions; it has itself always been a part of this process, as a platform and a hub for such events. The Committee has thus sent clear signals and set a clear example, within its own sphere of competence, of how civil dialogue should proceed in terms of form and substance: Jürgen Habermas described it as an interactive discourse in a public space, which can include legislative matters. However, good examples and clever general definitions alone will not be enough to turn civil dialogue into a sustainable tool for participatory democracy.

Articles 11(1) and (2) of the Treaty on European Union have given us a quasi-constitutional legal basis; what we now need is for it to be implemented by means of generally applicable rules on the nature of civil dialogue and its structures, content, procedures and participants. In March 2010, the Committee's plenary session called on the Commission, in an opinion, to publish a green paper on civil dialogue and to use a subsequent consultation process to launch a general process of reflection and opinion-forming. The Committee's membership and exceptional experience in this field make it the Commission's ideal partner in this initiative, going far beyond the very general provisions of Article 300(1) of the Treaty on the Functioning of the European Union.

The Committee spoke out clearly in favour of a "Citizens' Europe" in an own-initiative opinion back in 1992, and over the years it has repeatedly explained and clarified this message. However, this "proximity to the citizens" that has been a watchword for so many years requires mechanisms allowing citizens to make a real, active contribution that goes beyond turning out to the ballot box every four or five years. The participatory pillar of the European model of (representative) democracy, which is now enshrined in the Lisbon Treaty, has created the legal basis for civil dialogue, consultation and the European Citizens' Initiative, and has thus turned them into real, enforceable citizens' rights.

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However, all of these promising political instruments can only be truly successful if we can reach both halves of citizens' brains: i.e. not just engage them rationally but also motivate them emotionally to play a decisive role in European integration. Europe does not have a democratic deficit, as is so often claimed, but it does have an awareness deficit, a communication deficit and a motivation deficit! Civil society players have a particularly key role to play in this respect, not least by making use of a driving force that the Committee identified in an opinion back in 1998: namely culture, understood as a shared commitment to a code of values that are relevant to a society. Culture thus goes far beyond the concepts of art and tradition, and is ultimately a process that determines our behaviour in all aspects of our lives. From that point of view, culture also determines the actions of civil society and can help to create social cohesion. This shared process – which includes education, research, science and more – can and will lead to the development of a European awareness, a European identity, that will no longer be seen as contradicting one's personal, local, regional or national identity, but as a welcome addition. This is the only way that Europe's slogan of “unity in diversity” can be understood, accepted and experienced.

Within its own walls, the Committee has been living this unity in diversity for more than 50 years, and its development has shown that this approach really can be a success.

It must also be said that "unity in diversity" is particularly applicable to Group III of the Committee, with members from such a wide variety of organisations whose interests do not always align.
Introduction by Staffan Nilsson  
President of the EESC and of Group III (2004 – 2010)

The initiative of Group III to have undertaken work of this kind on civil dialogue is living proof of the growing importance of civil dialogue in the life of the EESC, and in current EU governance. I can say with great conviction that we have launched, tested and thoroughly applied various forms of civic participation, often referred to as "civil dialogue". The EESC has encouraged and nourished it simply because we have been entrusted by the very Treaty which established the EU to do so. More recently, the Lisbon Treaty has made the provision that EU institutions should give citizens and representative associations "the opportunity to make known and publicly exchange their views in all areas of Union action".

Our very structure and way of operating is a form of civic participation. The composition of Group III has enriched the social partners’ work and has often acted as the consensus factor needed in the search for compromise in the work on our opinions. Back in 2004 we set up the Liaison Group with expert European networks, thus providing civil society organisations with a specifically designated forum for dialogue and debate, reaching out beyond our own members and expertise. Engaging in a systematic dialogue with a wide range of stakeholders through hearings and forums has become a common feature of our work on opinions and consultation.

We have done much, and still much more needs to be done. It is definitely voting and involvement in political parties at the lower levels which have led to the emergence of new forms of citizens’ involvement and a search for new ways to give civic participation a real meaning and a complementary role to representative democracy. We have reached a stage where the EESC needs to assert itself both as a civil dialogue interlocutor and a civil dialogue enabler. The Lisbon Treaty is forcing us to go a step further, to be innovators for civic participation as with any other area. We need to think up and try out new forums and channels of participation – at European, national and local levels – and confer upon civil society actors’ greater scope for their voice and co-determination. Should we be bolder? In the end, doesn’t civil society tend to imply that it is possible to establish arenas where the actors treat each other equals, where the best argument wins and serves as the basis for jointly-binding agreements? Because a political system functions well when its decision-making institutions are porous to the input of civil society, and it has the right channels through which input from below (civil society and public opinion) can influence its output (policies and laws).

My political message for the presidency term is Engaging people for a sustainable Europe. I have made engagement and sustainability cornerstones of the Committee’s work for the next two years. This is only because in times of economic and social challenges, and necessary reforms, we need to take the people with us and think for next generations as well. Healthy EU and national democratic institutions will tend to produce policies and laws that are in tune with discursively formed public opinion, and thus rational and justifiable. People nowadays tend to abide by policies and laws whose rationale they accept. The EU institutions seem to have understood this, and the EESC, with more
than half a century of experience in consultation and consensus-building, is ready be the enabler of more civil society involvement, through dialogue and participation.

Participation in civil dialogue may disempower rather than empower, unless arrangements for participatory governance involve measures to stimulate capacity-building and joint policy articulation among civil society actors. This is one aspect we need to take into account. We also need to examine under what circumstances arrangements for civil dialogue are most likely to give civil society actors broader scope for real participation and make their voice heard. How far can we go with innovation in civic participation? What practical significance or outcome does involvement in forms of civic participation have from the points of view of civil society actors and institutions?

Civil dialogue has also been a learning curve for us, we have been experimenting a lot, and we will be continuing to do so. The Committee can not just rest on past achievements, but the challenge is to identify new opportunities and new ways in our times when technology offers new and engaging tools. Now the stakes are higher than ever: we need to regain the citizens’ trust in the EU and their governments, and popular support for each and every policy.
INTRODUCTION

Mrs Beatrice Rangoni Machiavelli stated in her inaugural speech on 15 October 1998 her intention to make the EESC the **focal point for civil society**, in order to make a vital contribution to bringing the European Union closer to its public and to make the concept of Union citizenship increasingly tangible in terms of the economic, social and civic rights it implies.

A few months later, inspired by her, the Committee decided to set up a sub-committee to draft an own-initiative opinion on *The role and contribution of civil society organisations in the building of Europe* and, at the same time, authorised the organisation of the first European convention of organised civil society, which took place in Brussels on 15 and 16 October 1999.

These activities, which engaged with an awareness that had gradually been increasing in the European public space and which had fallen on receptive ears, particularly in the EESC's Group III, signalled the start of an important journey that has in a significant way characterised the last 12 years at the EESC and its often decisive contribution to developments at European level. This journey has taken us from the European Commission's White Paper on Governance, through the contribution to the work of the European Convention that drew up the draft Constitutional Treaty, and finally on to Article 11 of the Lisbon Treaty.

The role the EESC fulfils as "a pre- eminent intermediary between civil society and the decision-making bodies of the EU" thanks to its vast "knowledge, expertise and grassroots experience"¹, has thus been deepened and strengthened. Its role as a bridge has been consolidated, its capacity to draft and anticipate has been sharpened, and it has increasingly become a permanent and structured forum for civil dialogue and consultation at EU level.

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¹ Speech by the Vice-President of the European Commission responsible for interinstitutional relations, Maroš Šefčovič, to the EESC Plenary Assembly on 8 March 2010, in anticipation of modifications to and updating of the Protocol for Cooperation between the Commission and the EESC to take account of the new provisions introduced by the Lisbon Treaty.
A REVIEW OF THE EESC’S CONTRIBUTION TO THE DISCUSSION

Organised civil society and civil dialogue

In its 1999 opinion entitled The role and contribution of civil society organisations in the building of Europe, the EESC stated that it was precisely in connection with this issue of (inadequate) responsiveness to grassroots opinion that the notion of "civil society" was 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.

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.

Following the examination of the historical roots and development of civil society made in the above-mentioned opinion, and with the help of scientific theories, the EESC drew up a definition of civil society that corresponds with 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 process.

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.;

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3 For a more comprehensive definition of civil society see CES 851/99, op. cit., point 5.2
• 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.

Just under a year later, the EESC examined at the concept of civil dialogue in its opinion The Commission and non-governmental organisations: building a stronger partnership. This concept was then taken up and fleshed out in the 2001 own-initiative opinion Organised civil society and European governance: the Committee’s contribution to the drafting of the White Paper. followed by the 2002 opinion European Governance – a White Paper.

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. 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;
− 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;
− 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 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 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, coherence). In addition, civil dialogue would, as a result of its principle of providing a public arena,

4 CES 811/2000  
5 CES 535/2001  
6 CES 357/2002  
7 i.e. matters relating to social negotiation under Articles 137 and 138 of the Treaty  
8 One example of structured civil dialogue would be ESC participation in informal Council meetings in these areas.  
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 until the present, the EESC has not ceased calling attention to this important distinction. Unlike civil dialogue, European Social Dialogue is a mechanism with quasi-legislative powers according to articles 136 and 136a of the Treaty. 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 actors.\(^\text{10}\)

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

2) The three types of civil dialogue

As stated in the third indent, civil dialogue can takes 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;
- sectoral: daily dialogue between civil society organisations and their contacts within the legislative and executive authorities.\(^\text{11}\)

It is interesting to note that the concept of horizontal and vertical civil dialogue set out by the EESC as long ago as 2000\(^\text{12}\) was subsequently included verbatim in Article 11(1) and (2) of the Lisbon Treaty.\(^\text{13}\)

3) Consultation and participation\(^\text{14}\)

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

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\(^{10}\) CES 357/2002 point 4.2.6, op. cit.

\(^{11}\) 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

\(^{12}\) CES 811/2000, op. cit., point 5.1.3.

\(^{13}\) 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.

\(^{14}\) CESE 240/2006 point 3.2 and 3.2.1, op. cit.
Participation, a bottom-up process, 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 policies.15

The Lisbon Treaty16 has put consultation in the context of the newly-strengthened participatory pillar of the European democratic model. The Committee, in its recent own-initiative opinion on The implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative (Article 11)17 stressed that consultation, as a top-down measure, only indirectly facilitates civil society action and should be distinguished from "participation", a civic right.

Participatory democracy and subsidiarity18

The concept of participation brings us on to another important concept, namely participatory democracy, which is now an integral part of the European model of society. As long ago as the early 2000s, when the Commission was looking at the arrangements for partnership with non-governmental organisations and launched "European governance", the Committee pointed out that legitimate action at Community level cannot be reduced simply to the territoriality principle and the election mechanisms associated with representative democracy. 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".19

The Lisbon Treaty enshrines the complementarity between representative democracy and participatory democracy, referring to them in Articles 1020 and 11 respectively. In addition, Article 10.3 confers upon citizens "the right to participate in the democratic life of the Union" and stipulates that "decisions shall be taken as openly and as closely as possible to the citizen", a reference

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15 See, in particular, point 3.4 of opinion CES 535/2001 and points 3.2 and 3.2.1 of CES 240/2006, op.cit.
16 Article 11(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.
19 See point 5.1 of opinion CES 851/99, op. cit.
20 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.
to the requirement to comply with the subsidiarity principle. Thus, as pointed out in the previous paragraph, participation becomes a civic right and subsidiarity becomes a pillar of participatory democracy.

In the early 2000s, with reference to the Commission's documents on European governance, the EESC, in its opinions *Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper* and *European Governance – a White Paper*\(^{21}\), published before and after the publication of the White Paper respectively, sought to add a sixth principle to the five listed by the Commission (openness, participation, accountability, effectiveness, coherence): **subsidiarity** or the principle according to which decisions should be taken at the level that is most appropriate for solving a problem\(^{22}\).

In addition, the Committee, underlining subsidiarity as the basic and the most important principle of good governance, stated that the decision-making 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.

**Representativeness**

Previous paragraphs have referred to the makeup of civil society and the right to participate in civil dialogue. It is now important to set the criteria for selecting those organisations to take part in civil dialogue, as only a clear definition of the concept of **representativeness** can give civil society players the right to participate effectively in the process of shaping policies and preparing Community decisions. Representativeness is a precondition for participation as it confers legitimacy\(^{23}\).

On several occasions since 2001, the Committee has proposed criteria for representativeness, which was the subject of a 2006 opinion dedicated to this sensitive issue\(^{24}\). They can be summarised as follows:

In order to be considered representative, a European organisation should:

- exist permanently at Community level;
- provide direct access to expertise;
- represent general concerns that tally with the interest of European society;

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\(^{22}\) See CES 535/2001 point 3.6, op. cit.

\(^{23}\) CESE 240/2006 point 3.1 and 3.2.1, op. cit.

\(^{24}\) See opinions CES 535/2001, point 3.4.1, CES 357/2002 point 4.2.4 and CESE 240/2006, op. cit.
– comprise bodies that are recognised at Member State level as representatives 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.

Still in its 2006 opinion, the Committee proposed a three dimensional procedure to assess representativeness, 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.

The procedure shall be based on the following principles:

– transparency;
– objectivity;
– non-discrimination,
– verifiability;
– participation (by European organisations).

It suggests three assessment criteria, i.e.:

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

In its recent (2010) opinion on the implementation of Article 11 of the Lisbon Treaty, the EESC reiterated what it had said ten years earlier: 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. And it stated that the associations to be involved in dialogue must be representative in both quantitative and qualitative terms.

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26 CES 811/2000 point 2.2.5 and CESE 465/2010 point 4.1.2, op. cit.
The Committee as representative of organised civil society: a pragmatic approach

By setting up the Economic and Social Committee, the Rome Treaties gave sectoral interest groups access to the European decision-making process. 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. They are thus qualified to exercise the right to participation.

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 legitimate 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. 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.

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, 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 - or not directly - represented on the EESC are thus associated with the EESC's structures and its work in various ways, but that association is not based on representativeness criteria.

For example, the EESC organises hearings in the context of the drafting of opinions, 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 presidency. Attendance of these hearings and conferences has progressively become bigger 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.

The EESC realised the importance of going local, which has recently been relaunched by all the European institutions as an indispensable part of any good communication strategy that seeks to reach out to the public, in the early 2000s when it decided to look into how its members could increase acceptance of the EU in the Member States through grassroots actions and with the support of their organisations. It was at that time that Group III started the practice of organising its group and Bureau meetings in the country holding the presidency, an example that was subsequently copied in part by the other two groups.


On this point, see also opinion CESE 464/2010, point 4, op. cit., and page 11 of this document.
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.

− *Civil society organised at European level*, Brussels, 15 and 16 October 1999 – EESC President Beatrice Rangoni Machiavelli, Group III²⁹

− *Organised civil society and European Governance*, Brussels, 8 and 9 November 2001 – EESC President Göke Frerichs, Group I³⁰

− *Participatory Democracy*, Brussels, 8 and 9 March 2004 – EESC President Roger Briesch, Group II³¹

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.

In response to the recommendations made during the above-mentioned events to involve in the Committee's work organisations that are not represented within it, and still within the context of the pragmatic approach to gradually structuring relations with organised civil society, the Committee took an important step in 2004 by setting up the **Liaison Group with European civil society organisations and networks**, which was a milestone given that the first references to the need to set up such a body go back to 1999³².

The final report of the ad hoc group on *Structured cooperation with European civil society organisations and networks*³³, following on from a 2001 report³⁴, calls for the establishment of 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.

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 programme³⁵ and the respective work programmes of European civil society organisations and networks represented within the contact group, as well as any other

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³³ Final report of the ad hoc group on *Structured cooperation with European civil society organisations and networks* – CESE 1498/2003 fin.
³⁴ Report of the EESC Bureau *The Economic and Social Committee and organised civil society* - CES 1009/2001
³⁵ 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.
important topic of mutual concern. It could also be instrumental in joint or cooperative initiatives or events.

The group meets three or four times a year and is made up of ten members of the EESC: the president; the three group presidents and the six section presidents; and of around twenty representatives of European organisations and networks, thus ensuring 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.) appointed by coordination bodies selected by the organisations in question.

As stated in the report, the question of representativeness requires serious consideration; the European organisations and networks have applied the representativeness criteria drawn up by the Committee for the purpose of appointing members of the Liaison Group. It can thus be said that the creation and subsequent operation of the Liaison Group represent a real experiment in putting structured civil dialogue into practice.

In the wake of this experiment, the Liaison Group, expanded to other networks not represented within it, twice made a series of demands related to the implementation of a genuine; structured European civil dialogue at two extraordinary Group III Bureau meetings on 14 April 2009 and 15 February 2010.

**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 view 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 opinions. In addition to this, the Committee, among other things, invites high-level representatives from the country holding the Council presidency to EESC plenary sessions and meetings of other bodies (section and group meetings, etc.), identifies EESC priorities and developing specific activities with reference to the programmes of the six-month Council presidencies, including visits to and events in the country holding the Council presidency.


Alongside its consultative function and as well as pursuing activities similar to those listed with respect to the Council, the EESC has concluded an important protocol of cooperation with the Commission. 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 their implementation, so as to encourage, at all levels, greater ownership and participation by civil society in the European project.

With regard to relations with the Parliament, this has only 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. A recent 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.

It is also important not to forget the Committee's participation as an observer in the European convention, which produced the draft Constitutional Treaty, to which the EESC contributed not only by passing a resolution, an own-initiative opinion addressed to the 2003 Intergovernmental Conference and an opinion in response to a consultation from the Parliament on the Treaty itself, but also through eight information and dialogue meetings with European civil society organisations and networks, which it organised in cooperation with the Convention's presidium, its joint work with national ESCs and similar bodies and its initiatives to involve civil society organisations in the accession countries.

**Examples of how civil dialogue at the EESC works in practice**

The EESC has also fundamentally changed and extended its own internal working practices and ways of structuring civil dialogue over the last twelve years. It has made some real institutional innovations, which are worth mentioning even if only briefly, as they undoubtedly represent experiences and provide references that will help address the current challenge, which is to flesh out the practical outworking of the provisions of Article 11.

The EESC has accompanied all the accession negotiations of the new EU Member States from the major enlargement in 2004, with specific Joint Consultative Committees, made up in equal numbers of EESC members and representatives of the candidate country, which are a concrete expression of civil societies' 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 of the candidate countries.

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40 Recent examples of such activity can be found in the following final declarations: EU-Turkey JCC 14.9.2010, CESE 7530/2010 and EU-Croatia JCC 27.1.2011, CESE 1072/2011; in the opinion *The role of civil society in EU-Montenegro relations* CESE 651/2010; and on the Committee's website: [http://www.eesc.europa.eu/?i=portal.en.external-relations-europe](http://www.eesc.europa.eu/?i=portal.en.external-relations-europe)
The Cotonou Agreement, which since 23 June 2000 has governed relations between the European Union and the 78 signatory countries in Africa, the Caribbean and the Pacific over the last decade and the current one, recognises the key role played by non-State actors in achieving the aims of the Agreement. Protocol no. 1 of that Agreement mandates the EESC to organise regular consultations and meetings of ACP-EU socio-economic interest groups. These take place through a Joint Permanent Committee with 24 members, the organisation of regular regional seminars on an annual basis and three-yearly conferences in Brussels, which produce reports and resolutions that are then submitted to the governments and various other institutions of the ACP and EU. The results of this work are also regularly presented in the course of the work of the EU-ACP Joint parliamentary Assembly\(^41\).

At its regional seminar in Bridgetown in the Caribbean (14-16 May 2007), the EESC expressed the hope that the negotiations for the EPAs (Economic Partnership Agreements) would include both a social chapter and environmental provisions, and the establishment of a Joint Consultative Committee for civil society that would monitor the implementation of these trade agreements\(^42\). Article 232 of the EU-Cariforum EPA, finalised on 15 October 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 initiated a permanent and structured dialogue with the Economic and Social Councils and similar institutions in the EU’s 27 Member States in order to undertake, in cooperation with the Commission, an ongoing participatory evaluation of the various national reform programmes that accompany the Strategy, providing regular reports on the Strategy’s general and specific themes, which also actively and regularly include the national level of economic and social forces\(^43\).

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 works and made proposals, which led to the first meeting of that forum being called. This was opened in Brussels on 20 April 2009 by President Sepi and Commissioner Barrot. The forum has now met four times. Supported jointly by the Commission and the EESC, this brings together on a stable basis over 100 national and European stakeholders involved in integration policy, which now makes it the most innovative European platform for dialogue between civil society and institutions in relation to the integration of immigrants\(^44\).

\(^{41}\) For more information on these activities, consult the Committee's website: [http://www.eesc.europa.eu/?i=portal.en.external-relations-europe](http://www.eesc.europa.eu/?i=portal.en.external-relations-europe)


Of course, many other examples could be cited in addition to those mentioned above, but these have been briefly mentioned by way of example and because they all represent a high level of innovation, foreshadowing ways of putting Article 11 of the Lisbon Treaty into practice.

**CONCLUDING COMMENTS**

Over the last decade, the EESC has undoubtedly come a long way down the road of European civil dialogue being defined, recognised and put into practice. Obviously, however, as demonstrated by the demands of civil society organisations and the Committee itself, the journey must continue and we must work for more greater, more tangible implementation of Article 11 of the Lisbon Treaty.

The Committee has repeatedly stated that it is willing and able to cooperate with the institutions and with civil society organisations themselves.

Most recently, in its 2010 opinion the Committee 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.

The history of these twelve years has thus taught us that, to create and implement new, effective structures for dialogue, you need sound organisation, institutional continuity and permanent structures. That is why we think that the EESC is still an undoubted and highly experienced keystone of this process.
INFORMATION REPORT

of the

Sub-Committee

on

The Citizens' Europe

Rapporteur: Mrs RANGONI MACHIAVELLI
Co-Rapporteur: Mr JENKINS

Brussels, 8 April 1992
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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-MACHIAVELLI

Co-Rapporteur: Mr JENKINS

Members:
Mr ARENA
Mr BERNs
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:


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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.
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.

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:


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 rights\(^1\) 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 family\(^2\).

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\(^1\) Individual rights enjoyed by specific groups of 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..."

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.

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3 ESC Opinion on Social Developments in the Community in 1989 (OJ C 225 of 10 September 1990), points 3.1. and 3.2.

CES 955/91 fin E/I/AH/PM/CAT/hm/ht
1.6. A "Social Europe"

1.6.1. "Social policy goals and priorities(...) form an integral part of a People's Europe". 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". 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 EC.

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", 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

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4 ESC Opinion on Social Developments in the Community in 1987 (OJ C 208 of 8 August 1988), point 3.4.
5 OJ C 225 of 10 September 1990, op. cit., point 5.3.
6 Ibid.
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

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was partly set in motion in February 1988 when the Community decided to double the budget appropriations for structural expenditure.\(^9\)

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, EUROTECNET 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

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\(^9\) 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 schools 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

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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).
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 Freedoms 18, 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.

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16 SEC(91) 500, Article X.2.

17 Treaty on European Union, op. cit., Common Provisions, Article F

2.3. Stage 3: Basic Community Social Rights and Societal Rights \(^{19}\), "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 Rights** \(^{20}\), 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 market \(^{21}\).

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\(^{19}\) See footnote 1.


\(^{21}\) 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 fields. This is in line with the concept of "concurrent competence" and "subsidarity" (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 in so far 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."

2.3.7. The official and perhaps legal interpretation of "subsidarity", 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 society to social security cover;

- right of all sections of society to social welfare, safety and health protection;

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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 "subsidarity":

"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."

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.

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.
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 concept 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.

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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.

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\(^3\) 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

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⁴ COM(97) 241 final
opaque decision-making structures, has grown. "Out of touch with ordinary people" and "democratic deficit" have become catchwords associated with Europe.

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 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

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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 been 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
Beatrice Rangoni Machiavelli

The Secretary-General of the Economic and Social Committee
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
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


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" 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 welfare and its opinion of 28 January 1998 on the role of voluntary organisations and foundations in Europe.

1.2 The Committee gave detailed consideration at a convention last year to the *role and contribution of civil society organisations in building Europe*. In preparation for this convention, the Committee adopted an opinion on 23 September 1999, which as well as providing a historical

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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 society 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". 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.

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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.

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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 partners\textsuperscript{9}. 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 features\textsuperscript{10}:

- 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 sector\textsuperscript{11}, 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.

\textsuperscript{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).

\textsuperscript{10} See, too, the Committee opinion of September 1999.

\textsuperscript{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.


The President of the Economic and Social Committee

The Secretary-General of the Economic and Social Committee

Beatrice Rangoni Machiavelli

Patrick Venturini
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

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 society 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.

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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
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".

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".

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 such. 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 values. 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

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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 experience. Thus it would be more appropriate in this context to talk about lack of a common European awareness.

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 subject.

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

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12 See footnote 10
13 "Accroître l'efficacité et la légitimité de la gouvernance de l'Union européenne" (Forward Studies Unit, CdP(99) 750)
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 **Legitimisation**: 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 legitimisation. 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 past, 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

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15 Without prejudice to the tasks entrusted to the social partners in Articles 137 and 138, TEC.
the question of criteria for representativeness. 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:

<table>
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<tr>
<th>The organisation must:</th>
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<tr>
<td>• exist permanently at Community level;</td>
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<tr>
<td>• provide direct access to its members' expertise and hence rapid and constructive consultation;</td>
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<tr>
<td>• represent general concerns that tally with the interests of European society;</td>
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<tr>
<td>• comprise bodies that are recognised at Member State level as representative of particular interests;</td>
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<tr>
<td>• have member organisations in most of the EU Member States;</td>
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<td>• provide for accountability to its members;</td>
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<tr>
<td>• have authority to represent and act at European level;</td>
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<tr>
<td>• be independent and mandatory, not bound by instructions from outside bodies.</td>
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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 increasing.

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 ratio. 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.

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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)  
"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"

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 governance.

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.

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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 Summit\(^{22}\). 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 arrangements\(^{23}\).

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".

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" 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.

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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

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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\textsuperscript{29}. Accordingly, the Committee feels that civil dialogue should have the following features:

\begin{itemize}
\item in principle, all members of organised civil society (and therefore the social partners, too) should participate in the civil dialogue;
\item the civil dialogue should not take the place of or compete with the social dialogue, but provide an adjunct;
\item 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;
\item 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 dialogue\textsuperscript{30}, 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\textsuperscript{31};
\item 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.
\end{itemize}

The Committee has also already done considerable groundwork on defining the civil society organisations that are to participate in civil dialogue\textsuperscript{32}.

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 \textit{consultation and participation are two different forms of involvement that are governed by different conditions.}

4.9 \textbf{Annual conference}: The Committee supports the European Parliament decision of 10 December 1996\textsuperscript{33} “to hold an annual debate in the form of a special part-session of Parliament,

\begin{itemize}
\item[\textsuperscript{29}] OJ C 268 of 19/9/2000
\item[\textsuperscript{30}] i.e. matters relating to social negotiation under Articles 137 and 138 of the Treaty
\item[\textsuperscript{31}] One example of structured civil dialogue would be ESC participation in informal Council meetings in these areas.
\item[\textsuperscript{32}] OJ C 329 of 17/11/1999: “The role and contribution of civil society organisations in the building of Europe”
\item[\textsuperscript{33}] “Resolution on participation of citizens and social players in the Union's institutional system”, paragraph 11
\end{itemize}
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 exist\(^{34}\), 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.

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\(^{34}\) 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 makes 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^.

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^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 model\(^{36}\), 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)\(^{37}\).

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\(^{36}\) 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
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)

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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*

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 institutionalised\(^1\) 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 debates\(^2\) and has issued a number of opinions\(^3\) 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

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\(^1\) 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
- 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
principles of better governance, the proposals for better involvement of civil society and for better regulation, and finally the role of the EESC.

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 been 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 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 actors. Hence the Committee's repeated reminder 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

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4 Art. 137 and 138 TEC.
5 See footnote 3.
this civil dialogue. The Committee considers the establishment of such a civil dialogue to be an 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.

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6 Quote opinion CES 811/2000, point 5.13.
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 legislation. At the Commission’s request, the Committee has also prepared an exploratory opinion 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.

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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”.

CES 357/2002 EN/o
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 Commission\(^9\), 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 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 2001\textsuperscript{10}, and the European Parliament's resolution on European governance of 29 November 2001\textsuperscript{11}.

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.

\textsuperscript{10} DI 149/2001

\textsuperscript{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.


The President of the Economic and Social Committee

The Secretary-General of the Economic and Social Committee

Göke Frerichs

Patrick Venturini
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 subject, 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
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
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 organisations\(^1\) 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 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:

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\(^1\) 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 group\(^3\) 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:

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\(^3\) 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 programme\(^4\) 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.

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\(^4\) 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
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)

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“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.”

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“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.”


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“(…) 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.”


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“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.”

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
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 Strategy\(^1\) and was highlighted by it once again at its meeting on 22 and 23 March 2005, in connection with the re-launch of this Strategy\(^2\).

1.6 In its White Paper of July 2001 on European governance\(^3\), 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 Europe\(^4\). 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

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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".


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 level**

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 powers.8 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 titles.9 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,

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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 governance.\textsuperscript{10}

\textsuperscript{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 policies\(^{11}\).

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.

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\(^{11}\) 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 2002\textsuperscript{12} 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 Commission\textsuperscript{13}; 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.

\textsuperscript{12} COM(2002) 704 final.

\textsuperscript{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 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.

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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\textsuperscript{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 Convention\textsuperscript{16}.

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 \textbf{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

\begin{footnotes}
\item[15] The EESC comprises six sections that deal with all the areas of EU activity in which it plays an advisory role.
\item[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.
\end{footnotes}
of representativeness obviously requires serious consideration” but that “this issue must not, 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

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\(^{17}\) CESE 1498/2003 final – par. 2.2.6.
interest, that can enable different public interests and individual citizens, as well as public 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 regulations.

6.3 Given the criteria already defined by the EESC, 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 legislation.

6.4.1 In this context, it should be remembered that in 1991 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.

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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 support\textsuperscript{22}, 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 2003\textsuperscript{23}. 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.


\textsuperscript{23} OJ L 297, 15 November 2003.
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.

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

Patrick Venturini

Anne-Marie Sigmund

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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 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.

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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
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.

*       *

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 composition 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.

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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 Freiersch, 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) democracy\(^2\), 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 Paper\(^3\); 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."

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\(^2\) Article 10 of the TEU stipulates that the "functioning of the Union" is based on "representative democracy".

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 out\(^7\) 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,


\(^6\) 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.
too, 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 that this practice of consultation is fundamentally a key element of the "European governance" 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.....
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 Parliament\(^\text{12}\) 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.

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

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\(^{13}\) 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 timeframe 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
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
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

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\(^1\) 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 Supervisor\(^2\) on this issue.

Since not all Member States require or know these numbers, and each Member State requires very different documents\(^3\), 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.


\(^3\) 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 parties. 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.

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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 if 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
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
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.

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" presidency, 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.
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 2010\(^4\).

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;

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\(^2\) OJ C 268 of 19 September 2000.
\(^3\) OJ 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.


The President
of the
European Economic and Social Committee

Mario Sepi
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
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.

* * *

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 report\(^1\) 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

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\(^1\) "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.
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
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 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:*

- **Grouping of NGOs - Social services providers:**
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".

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

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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 Union³.

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.

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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

EUROPEAN CIVIL SOCIETY PLATFORM ON LIFE LONG LEARNING
19 European networks
All EU countries

EUROCHILD
83 national organisations
35 European countries

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
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Manifesto for a genuine European civil dialogue, 22 March 2010


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Towards a structured framework for European civil dialogue, 15 February 2010

List of other EESC documents on the subject:

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Opinion on *Promoting the role of voluntary organisations and foundations in Europe* - CES 118/98-28 January 1998

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Resolution on the *Future of Europe* - CES 1033/2001- 17 September 2001

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Report of the Committee Bureau - *The Economic and Social Committee and organised civil society* - CES 1009/2001- 16 October 2001

The EESC and the Treaty of Lisbon – questions and answers - CES 555/2010

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List of web-sites of European institutions and bodies and European civil society organisations and networks related to civil dialogue

European Commission

*The European Commission and the civil society*
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*Transparency website*
http://ec.europa.eu/transparency/index_en.htm

*The Europe for Citizens programme, Action 2 – Active Civil Society in Europe*
http://ec.europa.eu/citizenship/programme-actions/doc40_en.htm

*Dialogue with Civil Society, DG Enlargement*
http://ec.europa.eu/enlargement/civil-society-development/index_en.htm

*Civil society, a vital development partner, EuropeAid Development and Cooperation*
http://ec.europa.eu/europeaid/who/partners/civil-society/index_en.htm

*Your voice in Europe*
http://ec.europa.eu/yourvoice/index_en.htm

European Parliament

*Citizens AGORA*

Council of the European Union

*For the Presidencies activities please refer to the Presidency web-sites and perform a research using "civil society" or "civil dialogue" to find out relevant events and activities:*
European Civic Days

European Civic Days 2010
European Civic Days 2009

European Economic and Social Committee

The EESC and the Civil Society
http://www.eesc.europa.eu/?i=portal.en.civil-society

Liaison Group with European civil society organisations and networks
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Council of Europe

The Council of Europe and Non-Governmental Organisations
http://www.coe.int/t/ngo/text_adopted_en.asp

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http://www.aedh.eu

European Youth Forum (YFJ)
http://www.youthforum.org
Eurochild
http://www.eurochild.org/

Social Platform Platform of European Social NGO’s
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The European Consumers-Organisation (BEUC)
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ILGA Europe (Manifesto only)
http://ilga-europe.org/

Human Rights and Democracy Network (Manifesto only)
No web-site found

European Civil Society Platform on Lifelong learning (EUCIS-LLL)
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European Movement (EM)
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European Foundation Centre (EFC)
http://www.efc.be/

European Disability Forum (EDF)
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International Association Rurality – Environment – Development (RED)
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European Women's Lobby (EWL)
http://www.womenlobby.org/

Solidar
http://www.solidar.org/

European Association of Service Providers For Persons with Disabilities (EASPD)
http://www.easpd.eu/

European Council of the Association of General Interest (CEDAG)
See also:
CEDAG campaigns for the adoption of a European Charter for civil dialogue, aiming at structuring current relationships between civil society organisations and European Institutions in terms of reciprocal trust and partnership

Other relevant links:

The tome is Right for European Statutes Associations, Foundations, Mutual Societies, Written declaration on establishing European statutes for mutual societies, associations and foundations, WD 84/2010
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