Participatory democracy and European governance in social policy

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One of the main objectives of the Founding Fathers of the European Union was to ensure peace between the Member States. This objective has been fulfilled up to now and has been awarded by the Nobel Peace Prize 2012. Initially, the cooperation between the Member States has been achieved by developing economic ties and eventually through the creation of the Single European Market. Today, a united and prosperous Europe goes well beyond economic relations. Especially, since the Maastricht Treaty (1991), Social Europe no longer revolves around the (economical) figure of the worker, but develops around the European citizen. In this prospect, people cannot only be seen as workers. A democratic perspective implies to cease citizenship in all its aspects. Consequently, the European institutions involved other actors than the social partners in the functioning of the European Union.

1 Presentation of part of the results of a research project on "Civil society and the Europeanization of social policy" (EUROCIVIS), funded by the French National Research Agency (ANR) between 2009 and 2012. This research has been carried on by a multidisciplinary team of lawyers, political scientists and sociologists. It focused mostly on social and active inclusion strategies and policies combating exclusion.

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The aims of this paper are twofold: firstly, to identify the different dimensions of European participatory democracy; secondly, to show how the social partners must take into account organised civil society in areas, which fall traditionally under their competence, and how new European governance, the Open Method of Coordination, allows civil society to blossom.

**§. Participatory democracy: an institutional approach.**

Participatory democracy is one element of the new democratic principles, which have been introduced into the Treaty of the European Union (TEU) by the Treaty of Lisbon. We will present these new principles, before commenting the four dimensions of the participatory democracy.

**Democratic principles**

The Lisbon Treaty (2007) must be considered as a turning point, because a new Title - Title II Articles 9 to 12 - of the Treaty of the European Union has been devoted to “provisions of democratic principles”. Participatory democracy is one of four democratic principles: equality of European citizens, representative democracy, participatory democracy, role of national Parliaments in the good functioning of the European Union. The principle of participatory democracy and its recognition in the Treaties has been discussed at European level for at least two decades and especially during the negotiations leading up to the European Constitution (Article I-46).

The democratic principles are undergoing some hierarchical re-structuring.

Citizenship that means citizenship of the European Union, which is granted to every national of the Member States in addition to the citizenship of the Member State, comes first. The European Union has to “observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies” (Article 9 TEU).

The second principle is about representative democracy. The Treaty reminds us that the functioning of the European Union is founded on representative democracy (Article 10 §1 TEU), with representation of citizens either directly by the European Parliament or indirectly through their Member States, by the Heads of States or Government in the European Council or by their Ministers in the Council of the Union, who are accountable to their citizens (Article 10 §2 TEU). Every citizen has “the right to participate in the democratic life of the Union” (Article 10 §3 TEU) and political parties at European level “contribute to forming European political awareness and to expressing the will of citizens of the Union” (Article 10 §4 TEU).

Participatory democracy comes after representative democracy. Its aim is not to replace it, but to complement it. Article 11 TEU foresees four dimensions: expression and exchange of views, dialogue, consultations and the citizen’s right of initiative. We will come back to these four dimensions later. In order to promote participatory democracy, the institutions of the European Union, and more especially the Commission, must act in a certain way. The implementation of participatory democracy will involve citizens, representative Associations, civil society and concerned parties.
Finally, National Parliaments have to play a role in the good functioning of the European Union “in accordance with the Protocol on the role of the national Parliaments in the European Union” (Article 12 TEU).

The four dimensions of European participative democracy.

Participatory democracy is multi-dimensional and the actors involved are different according to each specific dimension.

i. Expression and exchange of views

The institutions of the Union have to give citizens and representative Associations "the opportunity to make known and publicly exchange their views in all areas of Union action" (Article 11 §1 TEU). Therefore, they have to arrange the appropriate means of doing so. What is at stake in this first dimension of participatory democracy is the emergence of a “European public opinion”.

Expression and exchange of views involves, on the one hand, all the institutions of the European Union and, on the other, citizens and representative Associations.

Institutions of the European Union and citizens are general concepts. But the concept of representative Associations brings us back to in-depth discussions, especially regarding representativeness.

In 2000, the Commission issued a Discussion Paper on "The Commission and NGOs: building a stronger partnership". This Paper followed a Communication of the Commission on promoting the role of voluntary organizations and foundations in Europe (1997), the aim of which was to encourage and develop civil dialogue and which did not encounter great success. It was also a response to the claim of Union-level Associations and networks, under the coordination of the Social Platform, for


Website: http://ec.europa.eu/transparency/civil_society/ngo/docs/communication_en.pdf


6 Website: http://www.socialplatform.org/
recognition of civil dialogue in the Treaties and accreditation of the main European NGOs and networks. This claim had been issued in a special context. In 1998, the European Court of Justice (ECJ) annulled the decision of the European Commission announcing grants for eighty-six European projects, implemented by NGOs, seeking to overcome social exclusion. This case-law and the decision of the Commission to suspend temporarily some one hundred budget lines without legal basis had dramatic consequences for the Union-level NGOs and networks. Therefore, it became urgent for the Commission to act.

Through its Discussion Paper, the Commission defined the common characteristics of all NGOs, as well as the main functions of NGOs in the democratic decision-making process of the Union and their representativeness. The Commission expected NGOs to fulfill especially the following functions in line with the principle of participative democracy:

- their main function would be to foster a more participatory democracy based on the right of citizens to form Associations in order to pursue a common purpose beyond the involvement in political parties or trade-unions;
- NGOs would represent the views of specific groups of citizens, such as very poor people;
- they will contribute to policy making by providing expertise input through their links at European, national, regional and local level and feedback on the implementation of policies;
- they will contribute to manage, monitor and evaluate projects financed by the European Union;

7 ECJ of 12 May 1998 (C-106/96), UK v. Commission. UK was supported by Germany, Denmark and the Council of the European Union. ECJ ruling regarded Community action programme to combat social exclusion, namely Poverty 3 Programme and Poverty 4 Proposal. The Court declared that the Commission was not competent

8 All NGOs must have the following common characteristics:

- they are not created to generate personal profit,
- they are voluntary,
- they must be distinguished from informal or ad hoc groups by having some degree of formal or institutional existence,
- they must be independent of government, other public authorities, political parties and commercial organizations,
- their aim is to act in the public arena at large, on concerns and aims related to the well-being of people, of specific groups or society as a whole.
• European NGO networks would have to contribute to European integration by encouraging national NGOs to work together to achieve a "European public opinion".

The Commission also set criteria to select representative NGOs such as transparency of the organization and the membership, experience through previous participation in committees and working groups, competence to advise in a specific field, capacity to work as a catalyst for exchange of information and opinions between the Commission and citizens. But it rejected an official consultative status and an accreditation system like the U.N. and the Council of Europe system. Therefore it declared to be more in favour of self-selection by the NGO community and that the setting-up of networks or platforms could be a useful alternative. Expression might take place, for example, through European networks of NGOs, like the Social Platform\(^9\), the European Anti-Poverty Network (EAPN)\(^{10}\) or AGE Platform Europe\(^{11}\), to which financial means are granted by the Institutions of the European Union (see PROGRESS in Part II).

It must be noted that the European Economic and Social Committee (EESC), which is one of the Union's advisory bodies and which represents civil society organizations\(^{12}\), raised a debate on representativeness of Associations during the First Convention on organized civil society at European level (1999). It proposed to select organizations by using two main criteria, one regarding the existence of a basic organizational machinery and another concerning representativeness in their particular sector in a quantitative and qualitative way\(^{13}\). Some years later, it published an Opinion on the representativeness of European civil society organizations in civil dialogue (2006)\(^{14}\).

\(^{9}\) Website: http://www.socialplatform.org/

\(^{10}\) Website: http://www.eapn.eu

\(^{11}\) Website: http://www.age-platform.eu

\(^{12}\) Its members, who are divided between three groups, the employers group (Group I), the workers group (Group II) and the group of various interests (Group III), to which belong representatives of national NGOs.

ii. Civil dialogue.

The institutions of the Union must maintain an "open, transparent and regular dialogue with representative associations and civil society" (Article 11 §2 TEU).

*Civil dialogue between the Institutions and representative Associations*

The idea of civil dialogue between the Institutions and the Associations emerged in the social policy field in the mid 1990s, during the first European Forum on social policy (March 1996). In this context, the Commission wanted to discuss the objectives of the Green Paper on European social policy and especially in domains where Associations played an important role. Civil dialogue on European level was considered as an addition to political dialogue with national authorities and to social dialogue with the social partners (see Part II). The European Institutions had to take into account the views of the Associations and, in return, the Associations had to intervene positively into European integration by organizing communication to the citizens from the Union level to the national level. As previously stated, the Commission as well as the EESC set criteria for selecting representative Associations.

*Civil dialogue between the Institutions and civil society*

In the White Paper on European governance (2001), the Commission switched from the dialogue with representative Associations or NGOs to the dialogue with civil society organizations and with concerned parties. We will come to the latter concept when we discuss the third dimension of participatory democracy, namely “consultation”. In this document, civil society appeared to be a wider concept than representative Associations. What is meant by civil society and by civil society organizations?

The Commission adopted the view of the EESC regarding civil society and its players.

EESC opened the discussion on civil society by adopting a draft opinion on "the role and contribution of civil society organizations in the building of Europe", which served as a basic document for discussion during the first Convention of organized civil society at European level, held in Brussels on 15 and 16 October 1999.  

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14 European Economic and Social Committee (2006), Opinion SC/023 of 14 February 2006 on “The representativeness of European civil society organizations in civil dialogue”

Website: www.eesc.europa.eu/resources/docs/ces240-2006_ac_en.doc.

society, civil society organizations and its players. It stated that, due to the political changes in an enlarged European Union, there was no dominant theory on civil society. Civil society had to be considered as "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" and the development of civil society as "a cultural process", which had to be associated with values like pluralism, autonomy, solidarity, public awareness, participation, education, responsibility and subsidiarity. Thus, organized civil society was defined in abstract terms as "the sum of all organizational structures whose members have objectives and responsibilities that are of general interest" - determined by a democratic process based on discourse and consensus - "and who also act as mediators between the public authorities and citizens".

For the EESC, "players in civil society organizations are:

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

The EESC stressed the very nature of the European social partner organizations to be a party to civil dialogue. “Social dialogue is (...) an excellent example of the practical implementation of participatory democracy”. However it recognized the fundamental distinction between social dialogue and civil dialogue, namely the quasi-legislative power of the European social partners. The Commission, in its White Paper on governance (2001), did the same16 (see Part II).

In 2006, the EESC published an Opinion on the representativeness of European civil society organizations in civil dialogue (2006)17, in which it made a distinction between two forms of civil dialogue, consultation and participation (see below).


17 European Economic and Social Committee (2006), Opinion SC/023 of 14 February 2006 on “The representativeness of European civil society organizations in civil dialogue”
Website: www.eesc.europa.eu/resources/docs/ces240-2006_ac_en.doc.
Furthermore, the EESC, which calls itself “a bridge between Europe and organized civil society”, appears as a privileged intermediary in the dialogue between civil society organizations and the Union Institutions. Since 2003, three protocols on cooperation have been negotiated between the Commission and the EESC with the aim of creating an "environment conducive to a greater involvement of civil society organizations, at both national and European levels, in the policy-shaping and decision-making processes of the European Union and to the development of an ongoing structured dialogue between those organizations and the Union institutions" (latest CE-EESC cooperation protocol of 22 February 2012). In 2004, EESC took the initiative of setting up a Liaison Group with the European-level civil society organizations, especially NGOs, platforms of NGOs and networks, as a tool to promote structured dialogue and consultation (see below). The Social Platform and most of the European-level NGOs are among the members of this Liaison Group. Several meetings have been held since 2004.

More generally, some events, organized by the European Institutions together with European-level NGOs, like the annual Round Table on social exclusion, also meet the conditions of civil dialogue.

iii. Consultations

The Commission, as the only European Union institution, has to "carry out broad consultations with concerned parties in order to ensure that the Union's actions are coherent and transparent" (Article 11 §3 TEU). This third dimension is in line with the Commission's right of initiative of taking action and its approach regarding open dialogue and consultation ("open governance"), or even direct contacts with interested parties beyond organized civil society.

18 The Treaty of Nice (2000) recognized the EESC as a privileged intermediary between civil society organizations and the Union institutions by changing Article 257 TCE: “The Committee shall consist of the various economic and social components of organized civil society, and in particular representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations, consumers and the general interest.”. It followed EESC opinion on the players of organized civil society. But Article 257 TCE did not satisfy everybody, because the new Article 300 TFUE, established by Lisbon Treaty, came back to the composition based on three groups: "The Economic and Social Committee shall consist of representatives of organizations of employers, of the employed, and of other parties representative of civil society, notably in socio-economic, civic, professional and cultural areas". This new formulation recognized explicitly the social partners as part of civil society organizations, but with a special status, which does not mix them up with "other parties representative of civil society" (see Part II).

As stated before, the Commission made, in the White Paper on European governance (2001) a proposal to renew the European method by implementing a less top-down approach and to increase the involvement of the interested parties, without defining this concept. At that period, it already consulted interested parties through different instruments, such as Green and White Papers, Communications, advisory committees, ad hoc consultations and public hearings. This White Paper was followed by a Communication on the reinforced culture of consultation and dialogue with interested parties in which the Commission specified the concept of consultation. In this context, it meant "those processes through which the Commission wishes to trigger input from outside interested parties for the shaping of policy prior to a decision by the Commission". But it also stated that the consultation with interested parties could never replace the procedures and decisions of legislative bodies, which possessed democratic legitimacy. Its guiding principle was therefore "to give interested parties a voice, but not a vote". It decided also to put in place a code of conduct setting minimum standards. In some policy sectors, where consultative practices were already well established, the Commission wished to conclude partnership arrangements, which meant that it would commit itself for additional consultation compared to the minimum standards and, in return, it would ask civil society organizations "to guarantee openness and representativeness and to prove their capacity to relay information or lead debates in the Member States".

As a consequence, the Commission's view is twofold: on one hand, it favours "open consultations, within the framework of a global and non-exclusive approach" with all concerned parties (Article 11 §3 TEU); on the other hand, it intends to institutionalize privileged contacts, going beyond the minimum consultation standards applied to all, with some players of civil society organizations defined on the basis of clear and transparent selection criteria (see partnership agreements under PROGRESS in Part II).

**Participation?**

The EESC, in its Opinion on the representativeness of European civil society organizations on civil dialogue (2006), made also a clear distinction between consultation and participation. Consultation has to be "open in theory to all organizations having expertise in a given field", whereas participation is "an opportunity for an organization 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 organizations to be part and parcel of policy framing and preparing decisions on the development and future of the Union and its policies". Nevertheless, the ESSC considered that "the right to participate", which had been claimed by civil society and organizations active at European level, required relevant representativeness as a precondition for participation. In Part II, we will highlight participation in a multi-level governance, namely the "Open Method of Coordination" (OMC), which promoted, on one hand, the participation

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of people affected by social policies and, on the other hand, dialogue and partnership between all relevant bodies like the social partners, NGOs and social service providers.

iv. The citizen’s right of initiative

"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" (Article 11 §4 TEU). By Regulation N°211/2011 of 16 February 2011 on the citizen’s initiative²², the European Parliament and the Council established the conditions and the procedures of this kind of initiative. It defines the minimum number of Member States from which citizens must come, the minimum number of signatories coming from each of those Member States and the minimum age of citizens for supporting a citizen’s initiative. The establishment of a citizen’s committee is needed and initiatives, meeting the required conditions, have to be registered on a special website. Each Member State should be responsible for the verification of statements of support collected from signatories coming from that Member State. Finally, the Commission should examine the citizen’s initiative and set out the action it intends to take in response to it.

Fourteen European citizen’s initiatives have been officially registered between May and December 2012²³. The Commission has also refused requests for registration, because they did not comply with the conditions laid down in Article 4 (2) of Regulation N°211/2011. For instance, a request on "unconditional basic income", which aim was to "gain support for the introduction of a universal, unconditional basic income to ensure a life in dignity and participation in society within all Member States of the European Union" has been rejected by the Commission in September 2012.

21 The ESSC proposed to establish a procedure to assess the representativeness of European civil society organizations based on the following principles: openness, objectivity, non-discrimination, verifiability, participation. It suggested also three assessment criteria:
- the provisions in the organization’s statute and their implementation. The EESC is in favor of the adoption of a European legal statute for transnational Associations.
- the organization’s support base in the Member States. EESC considers that a European organization has to be represented in more than half of the EU Member States.
- qualitative criteria, like the organization’s experience and ability to represent citizens’ interests and to contribute.

22 ECJ 11 March 2011, L.65/1


because it fell "manifestly outside the framework of the Commission’s powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties" [Article 4 (2) b) Regulation N°211/2011]24. This refusal may be challenged either in Court or at the European Ombudsman.

**Co-regulation and self-regulation?**

In 2003, the European Parliament, the Council and the Commission adopted an Inter-institutional Agreement on better lawmaking25, which proposed the use of alternative regulation mechanisms - *co-regulation* and *self-regulation* - involving directly interested parties, especially civil society organizations. “Soft law” methods may be used in all cases, where the Treaties do not impose the use of a legal instrument. They will not be applicable where fundamental rights or important political options are at stake or in situations where the rules must be applied in a uniform fashion in all Member States.

*Co-regulation* means, in this context, "the mechanism whereby a Community legislative act entrusts the attainment of the objectives defined by the legislative authority to parties which are recognized in the field (such as economic operators, the social partners, non-governmental organizations or associations". *Self-regulation* is defined as "the possibility for economic operators, the social partners, non-governmental organizations or associations to adopt amongst themselves and for themselves common guidelines at European level (particularly codes of practice or sectoral agreements)". European-level NGOs will have the possibility to establish among themselves and for themselves common guidelines.

The adoption of the European Charter of the rights and responsibilities of older people in need of long term care and assistance26, under the auspices of AGE Platform Europe, may be considered as an example of *self-regulation*. This Charter is an instrument to protect the dignity of older dependant people. It serves as a reference for the development of European quality standards for long term care. It has been issued by AGE Platform Europe and the European Association for Directors of Residential Homes, in collaboration with national bodies from ten different countries, including NGOs representing the interests of elderly people and/or acting as service providers.

As grounds for participatory democracy have been set down in the Treaty on the European Union, it is now possible to study new governance in social policy as an example of a dynamic participatory democracy.


25 OJCE 31 December 2003 C. 321/1.

b. **New governance in social policy**

Participatory democracy challenges social dialogue. OMC process proves to be a real opportunity for civil society to participate in policy making.

2. **Social dialogue: a new shift?**

European governance was first enshrined by the social partners’ involvement within the European institutional process. Historically social dialogue was the first participation of members who are not public or European institutions actors. Since then, social dialogue has got some sort of a pre-eminence over other civil society actors within social policy governance. But it seems that it is with the latest European agreement concerning active inclusion that social dialogue has taken a new shift.

**Social dialogue’s pre-eminence**

Social dialogue refers to "management and labour" (Article 154 TFUE), namely the European social partners. The Treaty of Amsterdam (1997) has institutionalized social dialogue by introducing Articles 138 and 139 into the TCE. These articles are the result of the agreement of 31 October 1991 on decision-making in the social policy area, which has been negotiated between the European social partners (ETUC, BusinessEurope and CEEP) during the Intergovernmental Conference preparing the Treaty of Maastricht (1991). After The Lisbon Treaty (2007), social dialogue has been incorporated in Articles 154 and 155 TFUE.

From then on, the Commission has to promote "the consultation of management and labour at Union level" and to give balanced support to both parties in order "to facilitate their dialogue" (§1). The first dimension of social dialogue is the strengthening of the dialogue between the European social partners and the consultation process. Secondly, before submitting proposals in the social policy field, the Commission must consult the social partners, as a first step, "on the possible direction of Union action" (§2) and, as a second step, "on the content of the envisaged proposal", if it considers, after the first step, that Union action is advisable (§3). Social partners must issue an opinion or a recommendation to the Commission. But they also have the opportunity to initiate the negotiation process of Article 155 TFUE, which means that they will have nine months to negotiate on the subject proposed by the Commission (§4). During this period, the Commission, and more broadly the Union, has no capacity to act on the same subject.

As regards civil dialogue, there is no obligation on the Commission to consult civil society organisations. The Commission has to carry out "broad consultations with concerned parties". But there is no reserved domain for consultation; the Commission may consult in all domains relevant to the Union action.

The dialogue between the social partners at Union level "may lead to contractual relations, including agreements" (Article 155 §1 TFUE). The social dialogue may result in European framework agreements either as a process following the consultation initiated by the Commission under Article 154 TFUE or as an autonomous initiative of the social partners. Article 155 §2 provides for two different legal procedures to implement these agreements. The social partners have the choice between two procedures. If they choose the first procedure, the "autonomous" one, the agreement concluded at Union level is implemented in the Member States by the social partners "in accordance with the procedures and practices specific to management and labour". If they choose the second
procedure, in matters covered by Article 153 TFUE - including health and safety measures, working conditions, but also equality between men and women or measures combating social exclusion - the agreement is implemented by a Council decision on a proposal from the Commission. The Council cannot change the dispositions of the agreement. Each Member State will have to transpose the legal decision into domestic legislation, in principle, without the participation of the social partners. The European Parliament does not intervene in this procedure; but it has to be informed. Through the social dialogue, the European social partners acquired quasi-legislative power in the field of social policy, where they may replace representative democracy on the European level and on the national level thanks to "autonomous agreements" (Kerschen and Roussel-Verret 2006).

There is no equivalent regarding civil dialogue. Social dialogue and civil dialogue seem to be essentially different. Social dialogue refers to the confrontation between divergent interests, which are represented, on one hand, by the employers and, on the other hand, by representatives of the employees. Social dialogue is often qualified as being bipartite or autonomous, because it traditionally refers to the relationship between the social partners, more rarely to the relations between the social partners and the European institutions. But the latest European agreement seems to have taken a new path.

**A new type of agreement: the active inclusion agreement**

Firstly, the Commission launched work on active inclusion. Meanwhile, it also promoted civil dialogue on active inclusion by organising with European NGOs and networks the 6th Conference of people experiencing poverty (May 2007) and the stakeholders’ Conference on active inclusion (June 2007). In a Communication issued on 17 October 2007\(^\text{27}\), the Commission gave an overview of the responses from the social partners and other relevant actors.

The Commission issued the Recommendation of 3 October 2008 on the active inclusion of people excluded from the labour market for the Member States\(^\text{28}\). It promoted an integrative strategy of active inclusion based on three strands: adequate income support, inclusive labour markets and access to quality services. It also asked the Member States to further promote active participation of "all other relevant actors, including those affected by poverty and social exclusion, the social partners, NGOs and service providers in the development, implementation and evaluation of strategies" [Article 1.2 (d)].

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\(^\text{27}\) Communication of the Commission of 17 October 2007 on modernising social protection for greater social justice and economic cohesion: taking forward the active inclusion of people furthest from the labour market, COM(2007) 620 final.

\(^\text{28}\) Recommendation of the Commission of 3 October 2008 on the active inclusion of people excluded from the labour market. OJEU 18 November 2008 L.307/11.
All stakeholders have been asked to express their opinion on the content of the proposals. It must be noted that the social partners did not take the opportunity offered by Article 138 TCE to initiate a negotiation process at the first stages. Social partners’ involvement could be questioned as they have a competence in work conditions as opposed to exclusion. Nevertheless, in 2010, the European social partners signed an autonomous framework agreement on inclusive labour markets, based on Article 155 TFUE. They set the negotiation in the context of their European Social Dialogue Work Programme for 2006-2008 and 2008-2010 and on the basis of their Joint Labour Market analysis. The agreement asked for shared responsibility with public authorities and "other actors" to ensure inclusive labour markets thanks to the development of synergies and partnerships. Annex 1 provides even for recommendations to "public authorities and other actors".

This example shows a complex strategy-building process:

- an "enlarged dialogue" organised by the Commission, based on the procedure and the rules of social dialogue, but involving not only the social partners, but also public authorities and civil society organisations, complemented by - outside the official consultation process - the participation of the people experiencing exclusion and stakeholders (organisation of Conferences), which results, in 2008, in a recommendation for the Member States;

- an autonomous initiative from the European social partners, based on their Social Dialogue Work Programme, which results, in 2010, in an autonomous European framework agreement on inclusive labour markets (one strand of the Recommendation of the Commission) and which will be implemented in the Member States by the social partners themselves.

Both acts, the Recommendation of the Commission and the European framework agreement of the social partners, call for "partnership with other actors" and for "shared responsibility". The active inclusion agreement is a framework not only for national social partners but also for other, public authorities and civil organisations, actors. It is also an interpretative tool giving guidelines on how to understand former European directives and European agreement. This agreement does not aim to grant employees new rights, but to forecast exclusion from the labour market. The social partners’ vision is oriented towards inclusion through the labour market.

By signing the active inclusion agreement the social partners have extended their role to a new field: to fight against exclusion. They have turned towards populations other than employers and employees. They have also constructed a new form of cooperation with the civil society, which has long been blooming within the OMC process.

i. OMC: an opportunity for civil society

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Civil society plays a part in the OMC process at the European level. This process works as a “helicoid”. National NGOs may play a part in the OMC process at the national level, but this is not always the case.

**The OMC: a multilevel “helicoid” process**

The aim of the Open Method of Coordination (OMC) is for governments to learn from each other by sharing information and comparing initiatives. This enables them to adopt best practice and coordinate their national policies. OMC is used to establish common objectives between Member States. Then the European Commission coordinates and monitors the implementation of the objectives in the Member States through the OMC process. Doing so enables the Commission to intervene in fields outside European domains, without the power to sanction Member States. Through the OMC process Member States and the Commission set new objectives and common guidelines in order to evaluate policies. The process is not only top-down objectives’ setting and bottom-up reports. In fact the process is conceived to evolve. Objectives and evaluation criteria are meant to evolve in order to be continually more accurate with regard to the objectives. For instance, poverty is now not only evaluated with regard to one’s disposable income, it is also defined with regard to education, housing ... The European Commission invites to establish “at risk poverty” which implies life-quality criteria. The OMC is an on-going process, thanks to the exchange between all the players making it possible to modify both objectives and evaluation tool.

NGOs play a major part in this process. In fact, OMC has been a useful tool in building civil society at the European level. Indeed, NGOs can lobby to influence the common objectives setting between the States under Commission supervision. And NGOs can issue reports on states’ achievements and on the successes and failures of the OMC itself. Civil society’s interventions make the process more democratic and enable the Commission to have another player which is in a position to criticize the States’ own reports to the Commission.

The OMC bestows a new role on civil society. NGOs can criticize States' policies and achievements regarding the common objectives set at European level. In doing so NGOs gain a new expertise and have the opportunity to advocate alternative measures. But this process is also enshrined in European Union values. Thus the European commission advocates that civil society interventions should be the expression of a European active citizenship. This implies that NGOs’ individual members should play a major part in NGOs’ decisions.

In 2000, when the strategy combating poverty and social exclusion was put into place, one main objective was dedicated to the mobilisation of all relevant bodies. It promoted on one hand "(a) the participation and self-expression of people suffering exclusion, in particular regarding their situation and the policies and measures affecting them" and, on the other hand, " (b) dialogue and partnership between all relevant bodies, public and private, for example, by involving the social partners, NGOs and social service providers, according to their respective areas of competence (...)”^30.

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The players’ empowerment, at different levels, in the OMC on social inclusion may be analysed through:

- partnership agreements concluded between the Commission and European-level networks and NGOs in the framework of PROGRESS
- participation of national and local NGOs in the elaboration, implementation and assessment of national action plans on social inclusion
- participation and self-expression of people suffering from exclusion.

**PROGRESS and the empowerment of European-level networks and NGOs**

By a common decision of the European Parliament and the Council of 24 October 2006, a Community Programme for Employment and Social Solidarity (PROGRESS) has been established for the period from 1 January 2007 to 31 December 2013. It supports financially the implementation of the objectives of the European Union in the field of employment and social affairs. It is an action programme of the European Commission.

Under this Programme, NGOs are considered as important contributors "at European level through key networks which assist in changing policy orientations relating to the general objectives of the Programme" [preamble (11)]. The Commission supported European-level networks and NGOs in the area of social protection and social inclusion by covering the main part of their running costs. Therefore it issued two successive calls for proposals - the first from 2008 to 2010 and the second from 2011 to 2013 - and it selected a dozen of European-level networks and NGOs (see Annex).

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Regarding the debates on representativeness of NGOs (see Part I), it is noteworthy that eligibility criteria apply, such as independency\(^{33}\), long-lasting legal organizations\(^{34}\), well-established multi-level organizations\(^{35}\), European friendliness\(^{36}\), involvement into social inclusion matters etc. When these eligibility criteria are fulfilled, organisations must submit to the Commission a triennial strategic plan with a related budget. This programme and the working methods will undergo an assessment.

The Commission favours plurality and diversity. It supports large platforms, like EAPN, the European Anti-poverty network, and NGOs, like CARITAS EUROPA or FEANTSA, which are also members of EAPN. It also defends a pluralistic view. It supports, on one hand, COFACE, the Confederation of family Associations in the European Union, which promotes a family-oriented approach, and on the other hand, EUROCHILD, which is in favour of the rights of children and young people as individuals.

The PROGRESS funding has had a very positive influence on European level NGOs and networks. For instance, some EU-level NGOs, which were dying at the end of the 1990s, could, thanks to PROGRESS, hire new staff, engage in new activities and develop new topics. This has especially been the case of COFACE, the Confederation of family organizations in the European Union. Other EU-level NGOs strongly influenced the topics adopted in the framework of the social inclusion strategy. For example, EUROCHILD put forward the theme of child poverty.

If the civil society role appears to be anchored at European level in the OMC process, it is not at national level.

**Two national (contradictory) examples regarding empowerment of national NGOs**

The European Commission encourages NGO empowerment at all levels of the process, including the national level. Once the European objectives are set and the Member States have agreed on common evaluation criteria, they have to report to the Commission on their achievements.

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33 Eligible organizations must be "non-governmental, non-profit-making and independent of industry, commercial business and other conflicting interests".

34 Organizations have to be "properly constituted and registered legal entities established in one of the PROGRESS participatory countries for at least three years".

35 They must have "national member organizations in at least fifteen Member States of the European Union".

36 Organizations must pursue general objectives, which are not "directly or indirectly contrary to the policies of the Union or associated with an adequate image".

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in this respect. To address this task Members States are free to set their own procedures\textsuperscript{37}. So there are as many procedures in issuing national action plans (NAP) as there are Member States. But here are two extreme examples regarding NGO interventions in the process: the French and the Irish procedures.

In France, the NAP is under strict government supervision. It is written by ministers and the “General Secretariat of European Affairs”\textsuperscript{38}, which is under the prime minister’s authority. The whole procedure stays under State jurisdiction throughout. NGOs never intervene in the process. The social partners are barely consulted. The social partners’ role has declined: at first, they were officially associated with the National Employment Plan; now the National Reform Programme - which includes the employment strategy from 2005 on and the strategy to combat poverty and exclusion from 2010 on - is only presented to the French Economic, Environmental and Social Committee, the equivalent at national level of the CESE. However, representative NGOs and social partners are consulted through the French national council of the fight on social exclusion and poverty\textsuperscript{39}. Civil society and social partners are barely recognised as partners of the process at the French national level. As a result the French NAP consists of an advertisement for government policy and decisions.

At the other end of the spectrum, the Irish procedure is more open. The Irish government created a body, The Social Inclusion Division of the Department of Social Protection that has overall responsibility for developing, co-ordinating and driving Ireland’s National Action Plan for Social Inclusion. Ireland set its own plan of reform - Towards 2016 - with its own agenda. The new strategic framework aims to achieve a more comprehensive and efficient monitoring process. This will ensure that reporting is streamlined, following the framework of Towards 2016 and encompassing the NAP inclusion. The Office for Social Inclusion has lead responsibility for co-ordinating the “Ending child poverty” initiative. This office has to supervise the OMC implementation, to coordinate all the actors and to promote the incorporation of anti-poverty and social inclusion objectives in public policy development and promote the implementation of poverty impact assessment. It has also a role of expertise. Social partners are closely associated with the NAP process. Representatives of the social partners who ratified Sustaining Progress are represented on the Social Inclusion Consultative Group which offers advice and observations on the NAPS process as it develops. This Steering Group

\textsuperscript{37} But Member States are not free to disengage themselves from the process, which means that Member States have the obligation to issue a report, cf. Kerschen, Nicole. Omarjee, Ismaël, “La stratégie européenne pour l’emploi : un exemple de rencontre entre une politique européenne et le droit communautaire”, Droit social, n° 686, Février 2010.

\textsuperscript{38} Secrétariat Général des Affaires Européennes. Website: http://www.sgae.gouv.fr/pages/site/sgae.

\textsuperscript{39} http://www.cnle.gouv.fr/Le-CNLE.html.
periodically reviews progress in implementing and further developing the key strategies including the National Reform Programme under the Lisbon Strategy, the National Development Plan (NDP), the NSSPI and the National Action Plan for Social Inclusion (NAP inclusion). The Office for Social Inclusion has a specific co-ordinating role in driving the process forward, particularly in relation to ongoing development of the strategies, monitoring, evaluating and regular reporting on progress being made in implementation and in achieving the intended outcomes, consultation with stakeholders, communications on the process to all stakeholders and the general public, the data strategy, research and poverty impact assessment. It reports on stakeholders’ views arising from Partnership at national and local level. The Office for Social Inclusion organizes the annual Social Inclusion Forum which serves as a structure for wider public consultation and discussion on social inclusion issues, particularly with those experiencing poverty and social exclusion.

In contrast to the French proceedings, the Irish government ensures a close participation of the social partners and enables civil society to intervene through partnership and wide public consultation. Even individuals and sport associations intervene at some public consultations on poverty... Ireland clearly took the example of the European level and blocked the opportunity of the NAP procedure to create its own reform agenda and set up a better monitoring process which includes civil society. Such action empowers NGOs as they can speak for their members at several colloquiums and can be associated in the definition and evaluation of policies through partnership.

**European citizen’s empowerment**

The European Commission advocates OMC as a way to encourage an active citizenship. In fact people in poverty cannot fully exercise their citizenship. In this respect, social inclusion is a way to ensure those people of their rights and duties as citizens (Article 20 TFUE). Social measures should aim to enable people to exercise freely and fully their rights and to construct their own perspective. Empowerment could be defined as a multi-dimensional social process that helps people gain control over their own lives. It is a process that fosters power in people, for use in their own lives, their communities, and in their society, by acting on issues that they define as important.

40 See the National Report for Ireland on Strategies for Social Protection And Social Inclusion, 2008-2010.

41 Cheryl E. Czuba, “Empowerment: what is it?”, Journal of extension, October 1999 // Volume 37 // Number 5 // Commentary // 5COM1. The World Bank defines Empowerment as the process of increasing the capacity of individuals or groups to make choices and to transform those choices into desired actions and outcomes. Central to this process are actions which both build individual and collective assets, and improve the efficiency and fairness of the organizational and institutional context which govern the use of these assets (cf. http://web.worldbank.org/WEBSITE/EXTERNAL/TOPICS/EXTPOVERTY/EXTEMPLOYMENT/0,,contentMDK:20245753~pagePK:210058~piPK:210062~theSitePK:486411,00.htm.

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Civil society is therefore seen as an actor of people’s empowerment. In most Member States, civil society organisations play an important role in meeting social needs. They provide both niche and mainstream services meeting social needs alongside public sector providers and often offer innovative solutions to the problems concerned. However, most of these institutions are small and underfunded: consequently, the services they can provide on their own are often short-lived, fragmented and patchy. Furthermore, many of the organisations concerned are solely dependent on public funding, which can create tension between what they perceive to be their mission and the aims of the government funders.

Against the backdrop of persistent calls for structural reform to meet the challenges of globalisation and technological, environmental and demographic changes, the Lisbon Strategy emphasised the instrument of the Open Method of Coordination as a catalyst for the change of national policies, firstly for employment strategies and for combating poverty and then for modernising social protection. This has led Member States to participate in a process of listening and sharing in two directions: on the one hand, mutual learning with peer reviews and on the other, the evaluation and validation tools. Each year, both under the European Employment Strategy and under Social OMC, almost ten learning seminars took place in the various countries of the European Union.

Another way of supporting social innovation is to involve stakeholders in a participatory process aimed at defining and implementing social policies. Unlike more traditional approaches, the focus here is on a bottom-up process able to draw on the experience of those that the policy will target as well as building a shared understanding and a higher level of consensus.

Participation and self-expression of people suffering exclusion and experiencing poverty has to be considered as a real innovation. EAPN, but also EUROCHILD, are organising on a regular basis, alone or together with the European institutions, events - conferences, meetings, discussions - involving people exposed to social exclusion (adults, young people and children). Some NGOs, who refuse to cooperate in this partnership with the European institutions, are very critical of these events that they consider as an alibi. But the defenders of this approach maintain that NGOs directly representing people exposed to social exclusion should be able to speak for themselves. Within some NGOs there is a tension between its task as a service provider and its willingness to voice the issues of its beneficiaries.

The European call for participation and self-expression of people suffering exclusion and experiencing poverty has been heard by the French national council of the fight on social exclusion and poverty. Indeed it has launched a new programme in order to ensure that such people takes part in all commissions, assemblies and decisive gatherings within the council. It seems that the practices of the European institutions has influenced the French council to do so.

**Conclusions**

Participatory democracy is still under construction. The Treaty of the European Union leaves doors open regarding the content and the actors.

OMC on social inclusion seems to correspond to consultation as described in the institutional approach. But, with PROGRESS, the activities of the NGOs, which make use of this device, go beyond mere consultation. It is likely the Commission searches for an European civil society to blossom as the Delors’ Commission has done with the European social partners. Are we witnessing the emergence of new partnerships instigated by the European Commission?

One of the stumbling blocks remains the identification of relevant actors for participatory democracy. Indeed, the treaty uses different terms and the European institutions adopted different criteria of representativeness. Does the transition from consultation to partnership imply a more precise definition of the actors of the European civil society?
ANNEX. PROGRESS-supported EU-level networks and NGOs in the area of social protection and social inclusion (2008-2013).

<table>
<thead>
<tr>
<th>ORGANISATION</th>
<th>Website</th>
<th>Subject</th>
<th>Period 2008-2010</th>
<th>Period 2011-2013</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Amount of the grant (per year) % of co-financing</td>
<td>Amount of the grant (per year) % of co-financing</td>
<td></td>
</tr>
<tr>
<td>CARITAS EUROPA</td>
<td>caritas-europa.org</td>
<td>Network of Caritas organisations on the European continent</td>
<td>€66,967 EU 55%</td>
<td>€578,607 EU 52%</td>
</tr>
<tr>
<td>CECOP Europe</td>
<td>Cecop.coop</td>
<td>European Confederation of Workers’ Cooperatives, Social Cooperatives and Participative Enterprises</td>
<td>€204,338 EU 42%</td>
<td>0</td>
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<tr>
<td>COFACE</td>
<td>coface-eu.org</td>
<td>Confederation of family organisations in the European Union</td>
<td>€462,703 EU 86%</td>
<td>€625,956 EU 83%</td>
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<tr>
<td>DYNAMO International</td>
<td>Dynamoweb.be</td>
<td>NGO on the rights of street children</td>
<td>0</td>
<td>€682,660 EU 80%</td>
</tr>
<tr>
<td>EAPN</td>
<td>eapn.eu</td>
<td>European anti-poverty network</td>
<td>€1,281,661 EU 86%</td>
<td>€1,451,484 EU 83%</td>
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<tr>
<td>EUROCHILD</td>
<td>Eurochild.org</td>
<td>Network of organisations and individuals improving quality of life of children and young people</td>
<td>€478,521 EU 86%</td>
<td>€731,427 EU 82%</td>
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<tr>
<td>EUROCITIES</td>
<td>Eurocities.org</td>
<td>Network of big cities + Active inclusion network</td>
<td>€563,764 EU 85%</td>
<td>€1,287,442 EU 82%</td>
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<tr>
<td>EURODIACONIA</td>
<td>eurodiaconia.eu</td>
<td>Network of social and health service provider organisations</td>
<td>€256,581 EU 75%</td>
<td>€337,579 EU 82%</td>
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<tr>
<td>EUROHEALTHNET</td>
<td>eurohealthnet.eu</td>
<td>Network of organisations, agencies and statutory bodies promoting health and equity</td>
<td>0</td>
<td>€450,050 EU 9%</td>
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<tr>
<td>EUROPEAN FOUNDATION FOR STREET CHILDREN</td>
<td>efsc-eu.otg</td>
<td></td>
<td>€328,203 EU 4%</td>
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<tr>
<td>EUROPEAN MICROFINANCE NETWORK</td>
<td>european-microfinance.org</td>
<td>Network of organisations involved in professional and personal microcredit</td>
<td>€364,614 EU 7%</td>
<td>€531,428 EU 9%</td>
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<tr>
<td>EUROPEAN NETWORK OF SOCIAL INTEGRATION ENTERPRISES (ENSIE)</td>
<td>ensie.org</td>
<td>European network of social integration enterprises</td>
<td>0</td>
<td>€95,976 EU 80%</td>
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<td>EUROPEAN SOCIAL NETWORK</td>
<td>esn-eu.org</td>
<td>Network of directors of local public services</td>
<td>€571,397 EU 5%</td>
<td>€730,291 EU 83%</td>
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<tr>
<td>FEANTSA</td>
<td>feantsa.org</td>
<td>European Federation of National NGOs working</td>
<td>€1,130,123 EU 8%</td>
<td></td>
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<tr>
<td>Organisation</td>
<td>Website</td>
<td>Description</td>
<td>Cases with the homeless</td>
<td>Beneficiary</td>
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</tr>
<tr>
<td>MENTAL HEALTH EUROPE</td>
<td>mhec-europe.org</td>
<td>Network of NGOs, volunteers and professional organisations working in the mental health area</td>
<td>528,573 EU</td>
<td>86%</td>
</tr>
<tr>
<td>PICUM</td>
<td>picum.org</td>
<td>Platform for international cooperation on undocumented migrants</td>
<td>0</td>
<td>-</td>
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</tbody>
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Bibliography


