ACADEMY

IHECS

Journalism & Communication

Which space do civil society organisations have in Europe?

Analysing the challenges civil society is facing in its relations with EU institutions and national governments

Claudia Conticello   **Supervisor Prof. Gérard Karlshausen**

Executive Master in Communication and European Policy

ACADEMIC YEAR 2014-2015

Acknowledgements

Table of Contents

List of Tables

List of figures

Acronyms

CoEU: Council of the European Union

CONCORD : European NGO Confederation for Development and Relief

CPDE : CSOs Partnership for Development Effectiveness

EC: European Commission

EESC : European Economic and Social Committee

EDF : European Development Fund

EPA: Economic Partnership Agreement

EPSCO : The Employment, Social Policy, Health and Consumer Affairs Council

EWL: European Women Lobby

FAC: Foreign Affairs Council

ICNL: International Center for Not-for- Profit Law

ISDS : Investor to State dispute settlement

TTIP : Transatlantic trade and investment partnership

LAs: Local Authorities

NCTA: Norwegian Civic Fund

NGDOs : Non-governmental development organizations

NIPs: National indicative programmes

MAAP: Multi annual action programme

MEP: Member of European Parliament

MFA: Minister of Foreign Affairs

MP: Member of Parliament

OECD : Organisation for Economic Cooperation and Development

OSCE: Organization for Security and Co-operation in Europe

PfD : Policy Forum for Development

SD : Structured dialogue

SIDA: Swedish International Development Cooperation Agency

Executive summary

In Europe, civil society organisations are supposed to enjoy a space for expressing themselves and exercising their rights in relation to public decision-makers. Yet, to what extent does this space exist and under which forms? And if it exists is this shrinking or enlarging itself?

Consultation mechanisms have been established at both European and national level with the objective of ensuring civil society having their say in the policy-making processes and defending their community's interests against possibly harmful policies. As a matter of fact, civil society can play an essential role as a watchdog and counterweight of public powers, preventing them to adopt illiberal decisions.

However, are these consultation mechanisms really able to guarantee a political dialogue? Or is just a way to make civil society participation visible but not effective?

At European level, though the Treaty of Lisbon officially recognises a dialogue with associations and civil society, there is no precise framework on how to implement it.

Nevertheless, civil society has found its way to get access to EU institutions mainly through informal and personal contacts in the European Commission and in the European Parliament. On the other hand, EU institutions have formally made efforts to give some space to civil society.

An online system has been established for the European Commission to consult stakeholders and the European Economic and Social Committee set up a Liaison Group to better structure the dialogue with organisations and networks.

At national level, an analysis that has been conducted on five EU Member States (UK, Sweden, Belgium, Italy and Hungary), taking into account Development NGOs' point of views, reveals a similar picture. However, at this level, civil society's requests are more likely to be considered as governments are more dependent on their support to win political elections.

Though being more considered, consultations at national level sometimes risk not to be very transparent and to be organised on ad hoc basis as it also happens with EU institutions, thus privileging well know organisations at the expenses of smaller ones.

Inputs from civil society are not really taken into account, or at least, a mechanism that verifies whether their feedback has been counted on the final policy decision still lacks at both EU and national level. Moreover, organisations with critical views are often put aside, thus limiting the political dimension of the consultation.

Civil society's access to information, though being guaranteed, can be hampered by procedures that are not transparent, such as the "Trilogues" at EU level. Civil society often gets informed informally via unofficial channels or through personal contacts on the ongoing initiatives and consultations might be organised at the very last moment, not allowing civil society to get prepared in advance.

Therefore, how can we safeguard and possibly enlarge the space for civil society organisations in Europe? How can we improve political consultations and ensure a dialogue?

Firstly, to prevent the space of civil society from shrinking, **a system of observatories** could be created in order to monitor the space of civil society organisations at EU and national level.

Secondly, the monitoring observatories could organise some **training activities** for political decision-makers in order to make them aware of the main problems affecting civil society freedoms and to suggest them how they can improve the situation.

Thirdly, consultations mechanisms should have **more transparent criteria**, ensuring that every organisation has the possibility to participate. Such transparency may be achieved, for example, by putting in place **a system of call of proposals**.

Fourthly, to ensure **more accountability**, civil society organisations should be given the possibility to ask for **a written report** after every consultation. In this way, they will have a feedback from the government or EU institution and they will understand if their inputs will be kept or not.

However, sometimes reports are not very clear and institutions might reject other actors' inputs without giving a proper justification.

For this reason, it would be useful to create a new figure, the **Civil Society Defender** that organisations can call to intervene if their inputs have been put aside without a reasonable explanation, especially when public interests are at stake. Thanks to this Defender, the national or EU institution will be asked to produce a more detailed report and to reconsider civil society inputs.

Civil society organisations at both national and European level should also have the possibility to **denounce** to the ''Civil Society Defender'' **an action, act, policy or a statement** from government or from EU institutions that they consider to be **harmful** for their activity.

Finally, the last proposal would be to **simplify lengthy and costly procedures** that are sometimes burdensome to CSOs and to create a space where organisations with more expertise can share their practices with other organisations.

From a broader point of view, consultations with EU institutions and national policy-makers should be more structured and transparent than they are now, ensuring a greater level of accountability and inclusiveness. However, consultations alone do not ensure a real political dialogue, which instead requires more openness and flexibility from both sides, among other things.

As a matter of fact, if consultations are not as they should be and a constructive dialogue is sometimes difficult to build, it is also up to civil society organisations to play their role and change the situation in their favour.

For example, civil society organisations should **take part in national and European platforms** that can empower their voice but, above all, they should be **more proactive at national level** where they usually have their roots and they are able to build a closer relationship with political powers. Through national governments, parties and parliamentarians civil society organisations, even the small ones, can have an influence in the EU institutions.

To conclude, if the space of civil society is neither shrinking nor enlarging, it finally depends on both political institutions and civil society organisations, which should be responsible each for its own role.

Introduction

This study has the overall objective to analyse the space civil society organisations (CSOs) have in the current European context and to understand whether it is shrinking or not.

After a clarification of the concept of the civil society that will be used (first chapter), the space of CSOs will be examined in relation to the European Union (EU) institutions by focusing on the existing mechanisms of consultation and on the quality of the dialogue.

The main idea of this part (second chapter) is to give an insight on the possibility that CSOs have to influence EU policy-making, taking into account the common impressions of those organisations.

As the European Union is made up of national Member States, the third chapter will focus on the space of CSOs in relation to their national governments, in 5 EU Member States: Belgium, Italy, Hungary, Sweden and UK. These countries have been chosen since they embody different models of associative movements[1] in Europe. Therefore, the space for CSOs in those countries will be evaluated considering their respective contexts.

Which CSOs have been considered?

Civil society is a very broad concept which includes a wide range of actors. For the purpose of this study, civil society will be considered as the sphere of interactions between actors located outside the state and the market who try to influence the public policy-making, such as: trade unions, social movements, non-governmental organisations (NGOs), political parties, religious and political movements.

As I have had a traineeship experience for 6 months (from March 2015 to August 2015) in CONCORD[2], during which I got in direct contact with people working in Development cooperation non–governmental organisations (NGOs), I decided to focus my analysis on this sector and on this type of organisations, which constitute one of the several actors of civil society.
Besides, development cooperation represents one of the best organised NGO sectors and one where important steps have been achieved in regards to the dialogue with the European Union[3].

Why analyse civil society in the European context?

In today's world, the interest for civil society has risen incredibly in the political agenda at both European and international level. This is clear if we look at the fact that a greater number of

---

[1] UK (« Anglo-Saxon model »), Belgium (« Rhine model »), Sweden («Scandinavian model») Italy (« Mediterranean model») Hungary (as part of the Eastern Europe). The difference between these models has been highlighted by Édith Archambault, Professor at Paris I Panthéon-Sorbonne University within a comparative analysis on the European associative movement by John Hopkins University : SALAMON Lester M., ANHEIER Helmut K. et al, *Global Civil Society: Dimensions of the Non-profit Sector*, The Johns Hopkins Comparative Non-profit Sector Project, The Johns Hopkins Center for Civil Society Studies, Baltimore MD, ISBN 188634333424, 1999
Available at http://ccss.jhu.edu/wp-content/uploads/downloads/2011/08/Global-Civil-Society-I.pdf

[2] CONCORD is the European NGO Confederation for development and relief. For more information visit the website: http://www.concordeurope.org/
[3] For instance, the structured dialogue between CSOs and European in development cooperation, this has been launched in 2010.

international institutions (International Monetary Fund, the World Bank and the European Union for instance) appear to make efforts for engaging with civil society, especially with the organisations based in the countries where their programmes will be implemented. Even the EU delegations are adopting roadmaps for better engagement with local civil societies of developing countries.

However, if we look more into depth, the reason of this revived interest in CSOs could be linked to the search for a sort of legitimization of their work. In other words, they seem to find in the civil society a way to compensate their questionable democratic accountability in their governance.

However, what is the role of CSOs? Are they considered as partners of the public powers or are they seen mostly as implementers of their public policies? Is civil society fully independent or is a tool used by States and international structures (United Nations, European Union, World Bank, etc…) to make pressure on national governments and to hold them accountable?[4]

The European Union has given a new momentum to the dialogue with civil society with the Treaty of Lisbon where it stresses "the institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society" (article 8.2.B)[5].

Does this legal provision correspond to reality? Are the European institutions ensuring a real space to civil society organisations to express themselves? Is there a real "open, transparent and regular" dialogue? Is the European Union a real democracy that takes into account stakeholders 'ideas and interests in its policy-making?

The first part of this study will try to answer to these questions.

In the current context, where the distance between EU institutions and citizens has sharply risen[6], the participation of civil society organisations has become more important since it could help citizens to re-acquire their trust in EU institutions. In other words, open, participative and transparent EU governance might be a remedy to the current citizens' disengagement in the European Union.

However, the space of civil society in the European context does not only imply a dialogue with EU institutions but it also concerns the relations CSOs have with their national governments which decide their legal status and work frameworks.

Nevertheless, are national governments ensuring inclusive and accessible mechanisms for CSOs to participate in policy and decision-making processes? Are there formal/informal barriers that hinder their participation?

While several researches conducted by international groups such as CIVICUS, ACT Alliance and the International Center for not-to Profit Law[7] have shed light on the shrinking space for CSOs in

---

[4] EUROPEAN COMMISSION, *Joint Communication to the European Parliament and the Council. Action Plan on human rights and democracy (2015-2019) "Keeping human rights at the heart of the EU agenda",* Brussels 28 April 2015. p.9, JOIN(2015) 16, final Text available at : https://ec.europa.eu/europeaid/sites/devco/files/joint-communication-ap-human-rights-and-democracy_en.pdf . In this Action Plan the European Commission mentions the importance of strengthening the support to civil society to hold governments accountable, see page 9

[5] Text of the Treaty of Lisbon available at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12007L/TXT

[6] The Last EU elections registered the lowest-ever turnout in the history of the European Union, touching 42.61%

[7] TIWANA M. and BELAY N., *Civil Society: The Clampdown is Real,* Johannesburg: CIVICUS, December 2010; ACT Alliance, *Shrinking political space of civil society action,* Geneva, June 2011; ACT Alliance, *Changing political spaces of*

developing countries the state of civil society in Europe remains unclear and the opinion on this could be based on some assumptions.

European countries claim to be examples for many other states regarding the protection of CSOs freedoms and the relations between government and non-state actors. However, in the end this picture might be superficial, neglecting the possibility of indirect and hidden limitations that can hamper the existence of CSOs.

Are we so certain that in our established multi-party democracies CSOs are effectively free to operate and play their role?

Civil Society Organisations, Geneva, February 2011; THE INTERNATIONAL CENTER FOR NOT-FOR-PROFIT LAW (ICNL), Defending *Civil Society,* Washington D.C.; 2012, ICNL; TRÓCAIRE, Democracy *in Action: Protecting Civil Society Space*, TRÓCAIRE Democracy in Action Policy Report, 2012.

I Chapter

DEFINITIONS AND CONCEPTS

1.1   What is civil society?

Before examining the space for civil society organizations in Europe, the first question we need to ask is: what do we mean by 'civil society'?

The concept has been used with different meanings and has found several interpretations from academics and practitioners depending on the goals of their research. For this reason, it remains quite ambiguous and the search for a clear unique definition is almost vain.

The very first notions of 'civil society' date back to political thinkers such as John Locke, Adam Smith, Antonio Gramsci and Georg Friedrich Hegel[8]. For Locke state and society are located in two separated spheres and society stands in opposition to the state[9]. Adam Smith in *Wealth of the nations* (1776) included in this concept both state and the market, underlining the autonomy of the last one from external influences. For Gramsci a characteristic of civil society is the presence of institutions able to produce a consensus such as religious and educational institutions, communications media[10], etc… Hegel identified the concept of civil society as the social space between state and family and he emphasizes a more integrative view of the state/society relations[11].

More broadly, there is a sort of ideological contraposition: the liberal perspective underlines the autonomy, the individual responsibility and the independence from the state, while others highlighted the possibility of a collective action able to counterbalance the market exclusion mechanisms.

The German philosopher and sociologist Jürgen Habermas has underlined for the first time the link between civil society and democracy. More correctly, he was one of the first authors to point out the connection between democracy and the public sphere. This concept is strongly interrelated to civil society described as "*network of associations that institutionalizes problem-solving discourses on questions of general interest inside the framework of organized public spheres*"[12]. Examples of public spheres were coffee houses, salons and table society where individuals in condition of equality were able to share their political opinions free either from the State coercion or from the domination of economy. Public sphere is located in civil society which for Habermas includes associations, grass-root movements, religious organizations, clubs, local organizations and

---

[8] HOUTART François, « Vers une Société civile mondiale : celle d'en bas et celle d'en haut », CETRI website, January 2001 http://www.cetri.be/Vers-une-societe-civile-mondiale?lang=fr (page consulted on 2/08/2015)

[9] TAYLOR Charles, *Die Beschwöörung der Civil Society: Castelgandolfo-Gesprääche 1989*, in Europa und die Civil Society, (Ed.) Michalski, Krzysztof, Klett-Cotta, Stuttgart, 1991, pp. 52

[10] GRAMSCI Antonio, Gli intellettuali e l'organizzazione della cultura, Einaudi, Torino, 1949, p.9

[11] HEGEL G.W Friedrich, *Philosophy of Right,* Translated by S.W Dyde, Batoche Books Kitchener 2001. Available at http://socserv2.socsci.mcmaster.ca/econ/ugcm/3ll3/hegel/right.pdf

[12] Habermas J., *Between facts and norms: Contributions to a discourse theory of Law and Democracy* ,MIT Press., ISBN: 9780262082433, 1996, p.367

informal social networks. But why should their presence be essential for the existence of democracy?

A vibrant civil society could be considered as a precondition of democracy since it is mainly responsible for the construction of the public opinion through a rational discourse. Only a strong public opinion can counterbalance and provide control over market and state making those who are in power accountable of their actions.

Besides, civil society can also ensure the regeneration of the system by putting forward democratic practices. According to Habermas's discursive theory civil society is the ideal place for public debate that can helps to form opinions. The political force generated by discourse can legitimize collective actions and can be a measure of justification of democratic institutions[13].

Apart from political thinkers who underlined different interpretations of the concept, what is remarkable is that institutions (international or national) give different definitions depending on which field they operate and on the objective they pursue.

For the IMF 'civil society organizations' (CSOs) refer to "the wide range of citizens' associations that exists in virtually all member countries to provide benefits, services, or political influence to specific groups within society"[14]. It can be noted that individual profit-oriented enterprises are not considered CSOs but "business forums" which means lobbies and profit-business interests are included in IMF's definition.

On the other hand, the World Bank (WB) has stressed more the role of NGOs and local associations expressing interest and values of their members[15].

Within the European Union, two institutions have been interested in the role of CSOs: the European Commission (EC) and the European Economic and Social Committee (EESC).

In the EC Communication *Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties* (2002)[16] the European Commission defines 'civil society organisations' as "the principal structures of society outside of government and public administration, including economic operators not generally considered to be third sector or NGOs". In the process of consultation the EC does not make any difference between CSOs and other 'interested parties' which encompass all the organizations who wish to be consulted.

In other words, the European Commission tends to consider civil society as a third sector outside the market which includes neither public powers nor employers/trade unions but it is more related to associations and NGOs.

---

[13] *Ibidem*

[14] INTERNATIONAL MONETARY FUND, *The IMF and Civil Society Organizations* , Factsheet, 9 April 2015 p. 2
Available at http://www.imf.org/external/np/exr/facts/pdf/civ.pdf

[15]   WORLD   BANK   definition   of   civil   society   available   in   EN-FR   -ES   at http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,contentMDK:20101499~menuPK:244752~pagePK:2205 03~piPK:220476~theSitePK:228717,00.html

[16]   EUROPEAN   COMMISSION,   *Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties*, Brussels, 11.12.2002 COM(2002) 704 final p.6
Available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0704:FIN:EN:PDF#_Toc46744741

On the other hand, the EESC's definition seems to be more focused on economic partners in the labour market (trade unions, employers 'associations) as civil society includes "representatives of the 'intermediary bodies' to which European citizens belong"[17] such as trade unions and employers organizations.

The European Economic and Social Committee which has defined itself as 'the bridge between Community bodies and civil society organisations'[18], is a consultative body within the EU made up of three groups:

- Employers group
- Workers group
- Various interest group

However, this institution seems to embody and represent more the interests of social partners (employers and workers) rather than then third group. It seems that the European Economic and Social Committee is not able to give a voice to a great part of CSOs in the field of environment, human rights, development, migration and for these reason most of them choose not to be part of it.

What could be noted from most of these definitions is that institutions tend to talk of civil society organizations rather than civil society. While civil society is a broad concept that could also refers to non-organized individuals or groups of people, the term 'civil society organizations' (CSOs) presumes the existence of an 'organization', which can be defined as 'a set of social stable relations deliberately created, with the explicit intention of continuously accomplishing some specific goals'[19].

For the purpose of this study civil society is defined as the sphere of interactions between multiple actors located outside the market and the state that try to participate in the public policy-making through different kinds of organisations. This definition includes non-governmental organizations, social organizations, social movements and national or religious organizations.

All these actors express a voice in the process of negotiating and debating public policy. Graphically this definition can be represented by a triangle with three poles: the market, the state and civil society. The distinction between the three poles (market, state and civil society) sometimes is not really clear. There are some actors who can belong to two or three categories at the same times. For example, when the state supports development NGOs' initiatives the border between state and CSOs can become blurred.

---

[17] EUROPEAN ECONOMIC AND SOCIAL COMMITTEE, *The civil society organised at European level*, Proceedings of the First Convention, p. 5, Brussels, 15 and 16 October 1999, p. 5
[18] *Ibidem* p.108
[19] Stinchcombe, A. L. , *Social Structure and Organizations*, In: J. G. March (Ed.), *Handbook of Organizations*, Chicago, IL: Rand McNally & Company, 1965, p. 142

Figure 1 Definition of civil society

STATE

MARKET (Firms, chambers of commerce, organisations of employers, etc...)

CIVIL SOCIETY (NGOs, social organizations, social movements, political parties, trade unions)
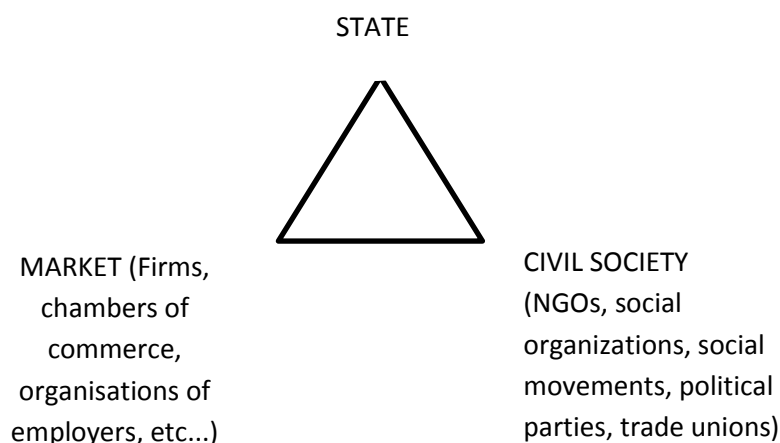
In order to have a better understanding of what civil society is it could be useful to identify the main actors included in this concept.

1.2   The actors of civil society

Within the concept of civil society there are different types of non-state actors that sometimes overlap with each other. We can make reference to the distinction made by Mary Kaldor (2003) who identifies four types of civil society actors: social movements, non-governmental organizations, social organizations and national and religious groups. We should also add to these four categories political parties as they represent the political expression of civil society.

 It is generally argued that social movements refer to those groups of people who act together to bring about transformation in society[20]. Social movement's claims are generally new or difficult to be accepted. For this reason, public authorities can have a different approach towards them. They can integrate their claims in their agenda and, in this case, social movements become institutionalized or they can refuse their demands. When authorities opted for the latter, there is a risk of radicalization, which means that the social movements can turn into violent ones.

Within this first category, it seems important to signal the presence of movements that propose alternative views to dominant models. Via Campesina (the international Peasant movement) is an example of a movement that advocates for an alternative agricultural model. Then, there are also movements against globalisation that propose a different global order (no global movement) and others that are linked to the new challenges such as climate change or debt.

Non-governmental organizations remain a quite difficult phenomenon and not easy to define from an analytical point of view. Indeed, NGOs are a broad group which includes different kind of organizations from informal groups to large formal agencies. Besides, NGOs can play different

---

[20]KALDOR Mary, *Civil Society and Accountability*, Journal of Human Development, Vol. 4, No. 1, Carfax Publishing, ISSN 1464-9888, 2003, p.12

roles in relation to the state. For example, even though NGOs are not run by government and are not profit organizations, they can receive great amounts of public funding as well as seek to generate profit to support their work[21].

In general, what distinguishes NGOs from other organizations is their 'voluntary' character. They are commonly called voluntary, non-profit or civil society organizations depending on the cultural and historical context.

As pointed out by Professor David Lewis (London School of Economics)[22], NGOs can play 3 different roles: implementer, catalyst and partner. The first one is related to the mobilization of resources to be provided to citizens; the second one is the ability of the NGOs to inspire and promote social transformation; the last one reflects the trend of NGOs to collaborate more and more often with governments.

One common distinction made in literature is between Northern and Southern NGOs. The first term refers to NGOs that are based in industrialized countries while the latter is used to indicate those who come from less developed areas of the world.

Social organizations are the third type of actors in civil society. Even though they present a wide range of similarities with NGOs (they are non-profit, value-driven and voluntary) they differ from them on multiple aspects. We can consider the definition given by Mary Kaldor (2003) who includes in this category professional organizations such as trade unions, society of lawyers, farmers, etc.. From Kaldor's point of view these organizations differ from NGOs because they mainly depend on their members' resources (rarely external donors) and they are formed for the mutual benefit of their members.

Finally, the last type is made of national and religious groups. 'They tend to be movements based on exclusive identity politics; that is to say, they are claims to political power on the basis of a label, generally ethnic, which excludes and is indeed hostile towards others with a different label'(M.Kaldor 2003).

1.3   The relations between civil society and public powers

The relationship between civil society and public powers has always been ambivalent.

According to the existing literature, what distinguishes the state from other entities is: the legitimate monopoly of the coercive force[23], the monopoly of rule-making, and the ability to enforce his decisions within a given territory. Civil society can play two different roles: it can counterbalance the state or it can complement it. These 2 roles can coexist but depending on the

---

[21] LEWIS D., *Nongovernmental Organizations. Definition and History*, London School of Economics and Political Science, Springer-Verlag Berlin Heidelberg, 2009, p.2, available at http://personal.lse.ac.uk/lewisd/images/encylciv%20societyngos2009-dl.pdf
[22] *Ibidem*
[23] WEBER M., *Politics as a vocation*, in H.H. Gerth and C. Wright Mills (Translated and edited), *From Max Weber: Essays in Sociology*, New York: Oxford University Press, 1946, p. 77.

political *regime* [24](authoritative, democratic, hybrid) the first one can be more or less restricted. More generally, the risk is that if the state does too much it can interfere in the independence of civil society. On the other hand, if it does too little it could affect the proper functioning of civil society that needs a regulatory and a legal framework in order to play its role.

In recent times, the importance of civil society towards public institutions has risen. The reason is that civil society organizations are in a certain way replacing public institutions where they are unable to play their role. Civil society organizations with their flexible structures and their reduced costs provide services in fields (health, education, etc...) that in the past were a prerogative of the state. State's rigid schemes sometimes impair the efficiency of delivering services.

Moreover, the participation of civil society organizations in the public policy and decision making has become more and more important as a factor of legitimization and democratization.

For instance, international organizations such as the IMF and the WB have started to make public their engagement with CSOs to be seen as a way to fill their democratic deficit in their governance. The European Union has also recognized the importance of the dialogue with civil society in the Treaty of Lisbon (article 8 B) even though a formalized channel has not been created yet.
Some EU delegations across the world as well have started the process of "engagement with CSOs".

In the case of the European Union, the dialogue with civil society can be considered as a way to fill the growing gap between EU institutions and citizens. The lack of trust towards institutions was clearly manifested in the last European elections (May 2014) that registered only 42.54%, the lowest voter turnout on the record since 1979.
For this reason, since early 2000s civil society has been a prominent item on the EU agenda.

However, the role of civil society in relation to the state is not limited to a factor of democratization or legitimization. Another aspect that should be highlighted in this section is the role that civil society can play in relation to political accountability.

The concept of accountability refers to the answerability, or ''the obligation of public officials to inform about and to explain what they are doing''[25]. A distinction is usually made between vertical and horizontal accountability[26].

The first one is related to the electoral mechanism through which citizens can re-elect political leaders who respect their commitments and work for the common good and punish by non-re-electing those who take advantage of their position to pursue their own interests.

On the other hand, the horizontal accountability is linked to institutional checks and balances within the state that can be agencies or public officials.

---

[24] MORLINO L., *Changes for democracy. Actors, structures, processes,* Oxford University Press, Oxford New York, ISBN 978-0-19-969811-0, 2012, p.38

[25] SCHEDLER A., *Conceptualizing accountability*, In A. Schedler, L. Diamond, & M. F. Plattner (Eds.), *The self-restraning state: power and accountability in new democracies*, Boulder, CO: Lynne Rienner Publishers, 1999, p. 13

[26] This distinction can be found in O'DONNELL Guillermo A., *Horizontal Accountability in New Democracies*, Journal of Democracy, Vol. 9, Numb. 3, July 1998, p. 112

Examples of horizontal mechanisms are: human right ombudsman, control agencies, accounting and auditing systems, etc…

However, these mechanisms have some structural problems. The effectiveness of elections is weakened by the distance between political leaders and civil society and by the lack of information about what the government is really doing. Regarding the horizontal mechanisms the problems in this case are related to the difficulty to monitor all the governmental actions, to the limited enforcement capacity and to the lack of adequate funding[27].

In addition to elections and institutional checks and balances, civil society represents a third mechanism that strengthens the overall governmental accountability. In this case we use the expression 'social accountability' to refer to those mechanisms that citizens, communities and civil society organizations use to make public officials accountable. Among these there are participatory budgeting, investigative journalism, citizens' advisory board and monitoring public service delivering.

If civil society organizations strengthen the accountability of public decision-makers, on the other hand it is their own accountability and legitimacy that is put into question.

It has already been said that these organizations in some cases are replacing the state by providing services in key fields. They also claim to advocate public interest and to give voice to voiceless categories. They tend to participate in policy formulation, implementation and enforcement in order to give a larger consensus to public institutions decisions.

However, are these organizations in a position to do so? Are they truly representative of the public interest? Are they democratically accountable?

1.4   Criticisms towards CSOs

Some scholars and politicians have pointed out some criticisms towards civil society organizations. The first criticism is generally the lack of democracy which is related to the presence/absence of democratic internal processes (membership base, elections on board members, consensus on issues, etc…) and to the representative nature of CSOs.

Are CSOs leaders elected by members? Are CSOs policies based on large consensus and as a consequence representative of members' interests?

The answer to these kind questions can change from CSO to CSO. There are some CSOs like Amnesty International where the members act as owners of the organization and determine its decision-making. There are others such as Greenpeace whose members passively donate money[28].

The other point is related to their representative nature: "[i]n whose names do they speak?

---

[27] ACKERMAN J., *Co-Governance for Accountability: Beyond ''Exit'' and ''Voice''*, World Development Vol. 32, No. 3, 2003, Elsevier Ltd,University of California, Santa Cruz, CA, USA, pp. 447
[28] KALDOR, op.cit., p. 17

How do we know they represent the public interest? How do we know that they are not explicitly positioning themselves in highly political ways?"[29]

What might happen is that CSOs could be interested only in imposing donors' ideas, in spite of defending public or specific categories interests. As Mary Kaldor has pointed out 'it is argued that the growing dependence on particular donors may distort the priorities or mission of NGOs; indeed, in some cases, NGOs have been described as parastatal organizations, or government subcontractors'[30]. This was the case of Bangladesh NGOs that became such an important actor to be described as 'the 'Franchise State' (Wood, 1997).

This is the main critique in terms of democratic representation. However, CSOs could question these accusations by showing, for example, that they consult their beneficiaries before and after putting in practice certain actions.

What is out of question is that civil society organizations are not democratically elected and for this reason they are not vertically accountable as political leaders.
Given their prominent role in today's society there should be alternative mechanisms to make these organizations accountable.

In effect, most of CSOs have procedural accountability mechanisms. In the case of NGOs there are internal management structures (boards, committees, directors) to whom the staff reports[31] but also external actors (donors) to whom they have to account the use of their financial resources. In addition to that, they are also responsible to their beneficiaries and to public opinion (media).

Accountability mechanisms are annual reports, performance assessments, independent evaluations, audits systems, etc… These mechanisms are important since they make information regarding the NGO governance available to the public and to supervisory bodies[32].

[29] UVIN P., *Human rights and development*, Vol. 37, Kumarian Press, ISBN: 978-1-62637-369-3, 2004, p.100
[30] KALDOR, op.cit., p. 21
[31] *Ibidem*, p. 21
[32] EBRAHIM A., *Accountability in practice : Mechanisms for NGOs, World Development*, Vol.31, No. 5, Elsevier Science Ltd., 10.1016/S0305-750X(03)00014-7, 2003, p. 816

II Chapter

CIVIL SOCIETY AND THE EUROPEAN UNION

2.1   Which role does civil society play in the European Union?

During the first decades of the European integration civil society has been widely absent from the European Community political agenda. Following the experience of the two world wars, the main objectives of the initial European construction were peace and prosperity. The integration process proceeded apparently de-politicized and was oriented to the creation of a common European market. Therefore, civil society organizations were far to be considered as a potential interlocutor of European institutions.

Until the 1970's, the dialogue between CSOs and EU institutions was not much organised. Informal contacts have been formalised and rationalised from late 1980's to early 1990's and this might have caused a greater manipulation from EU institutions that have started to use CSOs, as tools to implement their policies.

More specifically, since the Single European Act EU competencies and policies have evolved and their field of application has been extended to areas directly linked to CSOs[33]. This increase of competencies has made necessary to turn to external actors, such as NGOs able to put into practice new EU programmes and policies in areas such as health, development and gender equality where citizens interests are directly involved. In other words, CSOs provide specific expertise and a direct link with society which makes them a fundamental resource for the implementation of EU policies.

In addition to this aspect, the perceived distance between the EU and its citizens (clearly manifested in the declining voter turnout in European elections since 1979) has caused a shift in academics, politicians and bureaucrats' attention. There has been a change from an output-oriented understanding of EU policies 'for the people' to an input-oriented dimension of democratic legitimacy, calling for authentic participation and governance 'by the people'[34].

Practitioners and scholars started to see the participation and the inclusion of civil society as an alternative path to democratize and to make the EU more legitimate and more accountable. As well known, political legitimization is closely linked to public space or sphere where citizens can have access to information, discuss about politics and form their opinion. What it could be said is that the public space is the foundation of a political community and the basis for its legitimization.

---

[33]   FAZI Elodie & SMITH Jeremy, *Civil Dialogue : making it work better,* Civil Society Contact Group (CSCG),Brussels, 2006, p.18
Available at: http://act4europe.horus.be/module/FileLib/Civil%20dialogue,%20making%20it%20work%20better.pdf
[34] HEIDBREDER Eva G., *"Civil society participation in EU governance", Living Rev. Euro. Gov.* 7, No. 2, 2012, p. 8 (page cited on 2/05/2015) and SCHARPF Fritz W., *Governing in Europe: Effective and Democratic?,* Oxford University Press, Oxford; New York. 1999, [Google Books], 0198295456, p. 8.

In the case of the European Union researchers[35] and also EU institutions[36] a problem of legitimization has been highlighted probably due to a lack of a European public sphere. Allowing civil society to participate has been seen as a remedy to this problem. Today, the growing abstention rate and the increasing number of protest votes in the last European elections demand a real involvement of civil society in the EU policy-making.

It was with the publication of the *White Paper on Governance* (European Commission 2001) that civil society has begun to gain more importance on the EU's agenda. Before 2001, Protocol N.23 of the Treaty of Maastricht mentioned for the first time the cooperation with solidarity associations while in 1997 the Treaty of Amsterdam imposed to the Commission to consult the interested parties before presenting new projects of legislation. With the *White Paper* the Commission has officially recognised the open practice of consultation of all CSOs since the elaboration of EU policies.

2.2   Social and civil dialogue

Before analysing how CSOs can give their inputs in the EU policy-making, it is important to make a clear distinction between social and civil dialogue.

The European Union has structured different relations depending on the nature of interests.

Regarding the consultation with social partners, the European Union has established since 1985 (Publication of White Paper by Jacques Delors) a legal procedure which finds recognition in the Treaty of the EU (Articles 151-156). The EU identifies 4 specific actors (Business Europe, the European Trade Union Confederation, the European Centre of Employers and Enterprises providing public services and the European Association of Craft Small and Medium-Sized Enterprises) that have to be consulted in matters of their competence. Basically, the European Commission consults them before activating the legislative initiative (first stage) and on the content of an initiative (second stage). The legal basis of the social dialogue enables social partners (representatives of workers and employers at European level) to play a real political role.

Civil dialogue, instead, has not been institutionalised. Therefore, there is a great uncertainty regarding the actors that can be involved. Civil dialogue addresses those organizations like NGOs and associations operating out of the economic sphere, for example in the areas of consumer protection, development cooperation, environment, human rights, protection of women and children, etc. For the particular interests they represent, they do not usually have vertical structures but they have developed through networks.

Between the social and civil dialogue there is the role of the European Economic and Social Committee (EESC) that claims to be the legitimate and institutional representative of organised civil society at European level and to put forward its views[37].

---

[35] BOUAL J. C., *Vers une société civile européenne,* La Tour d'Aigues, 1999, Éditions de l'Aube.
[36] EUROPEAN PARLIAMENT, *Resolution on the participation of citizens and social actors in the institutional system of the European Union*, 10 December 1996(2), OJ C 20, 20.1.1997
[37]EUROPEAN   ECONOMIC   AND   SOCIAL   COMMITTEE   website   page   on   civil   society,   see http://www.eesc.europa.eu/?i=portal.en.civil-society Date of consultation 07/07/2015

Created in 1957 with the objective to allow social and economic organisations to have their say in the establishment of the European common market, the EESC seems to crystallise an antiquated vision of society based on labour relations between trade unions and employers organisations. In effect, according to the website[38] of the European Economic and Social Committee, the EESC's members represent the two sides of the industry and social interest groups from across Europe that are nominated by national governments and appointed by the Council of the EU for 5 years. This procedure allows the EESC to better represent national organisations rather than European ones that do not seem to be sufficiently involved in its work.

The outgoing Prime Minister of Denmark and former centre left Member of European Parliament (MEP) Helle Thorning-Schmidt underlined this aspect in a contribution to the European Convention for the EU Constitutional Treaty, in 2003, called "Four good reasons to abolish the Economic and Social Committee"[39]. In this contribution she proposed to abolish the EESC and create another forum instead that will be cheaper, more efficient, more focused and more European in terms of representativeness. Helle Thorning-Schmidt also stressed that since 1957, when the EESC was created, the political environment has greatly changed and civil society is much more organised and has found other ways of representation.

Even if it is dated back to 2003, the opinions expressed in this contribution still seem to be valid. Actually, these reflections seem now truer than ever as today civil society is more complex than in the past, considering the increasing number of civil society organisations and the diverse interests they express[40].

Is the various interests group (III group) of the EESC able to give an adequate representation to this complexity? Or civil society tends to be more represented in other structures that have direct contacts to the Commission and the Parliament such as the Civil Society Contact Group?

If the EESC is not representative anymore of the current civil society context, on the other hand, there have been some steps forward in the process of recognition of the civil dialogue.

More specifically, the Treaty of Lisbon (2009 article 8B and article 11(1) and 11(2) of EU Treaty) gave a new momentum to "an open, transparent and regular dialogue with representative associations and civil society"[41] and to the realization of a participatory democracy (the European Citizens Initiative) as complement of the representative model. Although there is not a legal definition of association, this term could refer to voluntary organizations "whose members pool their knowledge or activities either for a purpose in the general interest or in order to directly or indirectly promote the trade or professional interests of its members."[42]

---

[38] http://europa.eu/about-eu/institutions-bodies/eesc/index_en.htm Date of consultation 07/07/2015
[39] THORNING-SCHMIDT M. Helle, *Four good reasons to abolish the Economic and Social Committee Contribution to the Convention,* May 15 2003, p.2
http://european-convention.europa.eu/pdf/reg/en/03/cv00/cv00739.en03.pdf
[40] So far 7991 organisations registered in the EU transparency register. There has been an increased from 2012 when the organisations registered were 5431. However, this increase does not necessarily reflect a real growth in numbers since there is no obligation for organisations to register.
[41] Treaty of Lisbon available at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12007L/TXT
[42] This definition was found on the website of the European Commission : http://ec.europa.eu/enterprise/policies/sme/promoting-entrepreneurship/social-economy/associations-foundations/index_en.htm

However, there is no precise framework of how to put into practice the civil dialogue, neither an indication of which associations are "representatives". Besides, so far there has been no consensus amongst EU institutions on a unique legal definition of civil society. Therefore, which CSOs are supposed to be consulted and which not?

There are no specific criteria for consulting CSOs and the dominant mode tends to privilege an institutionalized professional type of CSOs[43] who are more used to administrative work. This fact can penalize small organizations and grass-roots movements which constitute an essential feature of civil society.

The issue of civil society participation to the civil dialogue and its representation at European level could be addressed partially by the adoption of a statute/chart for European association which identifies the eligibility criteria for "representatives associations".

In 2008, the French Social and Economic Council issued a communication entitled 'Pour un statut de l'association européenne' where it underlined the benefits related to the adoption of a statute for European associations.

First, it would be a fulfillment of the democratic principle of representation and at the same time, it would contribute to increase civil society influence at European level[44].

Secondly, it would represent a reference for EU relations with CSOs in third countries.

Finally, it would contribute to the administrative simplification for those organizations whose actions transcend national borders. In Europe, associations have different statutes in accordance to their national law which makes very difficult for them to operate in other countries even within the EU.

In addition to these aspects, the existence of a statute would facilitate the financing of associations through EU funds favouring a greater transparency.

However, above all, it would enable direct contacts between citizens and their intercultural exchanges. This would enhance the European citizenship and could favour the emergence of a European political culture.

The process for the recognition of European Statute for European associations has started some decades ago and is still ongoing. The first step was when in November 1984 Louis Eyraud, Member of the European Parliament, tabled a motion for a Resolution on 'the role and administration of associations and the law governing them in the European Community'[45]. This motion was the basis for the report produced by the Committee on Legal Affairs and Citizens Rights entitled 'Report on

---

[43] HEIDBREDER Eva G., op.cit.note 34, p. 9

[44] ROIRANT Jean-Marc, *Pour un statut de l'association européenne,* Avis et rapports du Conseil Economique et Social de la République française, 10 June 2008, p. 26

[45] EUROPEAN PARLIAMENT, *Resolution on the Role and Administration of Associations and the Law Governing them in the European Community*, Doc. 2-290/84

Non-profit making Associations in the European Community', which included a proposal for a resolution for the European Parliament[46]. The resolution was finally adopted in 1987[47].

Following these parliamentary initiatives the European Commission presented a proposal, related to the regulation on a Statute for a European association (1991/0386(COD))[48] and another one for a European mutual society (1991/0390(COD)).

However, the first proposal was not transposed into legislation. In 2005, the European Commission decided to withdraw its proposal in the name of administrative simplification. After this event, an informal alliance of CSOs 'European Alliance for the Statute of the European Association' has organized a campaign for the adoption of a written declaration on European Statute for Associations by the European Parliament (EP). The EP finally adopted the declaration in 2011[49].

Until now, no other initiative has been taken in this sense. Despite the path towards a Statute for European Associations seems to be still long, CSOs have find other ways to be an interlocutor of EU institutions that will be explained in the following paragraph.

2.3   Consultation mechanisms

For all the reasons explained in the first paragraph of this second chapter, EU institutions have progressively extended and intensified their contacts with civil society organisations. In particular, after the critical debate on EU democratic legitimacy following the Treaty of Maastricht (1992) the Commission started to include not only those interests affected by common market policies but also other actors in fields of social and policy migration[50]. The will to include societal actors can be seen as noted by *Quittkat* and *Finke*[51] in a gradual change of terminology used by the Commission to indicate the dialogue with CSOs. In 1960-70 it was a simple consultation, then a partnership (1980-1990) and finally participation (1990-2000).

The major changes have been introduced by the *White Paper on Public Governance* (European Commission 2001) by which participation has been recognized as one of the five principles of good governance. In the follow-up of this landmark document an important tool was created: an online consultation system via the website "Your Voice in Europe". By this tool CSOs should have the possibility to express their opinion on different EU policies.

---

[46] EUROPEAN COMMUNITIES, *European Parliament, Report drawn up on behalf of the Committee on Legal Affairs and Citizens Rights on Non-Profit making Associations in the European Community* (Rapporteur Mrs. N. Fontaine), Working Documents, Serie A, 8 January 1987, (Doc. A 2-196/86)

[47] EUROPEAN PARLIAMENT, *Resolution on non-profit-making associations in the European Communities*, Vol. 3/87, March 1987

[48] This proposal was amended by another one entitled Amended *proposal for a Council regulation (EEC) on the statute for a European association* (Com 252 final 31.08.1993).

[49] EUROPEAN PARLIAMENT, *European Statutes for mutual societies, foundations and associations*,10 March 2011.

[50] HEIDBREDER, Eva G., op.cit. note 34, p. 15

[51] QUITTKAT, Christine and FINKE, Barbara, *The EU Commission Consultation Regime*, p. 184, in Kohler-Koch, Beate, De Bi`evre, Dirk, Maloney, William, *Opening EU-Governance to Civil Society: Gains and Challenges*, Vol. 5 of CONNEX Report Series, University of Mannheim, Mannheim, 2008, pp. 183–222

Despite the fact that the European Commission has put in place this online procedure, it is clear that this system does not ensure a real participation of CSOs in the policy-making, but a simple consultation. Indeed, it is up to the European Commission to decide to what extent to take into account CSOs inputs.

Apart from the consultation via internet, which is the common practice, the Commission Directorates- General engages with the parties through different tools, such as Green and White Papers, communications, consultation documents, advisory committees, expert groups and ad-hoc consultations.

However, most consultations are organised through informal meetings with those deemed by the European Commission as "relevant" stakeholders. Every DG engages with its "traditional stakeholders", for example DG Employment, Social Affairs and Inclusion in the field of poverty and social exclusion has developed a long tradition of consultation with Social Platform, European Anti-poverty Network and Caritas Europa[52].

The other institutions such as the European Council, the European Social and Economic Committee and the European Parliament have their own methods of consulting civil society. For example, the Council of Ministers of Employment, Social Policy, Health and Consumer Affairs (EPSCO) since 2000 have often invited to its informal meetings civil society organizations such as the Social Platform for a consultation ahead of decision-making[53].

On the other hand, since the 80s several networks have emerged gathering CSOs at European level with the objective to establish privileged relations with the European Commission. For example, in 1995 the platform of social NGOs was created and has become the main interlocutor of DG employment.

In 2002, 4 European platforms (the European NGO confederation for relief and development (CONCORD), Green8, the Human Rights and Democracy Network (HRDN) and Social Platform) founded the Civil Society Contact group which now includes 8 members (the founders plus Culture Action Europe, the Forum for the Arts and Heritage, the European Public Health Alliance(EPHA), the European Civil Society Platform on Lifelong Learning (EUCIS-LLL), the European Womens' Lobby(EWL)). Therefore, this group gathers European platforms of NGOs that represent the voices of thousands of associations across Europe and it works on CSO common topics such as participatory democracy, civil dialogue, etc… It also supports capacity building of national, regional and local CSOs and promotes the empowerment of these organizations through events, toolkits and researches.

Finally, in 2004 the European Economic and Social Committee(EESC) set up the Liaison Group in order to strengthen the cooperation with civil society, a permanent structure aimed at facilitating the interaction between EESC and CSOs as well as the political dialogue.

---

[52] EUROPEAN COMMISSION EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION, *Non-governamental organisations*, Website of the European Commission, http://ec.europa.eu/social/main.jsp?catId=330&langId=en (date of consultation 21st June 2015)

[53] EESC LIAISON GROUP, *Roadmap for the implementation of article 11(1) and article 11(b) of Treaty on European Union,* Riga, 2-3 March 2015,p.3

2.4   How qualitative is the dialogue between the EU and European CSOs?

Are all these mechanisms of consultation ensuring a real qualitative dialogue? To what extent are CSOs able to influence the EU policy-making? Are there any limits to CSOs space?

The objective of this section is to give an insight on the quality of the dialogue between the EU and European CSOs by analysing the consultations put in place by four different EU institutions: the European Economic and Social Committee, the European Parliament, the European Commission and the Council of the EU.

The analysis of these consultations has been made on the basis of different sources among which there are some face to face interviews with people working in civil society organisations and European Development NGOs.

However, there is no ambition to scientifically assess the quality of the dialogue with EU institutions. The objective is more to give an overview on the topic taking into consideration common impressions of civil society organisations.

i.   The European Economic and Social Committee: is it a necessary intermediary?

So far the main institutionalised channel of dialogue between CSOs and EU institutions has been the Group de Liaison and more in general the European Economic and Social Committee.

As we previously said in the first chapter, this institution is made of 3 different groups: employers, workers and various interests. This third group should, therefore, give a space to those organisations and associations that are located out of the market of labour such as NGOs. In other words, this third category should enable civil society organisations to express their voice.

However, the reality is much more different from how it should be. For many NGOs[54], the EESC embodies an outdated vision of society based on labour relations between workers and employers and it does not represent the complexity of civil society. Today, the scope of civil society is much broader than working and social relations, including also environmental, human rights, migrant's rights and other kind of organisations.

Most NGOs and grass-roots organisations do not have a proper space to express themselves through and within this institution that appears overwhelmed by "social partners". In other words, there seems to be a mechanism of exclusion whereby some NGOs do not have the possibility to be part of the third group and others simply decide not to participate in it because their statute does not allow taking part in such structures for reasons of political independence.

The EESC claims to have the monopoly of organised civil society when it actually does not really represent CSOs.

---

[54] SOHET Karine, Act Alliance EU Senior Policy Officer Development Policy, face to face interview on 19 June 2015

According to Sabine Terlecki, Head of Policy and Advocacy at CONCORD[55], it is more the EESC's mandate that should be put into question. In effect, the Committee acts as and claims to be the intermediary between CSOs and the EU institutions and according to its mandate it sets up events and formal roundtable discussions to gather all stakeholders together.

However, do civil society organisations want such an intermediary or they would rather prefer to have a direct access and communication to the EU policy-making bodies (European Commission, Council and European Parliament)?

Moreover, the EESC gives interpretations of issues and frame them according to its own views. Hence, the positions issued by this body that should be the outcome of discussions with CSOs, and as such neutral and representative of civil society requests, are clearly mediated by its own interpretations. This is often the way how topics are chosen and the agenda is pre-set without consulting CSOs.

In conclusion, it seems good to have a mandated body in charge of relations with civil society but it might be more helpful if this committee would help CSOs to directly connect to institutions and to access the political level.

ii.   Analysing the consultations with the European Commission

It has already been clarified that consultations between stakeholders and European Commission take place through 2 main channels: online public consultations and formal/informal meetings between CSOs and the staff of the different DGs Units. As a first point, public consultations will be analysed. A second part will take into account of the meetings between CSOs and EC DGs' Units.

A qualitative dialogue with the European Commission seems to be threatened by a large number of difficulties.

Regarding online public consultations, a first barrier between CSOs and EU seems to be the language.[56]

It appears that most texts in online public consultations are drafted in English. That can privilege big and formalised organisations familiar with European jargon, while limiting participation of a great part of the population.
Besides, no distinction is made between responses coming from individuals, states and organisations of civil society. All responses are considered as they were on the same level[57] and questions are drafted by the EC itself following its own interest and vision.

But does the Commission take into account responses from consultations in its final proposal?

First of all, it has to be noted that there is no mechanism of accountability, so stakeholders cannot verify whether their input has been taken into consideration or not. Nonetheless, a mechanism of transparency has been put in place. All the contributions from stakeholders have to be published

---

[55] TERLECKI Sabine, Head of Policy and Advocacy at CONCORD, Face to face interview on 9 July 2015
[56] NAJMOWICZ Alexandrina, European Civic Forum Director, face to face interview on 19 May 2015.
[57] CAIMI Valentina, Social Platform Policy and Advocacy Adviser, face to face interview on 19 June 2015

as well as at the end of every consultation and the Commission has to report on how it has responded. However, the Commission can give its interpretation of inputs from stakeholders, especially when they have critical positions.

From the experience of the European Civic Forum[58], critical opinions on EC initial proposals are rarely kept in the final stage. For example, in the consultation regarding the adoption of the transparency registry, held in 2012, inputs from organisations having more critical positions like those in the coalition ALTER EU[59] have not been well received by the Commission.

It seems that there is some difficulty to accept a critical dimension in the consultation, which is the essence of NGOs' work. This can be noted also in the consultation on investment protection and investor-to-state dispute settlement (ISDS) in the Transatlantic Trade and Investment Partnership Agreement (TTIP), held from 27 March until 13 July 2014. Although this clause[60] was rejected by the majority of the respondents (nearly 150,000), the Commission made clear that it will not drop the ISDS provisions from the negotiations but it will reform the system[61]instead.

Moreover, it is difficult even to formulate critical recommendations. Stakeholders are often consulted on pre-packaged proposals and they have no large room for manoeuvre.

Sometimes the lack of criticism is a choice of the same organisations that are consulted. According to the Director of European Civic Forum Alexandrina Najmowicz, working on policy papers and in partnership with EU institutions can contribute to an auto-censure and to an increasing technicality of the political discourse. This aspect emerged especially in the elaboration of common positions with other organisations.

Furthermore, the Commission tends to consider every criticism as a valorisation of anti-EU populism, a phenomenon that is extremely increasing in Europe lately as the rise of the Eurosceptic parties in the last European elections shows[62]. For this reason, today many organisations tend to avoid critical positions.

In terms of civil dialogue, as we said in the previous paragraph (2.3), the most significant part of consultations takes place through informal meetings between the different DGs Units of the Commission and relevant stakeholders. Problems here seem to be several.

First of all, who are the stakeholders that are mostly consulted by the Commission?

---

[58] See footnote 39

[59] The Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) is a coalition of over 200 public interest groups and trade unions concerned with the increasing influence exerted by corporate lobbyists on the political agenda in Europe
ALTER-EU, *Who we are*, Website of Alter-EU, http://alter-eu.org/who-we-are, Page Consulted on 21 June 2015

[60] This clause will allow businesses to bypass national court systems and to sue governments in private arbitration panels

[61] CORPORATE EUROPE OBSERVATORY , «TTIP investor rights: the many voices ignored by the Commission», 3 February 2015, http://corporateeurope.org/international-trade/2015/02/ttip-investor-rights-many-voices-ignored-commission (Date of consultation 21 June 2015)

[62]EUROPEAN PARLIAMENT, *Results of the 2014 European elections,* Website of the European Parliament, http://www.europarl.europa.eu/elections2014-results/en/election-results-2014.html

As pointed out by Valentina Caimi, Social Platform Policy and Advocacy Adviser[63] in a face to face interview, there is no institutionalised system regarding meetings and reunions. Organisations that are invited to attend meetings with DGs Directors and Heads of Unit are usually based in Brussels and they are well-known by the Commission[64]. Furthermore, the Commission has an obligation to report on formal meetings with stakeholders taking place in the EC premises but not on informal ones.

Another problem is the lack of balance between civil society organisations working for public interests and those representing the private ones.

 The Commission does not make any distinction among them, but it is clear that private interests are better represented since they have more resources and they have a defined structure that enables them to speak with a unique voice[65].

This lack of balance has also been shown by a recent analysis of Transparency International[66] that has collected data from all the declared meetings with senior officials from December 2014 until mid-June of this year. According to this study, three-quarters of high-level meetings between lobbyists and the European Commission are with private-sector companies. Only 18% are with non-governmental organisations (NGOs).

iii.   Is the European Parliament the most accessible institution to civil society?

The previous paragraph was focused on the dialogue between CSOs and the European Commission. This time it is also important to underline the importance of the European Parliament for the participation of civil society in the EU policy-making.

The report of the euro deputy Louis Michel (Group of the Alliance of Liberals and Democrats for Europe) on the situation of fundamental rights in the European Union (27 January 2014)[67] clearly shows the EP commitment to support civil society by stressing, for example, that institutions and political decision-makers must note and support democracy by establishing new procedures for dialogue with citizens and by enhancing scrutiny of State authorities by members of the public, parliaments, courts and the media, while those authorities must be more open and transparent in order to serve the interests of citizens better.

According to the majority of people that have been interviewed[68]within this study, the European Parliament seems to be the most accessible institution for civil society and the most open to

---

[63] See footnote 40

[64] See footnote 39

[65] NAJMOWICZ Alexandrina, European Civic Forum Director, face to face interview on 19 May 2015 and SOHET Karine, ACT Alliance EU Senior Policy Officer, EU Development Policies, face to face interview 19 June 2015

[66] ARNETT George, «Three-quarters of declared EU lobby meetings with corporate interests» in the *Guardian* website, 24 June 2015, http://www.theguardian.com/news/datablog/2015/jun/24/three-quarters-declared-eu-lobby-meetings-corporate-interests (page consulted on 28 June 2015)

[67] COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS European Parliament (Rapporteur Louis Michel), *Report on the situation of fundamental rights in the European Union* (2012) (2013/2078(INI)) Text available at : http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2014-0051+0+DOC+XML+V0//EN

[68] BRACHET Isabelle (Europe Advocacy Coordinator Action aid)), Karine Sohet(Act Alliance EU Senior Policy Officer Development Policy), CAIMI Valentina, (Policy and Advocacy Adviser Social Platform), Sabine Terlecki (Head of Policy

dialogue. For example, when a legislative process is put in place at the stage of the report drafting, Members of European Parliament (MEPs) can invite stakeholders to express their views, especially if it is about something technical that deputies do not deeply know. In this case, consulting civil society organisations that are specialised in some areas can be useful to acquire a greater knowledge of a specific topic.

Civil society organisations, even if not invited directly by MEPs, usually try to influence a legislative process by addressing the Rapporteur and the Shadow Rapporteur and find themselves a way to get in contact with them. Even when the report has been published, civil society organisations can present their amendments proposals that can be accepted or rejected by the EP committee.

However, amendments to finally be adopted have to pass through the final step of the plenary assembly and this does not always happen. The reason is that after the adoption of the amendments by the EP Committee, the text is negotiated between the Parliament, the Council and the Commission, so called "Trilogue".

What is the Trilogue?

In the co-decision procedure, representatives of the European Council, of the European Parliament (usually the Rapporteur, the President of the Responsible Committee and the Shadow rapporteur from other political groups) and of the Commission informally meet to reach a compromise on amendments of a legislative text.

The problem is that these informal negotiations, meant to speed up legislation, are usually considered as the least transparent phase since stakeholders usually have difficulties in obtaining information and in having contacts with MEPs.

Apart from this procedure, the Parliament remains the most accessible institution for CSOs. However, as pointed out by Isabelle Brachet[69], Europe Advocacy Coordinator in Action Aid, the composition of the European Parliament has greatly changed since the elections in 2014, thus making it more difficult to influence. Euro-sceptic parties such as France's National Front, the UK's UKIP, Italy's Five Stars Movement and Greece's Syriza have entered the European Parliament, making it more fragmented than in the past.

There would also be some difficulties related to the single parliamentarian. The dialogue with MEPs surely depends on the political group he belongs, but other factors have to be taken into consideration such as the geographic and personal dimensions.

Finally, what can be noted is that meetings, consultations and contacts between CSOs and the Parliament are normally informal. Organisations can be invited to express their views in a hearing of an EP Committee on a specific topic, they can organise informal breakfasts or simply have informal meetings.

For example, CONCORD (the European NGO Confederation for Development and Relief) presented its position on the EPA (Economic Partnership Agreement EU -West Africa) during the exchange of views at the DEVE Committee on 23 June 2015.

---

and Advocacy at CONCORD) Silvia di Santo (Senior EU Partnership Advisor at CARE International) Face to face interviews. See the bibliography for more details.
[69] BRACHET Isabelle, Europe Advocacy Coordinator Action aid, face to face interview on 22 June 2015

Informal contacts can be a positive thing because organisations are free to choose the way they prefer to dialogue with MEPs and they have more space for manoeuvre. Nonetheless, the lack of structure can penalise those stakeholders who do not have privileged contacts in the Parliament and that are less known by the MEPs.

iv.   Informal contacts with the EU Council

Contrary to the European Parliament, the Council of the European Union (CoEU) seems the most difficult institution civil society can have a dialogue with[70] as it is dominated by often divergent national interests. This reflects pretty much the point of view of Brussels-based organisations.

From a survey conducted in 2008 by the EU civil society contact group in 2008 on the relations between CSOs and the EU Council[71], results showed that contacts with CSOs are mainly informal and mostly dependent on their own efforts. The Council does not have a strategy on how to deal with civil society and most organisations are not invited to participate in Council meetings.

Only some organisations like the Social Platform are invited to informal meetings of the Council (in the case of Social Platform it is the EPSCO, the Employment, Social Policy, Health and Consumer Affairs Council) but rarely can CSOs take part in formal CoEU's reunions.

Informal contacts with the Council are possible through different entry points: national ministers, COREPER (Committee of Permanent Representatives I and II) and the Council thematic working groups meetings. At national level, civil society organisations can lobby their governmental ministries and those will ultimately influence the Council.

As a matter of fact, the national level is of crucial importance for having an influence in Europe. CSOs, even the small ones, with a national structure have easily contacts with national parliamentarians, parties, governments, national delegations, etc... . And it is through them that they can play a role at European level. However, for doing this CSOs should enjoy space and freedom in their national contexts. This space can sometimes be put at risk as we will see in the third chapter.

At a more European level, civil society organisations can influence the COREPER (that prepares the agenda for the Council) through the Permanent Representations in Brussels, for example co-organising informal breakfasts with them [72]. What can be noted is the diplomatic approach used in those kinds of meetings which is not comparable with the informality in the relations with the Members of the European Parliament.

Civil society can also have the opportunity to have access to Council thematic working groups meetings where it can express its opinions. For example, CONCORD (the European NGO

---

[70] TERLECKi Sabine, Head of Policy and Advocacy at CONCORD, face to face interview on 9 July 2015

[71] EU CIVIL SOCIETY CONTACT GROUP, *How to improve relations between NGOs and the council of the European Union?*, Brussels, 25 February 2009
http://act4europe.horus.be/module/FileLib/090225_CSCGstudy_AccesstoCouncil_full.pdf
Page consulted on 11/07/2015

[72] TERLECKI Sabine, Head of Policy and Advocacy at CONCORD, face to face interview on 9 July 2015

Confederation for development and relief) usually gives a presentation of forty-five minutes in the CoDev (Council working group on development) meetings twice a year.

Therefore, if national civil society organisation play a leading role in shaping Council positions via a lobbying activity on national ministers, European CSOs platforms (such as CONCORD in the field of development that gathers EU Members States national NGOs) based in Brussels are also important since they can attend informal Council meetings and they can participate in council working groups. Overall, influencing the Council requires a joint effort at both national and European level.

However, are these informal contacts useful or not? And which is their impact?

From the point of view of Sabine Terlecki informal contacts are useful to intelligence and information gathering. On the other hand, the findings of the EU Civil Society Group survey show CSOs' difficulties in evaluating the impacts of such contacts on Council decisions.

In the end, the quality of the dialogue with the Council seems to be mainly dependent on three key factors: personal contacts, the state (certain states are traditionally more open to dialogue with civil society than others such as Sweden and Netherlands) and the government[73].
However, are informal contacts sufficient to constitute a dialogue?

2.5   The quality of CSOs-EU dialogue in development cooperation: the voice of European NGOs

In order to gain a better insight on the quality of CSOs-EU dialogue some interviews have been made to people working in European Brussels-based NGOs specialized in development cooperation.

i.   Development cooperation[74]

In the context of the EU development policy, the European Union has enhanced the dialogue with civil society over the last decade, by promoting a progressive participation of CSOs and Local Authorities in countries' development processes with the objective to achieve a higher level of transparency in its policies.

The role of both European and local CSOs (NGOs, trade unions, associations of different nature) as a fundamental interlocutor of EU institutions has been recognised through the EC Communication '*The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations*'[75] (2012) and through the aimed *Structured Dialogue* (SD) *for an effective partnership in development*. This 2- year process, launched by the European Commission in 2010, was one of the main responses to the Aid Effectiveness Agenda[76] (more particularly to the *Accra*

---

[73] TERLECKI Sabine, Head of Policy and Advocacy at CONCORD, face to face interview on 9 July 2015

[74] This paragraph has been based on interviews of people working in three organisations: Act Alliance EU, Care International and Action Aid. Karine Sohet (Act Alliance EU), Silvia di Santo (CARE International), Isabelle Brachet (Action Aid). For more details on these interviews see the bibliography.

[75] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0492:FIN:EN:PDF

[76] The Aid Effectiveness Agenda, also known as Development Effectiveness Agenda, has been developed through a long process which has been articulated by different steps (High Level Forum in Rome (2003), in Paris (2005), in Accra

Agenda for Action) and it was aimed at strengthening the effectiveness and the quality of EU development policy by creating a multi-stakeholders dialogue with CSOs and Local Authorities (LAs).

The SD has been based on the interaction between 4 different actors: the European Parliament, the European Commission (both at headquarters and in EU Delegations), EU Member States and CSOs and LAs[77]. For this reason, it is often used the word '*Quadrilogue*' to outline the SD stakeholders.

The conclusive official statement of the SD process, called *Budapest Declaration*[78], recommended the EC to create a regular space for dialogue with CSOs and Local Authorities in EU development cooperation. This was created by the European Commission with the Policy Forum for Development (PFD) which represents the main follow-up of the SD process.

The Policy Forum for Development was created to make the dialogue on development policies accessible to a wide range of stakeholders: Development NGOs, Trade Unions, Cooperatives, Foundations and philanthropies, Local Authorities, Chambers of Commerce, Human Rights Organisations, Relief/Humanitarian Organisations, Environment Organisations and Youth Organisations.

However, does the PFD ensure a qualitative dialogue between EU and its stakeholders? Do they have the possibility to have leverage on EU development policy?

In order to answer to this question it is important to note that the PFD was not conceived as a negotiation or a decision-making space but it is supposed to serve as a trust and consensus building mechanism[79].

As underlined by Silvia Di Santo, CARE International Senior EU Partnership Advisor, during a face-to face interview[80], the problem is also that only representatives of CSOs can participate to the PFD, thus limiting the possibility to influence the dialogue.

For example, in the consultation of PFD stakeholders on the Multiannual Action Plan (MAAP) for 2015, 2016 and 2017 of the Thematic Programme "Civil Society Organisations and Local Authorities"[81], there were only 2 members of CONCORD (the European NGO Confederation for

---

(2008) and in Busan (2011). This process culminated in the adoption of the *Busan Partnership for effective development cooperation* that for the first time was negotiated through an inclusive approach including CSOs.
For more info visit the website of the International NGO Training and Research Centre (INTRAC) : http://www.intrac.org/pages/en/the-development-effectiveness-agenda.html

[77] CIVIL SOCIETY HELP DESK (CISOCH), *Structured Dialogue for an efficient partnership in development,* Concluding Paper May 2011, p.4 (pp.1-22)
Available at : https://webgate.ec.europa.eu/fpfis/mwikis/aidco/images/e/ea/FINAL_CONCLUDING_PAPER.pdf
[78] STRUCTURED DIALOGUE FOR AN EFFICIENT PARTNERSHIP IN DEVELOPMENT, *Final Statement of the Structured Dialogue Budapest*, 19 May 2011.
Available here : https://webgate.ec.europa.eu/fpfis/mwikis/aidco/images/f/fb/Joint_Final_Statement_May_2011.pdf
[79] STRUCTURED DIALOGUE FOR AN EFFICIENT PARTNERSHIP IN DEVELOPMENT, *Creating a space for dialogue with Civil Society Organisations and Local Authorities: The Policy Forum on Development*, Working document, May 2011, p. 1-5
[80] DI SANTO Silvia, Senior EU Partnership Advisor at CARE International face to face interview on 24 June 2015
[81] This consultation took place at the Policy Forum on Development, 15 March 2015, Brussels, Belgium

Development and Relief) as representatives of the entire European Development NGO sector, therefore their voce was not as incisive as they wished[82].

Even if a consultation has been established there seems to be a common impression[83] that the dialogue with EU institutions, especially on EuropeAid funding programmes, [84] has not been yet well structured and the PFD is not the right place to have leverage on those programmes.

The real possibility to influence EC programmes and policies in the field of development seems to be linked, as in other sectors, to informal/ formal direct contacts development NGOs regularly have with the Commission. However, only big European NGOs, who have staff with technical expertise, who have financial resources and who are known by the Commission can have this privileged direct access[85] to DG DevCO Units' staff.

Nonetheless, even for most of these organisations the dialogue seems sometimes too superficial to have a real impact. Silvia Di Santo (CARE International) Karine Sohet (ACT Alliance EU) and Isabelle Brachet (Action Aid) underline that when they are asked to make comments on various programmes of the European Commission they do not really know to what extent their inputs will be taken into account. In other words, there is no real mechanism ensuring a qualitative dialogue between civil society and EU Institutions on development policy.

Moreover, the lack of information and transparency can make this situation more difficult. For example, within the strategic dialogue on the MAAP of the CSOs and LAs programme in 2014, the Parliament called CONCORD to express its opinion on the first draft presented by the European Commission. The problem was that the document was not accessible and this fact created difficulties for NGOs in giving their opinions.

In order to make the consultation more effective, CSOs should be involved already in the programmes-planning phase by the European Commission.

However, it is not just a matter of involving European COs in this phase. What is important is giving local CSOs of developing countries the possibility to have a dialogue with EU decision-makers regarding those programmes and policies that have an impact on their countries.

ii. Dialogue with local CSOs in developing countries

Political dialogue at local level in developing countries can take place trough EU delegations. An important step forward to strengthen the cooperation with local CSOs has been the recent

---

[82] Silvia DI Santo, Senior EU Partnership Advisor at CARE International, face to face interview on 24 June 2015

[83]SOHET Karine, Act Alliance EU Senior Policy Officer Development Policy, face to face interview on 19 June 2015

[84] The Directorate General Development and Cooperation – EuropeAid of the European Commission manages the EU budget for development cooperation, which is divided into different funding instruments. These instruments provide the legal basis for the implementation of the various programmes.

[85] This comment has been made on the basis of face to face interviews with Karine Sohet (Act Alliance EU Senior Policy Officer Development Policy), Isabelle Brachet (Europe Advocacy Coordinator Action aid) and Silvia Di Santo (Senior EU Partnership Advisor at CARE International)

adoption of EU Roadmaps for engaging with civil society. The idea behind those roadmaps is to analyse the challenges local CSOs have to face in specific contexts and to identify possible points of dialogue with those organisations.

Despite the adoption of these roadmaps by some EU delegations, the influence of local CSOs during the planning and definition of EU programmes remains weak. This might be a problem if we consider the impact those programmes have on local societies.

Moreover, are these new roadmaps able to reduce the major bottlenecks that prevent civil society from exercising its full participation in EU policy-making process?[86]
A full participation can be achieved through an ongoing political dialogue and not via late and ad hoc consultations. It often happens that local government impose their views and conditions on official cooperation partners concerning the way to involve (or not) civil society in policy dialogue, aid programming and implementation[87].

Furthermore, the lack of transparency and access to information can prevent a real participation.

For example, in the informal consultation on the European development Fund (EDF) priorities, which has sometimes been only an information session, European NGOs have been asked to give their opinion on the National Indicative Programmes (NIPs) to the European Parliament. However, the text of these programmes was not made available to the public. Even if this was an informal consultation, the fact that NGOs could not get access to the text has created some problems for them in giving their opinions.

iii.   Development and domestic policies: different interests for consulting CSOs

The consultation of civil society in EU development policy seems to be still limited in comparison with EU domestic policies. It can be observed a minor interest in this policy that addresses Southern and Developing Countries than in policies that have direct impact on European citizens. Moreover, the European Union, especially the Commission, seems to give much more priority to economic growth, employment, energy, migration and security rather than development.

However, development is a cross-cutting area that has several interconnections with domestic policies and these latter ones can have huge impacts on Southern countries. For example, the Economic Partnership Agreement that EU is negotiating with West Africa would abolish tariff revenues on which African Countries' are greatly dependent. Furthermore, the liberalisation risks compromising the local production because the competitive European finished products would be exported in Africa, preventing the local industry to develop itself [88].

As this example shows, influencing internal policies is of crucial importance for Development NGOs. However, their leverage in these fields is really limited by often opposite interests of private sector, Member States and big corporate lobbies.

---

[86] CONCORD, Cotonou Working Group, *Bottlenecks to a meaningful participation of civil society in EU development policy and aid processes*, June 2010.
[87] *Ibidem* p. 5
[88] CONCORD, *The EPA between the EU and West Africa: Who benefits?,* Spotlight 2015 Policy Paper, p.3 available at
http://www.concordeurope.org/images/Spotlight_2015-TRADE-EPA-April_2015-EN.pdf

Internal policies that can have great impact on developing countries (economic policy, trade and the common agricultural policy) seem to be the most difficult areas to influence.

2.6 EU technical jargon and progressive professionalization of European NGOs: limits to a political dimension?

From the interviews that have been done with people working in Brussels-based European and International NGOs[89], it seems that a high level of professional expertise and a deeply organized internal structure might be needed in order to have a real impact on EU policies.

A team of experts with specific competences would allow understanding of EU institutions' communication that very often appears as extremely technical jargon. When the European Commission invites organisations to informal meetings to get their inputs on specific programmes, policies or legislative proposals, stakeholders have to be well informed and they need to have a high level of knowledge of EU policies, EU legislation, domestic legislation, but in some cases also competences on more technical matters such as agriculture, trade, tax systems, etc…

The problem here is that not all the organisations have enough economic resources to have this kind of staff, since most of them have small offices up to 6-7 people. Only the bigger ones, known by EU institutions, have the means that enable them to respond to consultations, to participate in meetings, to understand documents produced by the EU institutions and to make their comments. Only those organisations will have the power to have certain leverage on EU policy-making.

However, does technical capacity mean representativeness? Who do these technical organisations speak for? Does the EU listen to the voices of citizens or only to experts?

What it can be noted is that small NGOs that do not have an office in Brussels and that are not familiar with the EU technicalities are less likely to have the same possibility to access EU decision makers. Moreover, the latter ones usually prefer to establish a dialogue with very well structured and very well-known organisations who speak the same language of EU functionaries.

Nevertheless, even big and well known organisations do not have as much space as they wish.

As Isabelle Brachet (Europe Advocacy Coordinator Action Aid) has pointed out during a face to face interview, most of the times big lobbies of private sectors remain dominant in the dialogue with EU institutions since they have more economic resources and a more specialized staff. The risk is that the private sector will play a prevailing role in consultations on delicate subjects where citizens 'interests are at stake[90]. For example, there is such fear for the online consultation on further corporate tax transparency, launched on 17 June 2015.

The high level of technicalities represents also an indirect barrier to gain access to EU funding opportunities not only for European NGOs but for local CSOs of partner countries as well. As most

---

[89] Karine Sohet (Act Alliance EU Senior Policy Officer Development Policy), Isabelle Brachet (Europe Advocacy Coordinator Action aid) and Silvia Di Santo (Senior EU Partnership Advisor at CARE International) Valentina Caimi (Policy and Advocacy Adviser Social Platform)
[90] BRACHET Isabelle (Europe Advocacy Coordinator Action aid), face to face interview on 22 June 2015

local CSOs do not have resources and technic competences, they often have to pay external/international consultants to prepare their proposals.

The entire system may result distorted and those who will have more opportunity to access EU funding will always be the same well known organisations, sometimes European organisations with offices in Southern countries or structures already supported by the EU.

In some way, the European Commission together with other international donors have forced European and local CSOs in technical schemes. Therefore, if an organisation wants access to EU funding it must have a certain professionalization that allows preparing a good proposal.

As a result, European NGOs are becoming more professionalised than in the past, turning themselves into something more similar to corporations and adopting models of efficiency that are prominently used in the private sector.

However, the professionalization is not only required to access funding but it is also linked to the control on how EU funds have been used by the organisation.

NGOs receiving EU funding have to accept regular audits where they have to justify whether they have achieved the objectives of the EU policy for which the EU funding has been given.
This process itself entails specific competences and highly qualified staff specialised in financial matters that enterprises usually have.

Professionalization might be considered something good if we consider that today some NGOs have a greater expertise on specific subjects than in the past and this enables a more constructive dialogue with public institutions. Furthermore, a certain level of professionalization is required to European and International NGOs in order to be able to work with EU institutions and to be accountable for the activities they do.

On the other hand, professionalization could imply 2 types of risks.

Firstly, it could emphasize NGOs' executive role, thus reducing their critical dimension. As they have more expertise they could be more reliable in achieving EU policy objectives that NGOs are forced to meet if they want to access to EU funding.

Secondly, professionalization could transform the nature of NGOs from charitable and citizens-driven organisations to something more similar to private enterprises, thus reducing their direct contact with the roots of civil society. NGOs could, then, be more interested in being accountable to donors, in this case the EU, on how they have managed funds, rather than being representative of public interests.

From this analysis, it emerges that professionalization could lead in the long term to a loss of NGOs' political and critical dimensions, and as a result, of their space to counterbalance the power of EU institutions and decision makers.

2.7   Wrap-up

The space for civil society in relation to EU institutions seems to be still limited to informal and ad-hoc consultations. Contacts are mainly developed by some well-known and professionalised organisations that have a certain level of experience and expertise in EU affairs. This penalises smaller organisations that do not have enough capacity to be credible interlocutors and to intervene in the policy-making process.

However, high technicality does not ensure representativeness. If professionalization is important to make organisations be accountable for what they do, it does not make them more legitimate and representative of civil society interests. On the contrary, it risks reducing their critical dimension and detaching them from their roots.

The civil dialogue has been officially recognised by the EU in the Treaty of Lisbon but no clear strategy has been developed so far to implement it. The European Economic and Social Committee, supposedly the representative of civil society at European level, is most of times perceived as a superfluous intermediary that gives its own interpretations to inputs coming from civil society, while CSOs would prefer to have a more direct connection to institutions and to the political level.

The access to the European Commission, the European Parliament and the EU Council seems to be dependent on personal contacts that can improve or worsen from time to time. The official system for public consultation via the website "Your Voice in Europe" does not ensure a real space for CSOs to express themselves as the questions are drafted by the Commission itself, reflecting its own views and interests.

Even if some spaces for dialogue have been put in place such as the Policy Forum in development cooperation, these are usually places for exchanging opinions rather than ensuring a real political dialogue.

In effect, consultation does not mean concertation. In other words, the conclusion from this analysis seems that EU institutions consult civil society organisations but they do not seem ready to make strong efforts in finding common positions.

Could the lack of a culture of concertation increase the distance from European citizens and their demands? In the long term could this strengthen the rise of Euroscepticism in EU Member States?

III Chapter

THE SPACE OF CIVIL SOCIETY ORGANISATIONS IN SOME EU MEMBER STATES

3.1   Methodology

After analysing the dialogue with EU institutions, this chapter will examine the space for civil society organisations by considering the relations they have with their national governments which decide their legal status and work framework. More specifically, this section will focus on CSOs in five EU Member states: Hungary, Italy, Sweden, UK and Belgium.

These countries have been chosen as they embody different models of the associative sector[91] that exist in Europe. Therefore, the space for CSOs will be evaluated taking into account their respective contexts. Moreover, the choice of Hungary will allow to make a comparison between West and East Europe, even if the situation in this country is a particular one and does not reflect all the states of Eastern Europe.

Not being possible to cover all types of CSOs and all sectors, this part will focus on development cooperation NGOs because of my direct experience in this field during my 6 months traineeship in CONCORD (European NGO Confederation for Relief and Development). Besides, development cooperation represents one of the best-organized NGOs' sectors[92].

Regarding the methodological approach, an online survey (see the annexes) has been submitted to the national platforms members of CONCORD from June to July 2015 by using the survey monkey software. Hence, the findings of this research will not allow a scientific assessment of the space of civil society organisations in national contexts, as they draw on the experiences and point of views of the interviewees.

However, this research will help to have an idea of how Development NGOs as actors of civil society perceive their space in relation to governments and whether this is shrinking or not from their perspective. National platforms have been interviewed since they include most of national organisations in the field and for this reason, they can be considered representative of the sector at national level.

The preparation of the questionnaire has required me to do an in-depth analysis of existing studies focused on the space for civil society organisations[93]. As most of these studies targeted developing

---

[91] « **Anglo-Saxon model** » (**UK** and Ireland), « **Rhine model** » (**Belgium**, Germany, Austria, Switzerland, Netherlands), «**Scandinavian model**» (**Sweden**, Denmark and Finland), « Mediterranean model» (**Italy**, Portugal, Greece and Spain) This distinction can be found in ARCHAMBAULT Édith (Professor at Paris I Panthéon-Sorbonne University), « Y a-t-il un modèle européen du secteur sans but lucratif ? », *Recma – Revue Internationale De L'économie Sociale,* N. 282, November 2001,p.79 Available at http://recma.org/sites/default/files/282_064083.pdf

[92] In every Member state there is at least one development cooperation national platform that gathers all NGOs in the field.

countries, I have selected from them those aspects that I have deemed important also for the European context. More specifically, I have identified three key dimensions that I have later investigated through the survey:

1) CSO participation in policy dialogue and decision-making processes

2) Legal and regulatory environment

3) Funding for CSOs (Development NGOs)

These three dimensions correspond to the three different sections of the survey.

As model of inspiration, the questionnaire has taken the Monitoring Matrix on Enabling Environment for civil society development (2013)[94] and the CSOs Partnership for Development Effectiveness (CPDE) monitoring framework for the Global Partnership for Effective Development Cooperation indicator 2[95]. Some areas and indicators have been selected from the Matrix and the CPDE Monitoring Framework for the purposes of this analysis. Some questions were modified with the aim to adapt them to the particular European context, while other new questions were added.

The following table shows which indicators have been used in the questionnaire in order to investigate each dimension.

[93] SILÉN Carlos Eduardo Ponce, *Limitations to Freedom of Association of Civil Society Organizations in Latin America: Comparative view and special case study of Nicaragua, Bolivia, Ecuador, Cuba and Venezuela*, TXU001718976 , Office of High Commissioner of Human Rights United Nations, World Report, 2010, Available at: http://www.ohchr.org/Documents/Issues/FAssociation/Responses2012/other_contributions/WorldReport_of_Sr.Ponce_on_Free_Asociation_in_Latin_Am.pdf.
THE INTERNATIONAL CENTER FOR NOT-FOR-PROFIT LAW (ICNL), *The Right to Freedom of Expression: Restrictions on a Foundational Right*, Global Trends in Ngo Law, Volume 6 Issue 1, April 2015, pp.27 available at http://www.icnl.org/research/trends/trends6-1.pdf
ACT ALLIANCE, *Shrinking political space of civil society action*, June 2011, pp.105 available at http://www.actalliance.org/resources/publications/Shrinking-political-space-of-civil-society-action.pdf

[94] THE BALKAN CIVIL SOCIETY DEVELOPMENT NETWORK, THE EUROPEAN CENTER FOR NOT-FOR-PROFIT LAW AND THE INTERNATIONAL CENTER FOR NOT-FOR-PROFIT LAW, *Monitoring Matrix on Enabling Environment for Civil Society Development The Tool-Kit,* Skopje, January 2013, ISBN 978-608-65119-9-9, pp.72 available at : http://www.tusev.org.tr/usrfiles/files/BCSDN_Monitoring_Matrix_ENG.pdf see also http://monitoringmatrix.net/
[95] CPDE, *An Enabling Environment For CSOS: A Synthesis of Evidence of Progress Since Busan*, October 2013, pp. 4-37, available at : http://www.csopartnership.org/wp-content/uploads/2014/03/CSO-Contribution-to-Indicator-2.pdf

Table 1. Components of analysis and Indicators

Dimension/ Component of analysis	Indicators
CSO participation in policy dialogue and decision-making processes	1) **Inclusive and accessible mechanisms for CSOs** to participate in the policy making processes (Ex. consultations, engagement in designing, implementing and monitoring national policies)
	2) To what extent the **CSOs feedback** is taken into account in the policy outcomes
	3) **Governmental policies or statements that can hamper the dialogue** and the cooperation between CSOs and the State (for example by diminishing the CSOs public image, by accusing CSOs of false allegations, etc..)
	4) Accessibility to **information** by law or by practice
	5) **Direct or indirect intimidation** by the State because of advocacy on a particular issue
Legal and regulatory environment	1) **Restrictive formal requirements to found and register an association** (Ex. excessive number of people required to found an association, prohibition for foreigners to be founders of an association,etc…)
	2) **Additional procedures that present a burden to CSOs activity** (Ex. report requirements, raids, auditing, financial transparency checks)
	3) **Restrictive rules that have an impact on CSOs activity as a result of anti-money laundering legislation and counter-terrorism measures** (ex. intrusive scrutiny on CSOs working with 'suspected communities' of terrorists, etc..)
	4) Perception of **unwarranted interference** from the government in the privacy of CSOs
	5) **Changes in the tax burden and fiscal law** regulation that can hinder CSOs activity
	6) Tendency **to abuse constitutional limitations** (reputation, public order, right to privacy) to restrict the freedom of expression of CSOs
Funding for CSOs	1) **Direct or indirect or indirect legal, regulatory, policy or political barriers** (application requirements, the choice of modalities) to seek, secure, and use resources, including foreign resources, for the CSOs
	2) **Legal or policy incentives to promote financial sustainability** among CSOs
	3) **Clear procedures that enable an effective CSO participation in all phases of the public funding cycle,** such as planning, implementation, monitoring and evaluation
	4) **CSO funding mechanisms** reliable, transparent, easy to understand, and disbursed impartially

The questionnaire was based on these key indicators that facilitated the understanding of Development NGO's conditions within their national contexts and helped to verify whether the space for these organisations is shrinking or not.

3.2. Five different contexts

As previously clarified, the survey has been submitted to CONCORD national platforms in the field of development in five EU Member states (Belgium, UK, Sweden, Italy and Hungary), as these countries have different traditions regarding the associative sector. Hence, it seems important to specify the main aspects where they differ from each other.

In **Belgium** (part of the "Rhine model"[96]) the not-for profit sector plays a very strong role. Associations are usually professionalized and institutionalized and they receive a high level of public funding. CSOs can dialogue with public authorities at federal level, which remain their official interlocutor, even though regions can sometimes play a role. Belgium is a federal state and constitutional monarchy based on the cohabitation between mainly three different communities: the French, the Flemish and the German speaking community.

Sweden has been taken into consideration as a representative of the "Scandinavian model" (regrouping also Finland, Norway and Denmark), where the non-profit sector has a recent origin and it is based on lightly structured organisations specialised in different fields of actions. Most organisations promote their members' interests in spite of the collective one, even though some of them try to fill in the gaps left by the State. The level of public funding is low, while donations are important source for CSOs. Within this model, the political system is often centralised.

In **UK** (Anglo-Saxon model) the not-profit sector is based on a long tradition of charities mostly created by private initiatives. Private funds are very important as well as donations. There are strong local powers in a centralised political system.

In **Italy** ("Mediterranean Model") the not-for profit associative sector is less developed than in the others mainly because of the opposition between the Church and the State. Moreover, the fascism dictatorship hampered the not for profit sector's development by imposing a political control on the freedom of association. Associations are mainly supported by public funding while donations do not constitute a great resource. Regional and local associations are very important in a political system where the central authority is weak and is counterbalanced by strong regional powers.

Finally, **Hungary** has been chosen for its particular situation regarding the relations between the governments and CSOs[97] and because it is located in Eastern Europe, where associations have a different weight and are differently organised from Western Europe. Hungary as the other

[96] ARCHAMBAULT Édith (Professor at Paris I Panthéon-Sorbonne University), « Y a-t-il un modèle européen du secteur sans but lucratif ? », *Recma – Revue Internationale De L'économie Sociale,* N. 282, November 2001, p. 79 Available at http://recma.org/sites/default/files/282_064083.pdf .

[97] Since recently (2014) the Hungarian government has been attacking civil society organisations and limited their freedoms by conducting inspections and blacklisting organisations, especially those active in the field of human rights. For more information visit the website of the International Federation for Human Rights at: https://www.fidh.org/International-Federation-for-Human-Rights/europe/hungary/15533-hungary-attacks-against-civil-society-must-stop

countries in the eastern area has seen a development of NGOs and not-for profit sector after the fall of the Berlin wall. Beforehand, free organisations were forbidden as the State imposed a strict control and provided citizens most of public services (education, health, etc...).

3.3. Findings of the survey

The following section will provide you with an overview of the survey's findings by considering each of the three dimensions previously mentioned (CSO participation in policy dialogue and decision-making processes, legal and regulatory environment and funding for CSOs).

The respondents and the organisations' names will not be disclosed in order to respect their privacy. Hence, the general term "national platform" will be used to refer to the organisations involved in the survey.

i.   CSO participation in policy dialogue and decision-making processes

CSO participation in policy dialogue and decision-making processes has resulted to be a difficult dimension to assess. Even if consultation is officially recognized by law, there is often incongruity between paper and practice. National platforms have often to cope with a fixed calendar and do not have enough time to consult their members, to coordinate their responses and to get a formal approval on the texts (**Hungary and Belgium**).

Belgium and **Sweden** have a long tradition in consulting civil society in their policy-making processes and they seem the best structured in terms of **regular dialogue meetings**. In Sweden, there are established fora between the Swedish framework organisations and SIDA (Swedish International Development Cooperation Agency). Regular meetings on different development policy issues take place between the Minister of Foreign Affairs and the national platform's working groups. There are also consultations with CSOs by SIDA on country strategies or sector strategies. In Belgium, regular consultations and meetings are organized at federal and regional levels. Participation of Development NGOs seems to be really effective thanks to some key mechanisms. For instance, at federal level Development NGOs are official members of three federal councils on, respectively, Sustainable Development, Policy Coherence for Development and Gender & Development. At regional level, they are part of the "Wallonia-Brussels Council of International Cooperation" and "stakeholders' management" (Flanders). Next to these official bodies, there are opportunities to discuss on a less formal basis (Ex. every six months there is a discussion between the government and NGOs in preparation for the EU Foreign Affairs Council). Representatives of the NGO sector together with representatives of the Minister cabinet and representatives of the Ministry can participate to discussions on development cooperation objectives through a Committee of Strategic Consultation. However, it has no real demonstrated impact on practice and on the policies.

In addition to Belgium and Sweden, **UK** also has a long history of good relationships with the government. There seems to be inclusive and accessible mechanisms to participate in policy and decision-making processes.

In **Italy** the government has been implementing a new law on development cooperation (L. 11 August 2014 n.125) that gives much more strength to the existing mechanisms of CSOs participation in the policy-making. According to this law a national Council will be created as a multi-stakeholders space where CSOs (NGOs and other kind of civil society organisations) are consulted on the guidelines of the Italian development policy. Apart from the Council there will be some thematic roundtables that will contribute to the agenda of the national Council. Before the adoption of this new law, consultation with civil society in development cooperation was regulated by an old law from 1978 which did not formally regulate these mechanisms. Therefore, consultation was pretty much informal. However, in the last three years there have been some efforts to formalise and strengthened an inclusive consultation through an inter-institutional roundtable.

What seems to be common to these countries is that many initiatives for consultation come from NGOs and the input given via official channels is not always taken into account or is requested in a very late stage, thus limiting its impact. In general there seems to be a lack of a structural mechanism for public authorities to implicate the development NGOs sector in the designing, implementing and monitoring of policies.

The absence of a structural mechanism is complemented by a common feeling among NGOs of being sometimes left out from strategic spaces where decisions are prepared and taken. Besides, they need to be always proactive and constantly demand for space if they want to be included in political processes.

But most of all, when CSOs are involved in the policy-making, there is actually no system to verify whether their contributions are accepted and taken into account in the outcomes. Therefore, they have no clear idea on what impact their inputs could have.

The lack of such system does not create problems in terms of political accountability? Does it not prevent public powers to be accountable for their decisions to the CSOs that have been consulted? And how can CSOs be aware of their mistakes and make progress in their proposals?

In **Hungary** there is a formal recognition of the involvement of CSOs in international development cooperation. Act XC (on International Development Cooperation and International Humanitarian Assistance), adopted in 2014, clearly states that the planning of international development cooperation activity, together with the implementation and coordination, shall be performed in consultation with the civil society. However, as for Belgium the law does not mention civil society participation in the monitoring.

The relevant section of the Ministry of Foreign Affairs and Trade, Department for Development Cooperation and Humanitarian Aid, is generally quite open for cooperation with CSOs. Consultations, however, are held on an ad-hoc basis, and the Ministry prefers to establish bilateral relations with civil society organisations.

Within the Hungarian context, civil society recommendations tend to appear in laws and policy papers only very vaguely. The government generally seems to be very cautious and refrains to state concrete goals, procedures or mechanisms when it comes to development cooperation. As for other sectors, CSOs often claim that consultation only exists on paper: government initiatives are made public at the very last moment, there is no room for proper consultation, and the government usually neglects the opinion of the CSOs.

For both **Swedish and Belgian platforms**, there are neither **policies nor statements that can hamper the cooperation between the state and CSOs.** However, the Belgian government has announced major cuts in CSO budgets for 2017 and NGOs fear that the new reform of financing

mechanisms, now in discussion, would oblige them to align on the government's strategies, thus limiting their freedom. What seems to be a common feature to all countries is that NGOs with critical views are likely to encounter ideological barriers to dialogue with the state and to access to funding.

In **UK**, instead, there have been some statements from the former minister of civil society that has questioned the role of charities saying that they should "stick to their knitting" instead of engaging in advocacy and politics (September 2014). These statements were made also in reaction to growing worries among CSOs that the Lobbying Act would diminish their ability to campaign.

The situation of **Hungary** appears far worse. The survey has revealed that the Hungarian government seems to perceive independent CSOs as enemies. Even high level government officials label (mostly human rights) NGOs, such as Transparency International, The Hungarian Helsinki Committee, Amnesty International Hungary, and NGOs that manage the EEA/Norway civil funds etc., as "foreign agents" that "serve foreign interests" and "assist opposition socialist/liberal/green parties" in order to "help them overthrow the democratically elected government".

National platforms state that In **Sweden**, **Italy**, **UK** and **Belgium** they can directly **access relevant information** from the government and the Ministry. But it is important to note that sometimes to get the information timely, they use indirect and informal ways (unofficially from other parties in the government, from the opposition, from contacts in the Ministries, or via the parliamentarians).

Accessing public data has proved to be problematic for CSOs (and journalists) in **Hungary**, especially for those asking for more transparency in the government's activities. A recent amendment to the Freedom of Information Act introduces a fee for demanding the disclosure of data in the public interest[98]. Watchdog NGOs and international organizations warn that such measure poses "insurmountable obstacle" to accessing data and called Members of Parliament (MPs) to vote against the amendment to prevent "new restrictions" on freedom of information. Eventually, the National Assembly adopted the amendment on 6 July 2015. However, from the Hungarian national platform's perspective, the Minister of Foreign Affairs (MFA) remains quite open for formal and informal consultations as well, and often shares data with Development NGOS. Nonetheless, other governmental bodies are significantly less approachable, mainly because they still perceive development as part of the foreign policy of the country.

National platforms from **Sweden**, **Belgium**, **Italy** and **UK** have never **felt directly or indirectly intimidated by the state** because of their advocacy activities. However, sometimes there has been a tendency to criminalize through violence and police control social protests/movements (NGOs often participate and play a role in them) that have broken out throughout Europe since the recent austerity measures. As the Belgian platform explained in the survey, such criminalization happened, for instance, on 15 May 2014 during a peaceful demonstration of civil society (amongst which NGOs) against the TTIP (Transatlantic Trade and Investment partnership). The police encircled about 20 militants, used water pump carts and arrested 240 demonstrators (the demonstration was estimated at 500 participants).

---

[98] For more information read the article :

OSCE, «Draft amendments to Freedom of Information Act in Hungary should be discussed with all stakeholders, OSCE Representative says», 6 July 2015, Newsroom OSCE website, available at : http://www.osce.org/fom/170231

Regarding **Hungary**, the respondent stated that it has never felt intimidated itself. However, it confirms that there is a general feeling among CSOs of being harassed (e.g. unexpected investigations by the tax authorities) or 'blacklisted' if they are too critical towards the government. In addition, as even NGDOs (Non-governmental development organizations) are financially dependent on the MFA, many of them claim they are afraid of not receiving any more funds if they address issues/communicate in a way that would not be welcomed by the government.

ii. Legal and regulatory environment

A legal and regulatory environment that enables civil society organisations to do their activities freely, without external interference is essential for them to play their role of safeguarding democracy. Unfortunately, in the countries analysed, there are still some issues that can hamper the activity of CSOs.

Belgium, Sweden, UK and **Italy** do not present any particular requirements to found an association that can be considered restrictive of their freedom of assembly. Actually, Sweden has no legal requirements regarding the founding of an association and there is no need to get approval from the government. Hungary constitutes a different case. Here, some requirements can be restrictive as the fact that a number of ten people is requested to establish an association. Besides, court procedures for its registration can take a long time, and often proves to be problematic.

In the **UK** the adoption of the Lobbying Act (January 2014) has impacted the environment for CSOs by setting out new rules on how civil society organisations and charities can campaign in the preparation for general elections. The British platform seems to be concerned that this recent act could diminish civil society's ability to campaign on big issues. However, restrictions on advocacy are generally limited to the period of general elections.
Another factor that has affected CSOs' working environment in the UK is the adoption of counterterrorism measures since 9/11 events. Some charities have seen the closure of their accounts and the freezing of their assets. Some NGOs, especially those working in fragile contexts, where terrorist organisations are located have encountered problems in terms of receiving and distributing aids and implementing programs. The British platform has stated to be very active regarding this point as some of its members are operating in these contexts. What seems important to observe here is that, among the analysed countries, UK is the only one where counterterrorism measures have had an impact on the space of CSOs.

Apart from this aspect, there are also additional procedures that can present a burden to the activity of CSOs, thus reducing their space.

The findings show that in some of the analysed countries there are requirements of internal control, reporting, etc… that can be burdensome for CSOs. In **Sweden**, these procedures are not threatening burdens. In **Belgium** there seems to be a more problematic situation. To get access to Belgian funds (funds from the federal budget), NGOs must first be accredited. This accreditation is based on quantitative and qualitative requirements. The quantitative requirements can be a burden for some organisations, which could have responded positively to the qualitative requirements. In one requirement, NGOs have been requested to provide the public authorities

(Ministry) with their list of members, affiliates, or individual donors. This data is confidential; it was perceived a big concern from the NGOs. Furthermore, report requirements on funding are very heavy. NGOs have to complete tables and tables, and most of them are not even checked by the Ministry officials.

In **Hungary**, NGDOs operate in a field that is considered neutral by the government, and usually operate without fear of harassment. There are, however, some organizations that - besides their development agenda - also carry out activities, such as grant management (e.g. involved in the EEA/Norway Grants scandal[99]), or express harsher views in more politicized issues (e.g. nuclear energy). These organizations have experienced either direct or serious government actions, such as police raid, confiscation of servers and documents etc. (court decision in February 2015 then declared the raids and confiscations unlawful) or have practiced self-control in order to keep government funds.

On the positive side, none of the NGOs interviewed have perceived an unwarranted interference with their own privacy and neither a change in the tax burden/fiscal law that has hindered their activities. In no country is there a tendency to use limitations (reputation, public order, right to privacy) to restrict the freedom of expression of CSOs on matters of government interest.

iii.   Funding for CSOs

Access to funding is essential for the existence of civil society organizations but sometimes governments impose direct or indirect barriers that can hamper the survival of these organisations. Funding can be a powerful tool to influence CSOs by imposing certain political conditions that threaten their independence.

The survey findings show that apart from Hungary, in all countries analysed there are no such big governmental interferences on funding that can hamper the survival of CSOs.

However, there are still some barriers that can affect their freedom. For example, in **Belgium**, in the funding sources of programmes /projects co-financed by the Development cooperation Ministry, funds from outside OECD (Organisation for Economic Cooperation and Development) countries are not eligible. This means that NGOs cannot develop interventions co-financed by their partners. In the funding sources of programmes co-financed by the Ministry (DGD), funds to cover salary costs are under pressure.

CSO funding and disbursement mechanisms are transparent in most of cases (**Belgium, Sweden, Italy and UK**). However, in **Belgium** these mechanisms are not 100% reliable. Since 2006 NGOs have to deal with reforms of funding modalities and have, therefore, to adapt to one regulation for a very short period before changing to the new one. This is not easy for NGOs, neither for their

---

[99] The EEA/Norway Grants is part of an agreement between the EU and Norway, Iceland and Lichtenstein about funding projects in less-developed European countries. Since April 2014 the Hungarian government has accused Norway and the other donors to try to influence Hungarian politics through this EEA/ Norwegian NGO Fund (NCTA) which is a small part of the Norway Grants.
The Hungarian government has ordered to audit the Fund's administering organisations and accused NGOs of political meddling. Source : DEMAS, Association of Czech non-governmental organisations working to foster democratisation and to support civil society and human rights around the world. For more info visit: http://www.demas.cz/en/news/7432-stop-targeting-civil-society-in-hungary

partners. Moreover, the control of the disbursement of funds is not managed in a consistent way, it is often subjective. In **Italy** lengthy bureaucracy often creates problems for NGOs in getting access to funding. Regulations are often too complicated, thus making difficult the understanding of procedures.

In **Hungary**, calls for financial support/projects are incidental, the available funds are small in amount, and the required documentation is usually lengthy and unnecessarily complicated. Disbursement, however, in the development cooperation and humanitarian aid sector (made by the MFA) is more or less transparent and justified. We need to remark though that civil society is struggling in **Hungary**. There are very few independent, nongovernmental grant mechanisms (Open Society Initiatives, EEA/Norway Grants). Civil society is barely embedded in the society, so crowdfunding is not a real option either.

Surprisingly in **Sweden,** the **UK** and as in **Hungary,** there are neither no legal nor policy incentives to promote financial sustainability among CSOs. In **Belgium** NGOs can have access to funds to cover salary costs and can issue attestation to individual donors (for fiscal deduction). In **Italy** as well, there are some fiscal benefits for the not –for profit sector but they should be improved and increased, as they do not seem to be sufficient to ensure a real support to these types of associations.

Regarding CSOs participation in all phases of the public funding cycle, such as planning, implementation, monitoring and evaluation there are some differences among the states analysed. While in **Sweden** there are clear procedures that enable an effective CSOs participation in the funding cycle, in **Belgium** consultations are organised with the NGO sector on the new modalities of financing the NGOs but the real space of negotiations is very short.

In **Hungary**, procedures are barely transparent, and there are no open calls for consultation about the planning and implementation, not to mention the monitoring and evaluation. In the development sector, the Department for Development Cooperation at the MFA seems to be significantly more receptive to NGOs' needs and suggestions, yet certain decisions (how much money is available, or if there are calls at all) are beyond their jurisdiction.

3.4   Wrap-up

The findings from the survey have shown the space for CSOs can be squeezed not only in Developing countries and in autocratic regimes, but also in states that are members of the European Union. Democracy does not automatically ensure either inclusiveness of all stakeholders in decision-making processes or a real participation in the policy dialogue.

In the analysed countries, NGOs seem to face several challenges in their relation with national governments. These challenges can have impact on their freedom and can compromise their role as counterbalance of the public power.

Firstly, it is important to distinguish the situation of **Hungary** from the rest of Europe. The **Hungarian government** has recently adopted a repressive attitude against civil society organisations, especially those engaged in the field of human rights, by limiting their freedom and by labelling some of them (those receiving Norway Funds) as enemies. Consultations seem to exist

only on paper without effective possibility for CSOs to be heard. Government's initiatives are made public at the very last moment and the opinion of the CSOs is usually rejected. Information is not easily accessible and critical NGOs are blacklisted and harassed. This situation, however, does not involve Development NGOs but others that deal with more politicized issues (human rights, nuclear energy, etc…). Furthermore, time-consuming procedures can hamper access to public funding.

The other four countries (**Sweden, Belgium, UK and Italy**), though they differ from each other on a great number of aspects, represent a separated group from Hungary and show some points in common. On paper, CSOs would enjoy a full freedom in all of these four countries. However, sometimes barriers can appear also in these "democratically advanced" contexts.

From the results of the survey, **Sweden** appears to be the most CSOs-friendly state. No particular complaints have emerged in this country in relation to restraints to CSOs freedoms.

On the other hand, **Belgium**, **Italy** and the **UK** present some barriers that can hamper the space of CSOs. It seems that consultations mainly depend on CSOs's initiative. Inputs are not always taken into account and sometimes organisations are left out from strategic decision places. Though the respondents have never felt intimidated by the state for their activity, some organisations have pointed out the tendency by some governments to criminalize certain political and social protests where NGOs are integrated.

Moreover, in the survey CSOs denounce a great amount of bureaucratic procedures and high requirements of internal controls that can present a burden to their activity. Regarding the access to funding, CSOs have not spoken of big barriers. Yet, there are other problems such as unreliable funding that force NGOs to make constant change and adapt to continuous reforms.

In order to have a synthesis of the main differences and similarities among the analysed countries it could be useful to visualise them in a table that classifies each country with regards of each dimension of analysis. It will be an artificial classification, but it could help us to gain a general picture.

The analysed countries will be rated by giving to them more or less stars depending on the level of freedom and space for CSOs on the basis of the results of the survey.

Table 2 Countries rating

Country	CSO participation in policy dialogue and decision-making processes	Legal and regulatory environment	Funding for CSOs
Hungary	**	**	*
Belgium	****	***	****
Sweden	*****	*****	*****
UK	****	****	****
Italy	***	***	***

One star *: very limited space for civil society
Five stars *****: CSOs enjoy a very large space and full freedoms. No obstacle to their activities

IV Chapter

CONCLUDING REMARKS AND CONCRETE PROPOSALS

How is the space for civil society organisations in Europe? Is this shrinking?

This question has guided me along the whole study from the first to the last chapter. I have tried to respond to it by focusing on two levels of analysis: the dialogue with EU institutions and the relations between CSOs and national governments in five EU Member States.

What have I found?

Surprisingly, the results of this study show a great number of **points in common** between the two levels. It is, therefore, possible to draw a global conclusion.

Despite the efforts made to build a civil dialogue, today the space for civil society organisations risks to be still too limited to make Europe an example of undiscussed democracy for the rest of the world. We cannot say that this space is shrinking because some important initiatives in support of civil society have been taken, but at the same time, it is not enlarging either, as these initiatives have not proved to be really effective and they have not produced greatly positive changes in the environment of civil society organisations.

a) At both national and European level, CSOs are consulted mainly through *ad hoc* **consultations**. An official and structured system to involve CSOs in the policy-making process still seems to be missing. This fact can **privilege well known organisations** that are more professionalised and are absorbing models and ways of working from the business world. But how can such kind of CSOs be representative of their roots and reflect civil society requests if they are becoming more and more similar to multinationals? Are they more interested in being accountable to public authorities (EU, national governments) in order to obtain public funding and to be seen as an interlocutor rather than listening to their members' requests?

b) Another important aspect is that CSOs **need to be always proactive** and demand for spaces in order to be considered. Even in the most advanced democracies where the state has a long tradition of dialogue with civil society, it is up to organisations to make their voice being heard. CSOs' inputs during consultations are not really taken into account or, at least, there is no mechanism to verify whether their contributions have shaped the final decision or not. Then, how can CSOs progress in what they propose? And how can the government consider itself accountable for its decisions without explaining what it has kept from consulting civil society?

The feeling of limited impacts of CSOs' inputs can also imply other kinds of repercussions. For, instance, how can governments and the EU get closer to citizens if they do not create real spaces for consulting civil society and implement mechanisms that ensure transparency in their decisions? In the long term, could this situation **strengthen the rising Euroscepticism** by making people feel more distant to Euro-politics?

c) **CSOs with critical views** are more likely to encounter problems in the dialogue with EU and national powers. Their opinions are often put aside, thus limiting the critical dimension in the consultation, which represents the essence of CSOs' work. Moreover, **the dependence on public funding** can reduce their freedom of expression as CSOs fear not receiving support because of their opinions. Can this fear compromise civil society's role? Are CSOs really able to counterbalance governments and safeguard democracy though they sometimes limit themselves? Will the exclusion of criticism lead to a better politics or will it impoverish the political discourse instead?

d) Though in Europe CSOs can normally get access to information, sometimes there is **not enough transparency from government and EU institutions**. Civil society is often informed only informally via unofficial channels or through personal contacts of the initiatives that are under discussion. Important documents might be not available and consultations might be organised at the very last moment, not allowing CSOs to get well prepared in advance. If civil society organisations are not informed on time, how can a constructive dialogue be ensured? Or is such disinformation a strategy to prevent their participation?

e) One last important common problem concerns the **high requirements of internal control** such as reporting, regular auditing and long and complicated procedures to access funding and justify how such funding has been spent. If controls are useful to make CSOs accountable, they can represent a burden to the activity of CSOs and limit their role as watchdog.

Having identified all these problems, it seems important to move forward and think of possible **solutions** that can safeguard and possibly enlarge the space for CSOs in the current European context.

a) The first proposal would be a **monitoring system** on the space of CSOs in relation to national governments and to EU institutions. One NGO for each sector (development cooperation, environment, human rights, social issues, etc...) at national and European level[100] could establish **an internal observatory on the space for CSOs**. This NGO could be structured as a platform/confederation and include the other NGOs of that particular field, thus being representative of the entire sector. The team in charge of the observatory should be made up of people having a great experience within the sector. The observatory will produce **an annual report** that will be presented to the conference of NGOs for the space of civil society, taking place every year in the capital of each Member State and in Brussels. When evaluating the space of CSO, the observatory should look not only at **quantitative but also at qualitative aspects.** For example, it should not say that the space is enlarging only because the number of consultations has risen but it should also see whether CSOs' inputs have been considered in these consultations.
This observatory will be financed through that part of the NGO budget that is no dependent on public funding but relies on members' fees.

A monitoring system fully dedicated to the space of civil society is still missing. Therefore, this proposal could be a first important step to verify from year to year if there have been progresses or not in relation to NGOs freedoms and in dialogue with public powers. The results of the

---

[100] One NGO at national level and one NGO at European level for each sector.

observatory's studies would make it possible to identify the actions that are needed to protect NGOs from possible threats to their freedoms.

b) As second proposal, the monitoring observatories could organise some **training activities** for political decision-makers in order to make them aware of the main problems affecting civil society organisations and to suggest them how they can improve the situation.

c) The third proposal concerns **transparency**. There should be more transparent criteria in consultations, ensuring that every organisation has the possibility to participate. Such transparency may be achieved, for example, by putting in place **a system of call of proposals**. . In the selection of the best proposals, **proportional criteria** should be adopted in order to maintain a balance between big and small organisations. The system of call for proposal and the proportional criteria could also represent solutions **to the existing discrimination of small and critical organisations** in the dialogue with policy makers. Besides, transparency should not be limited to the selection of participants but it should also involve the access to information. Organisations should have the possibility to know well in advance the agenda of consultations and to get access to important documents via internet.

d) As fourth proposal, to ensure **more accountability**, civil society organisations should be given the possibility to ask for **a written report** after every consultation. In this way, they will have a feedback from the government or EU institution and they will understand if their inputs will be kept or not.

However, sometimes reports are not very clear and institutions might reject other actors' inputs without giving a proper justification. For example, critical views of CSOs might be refused *a priori* without explanation.

e) To avoid all this, as a fifth proposal it would be useful to create a new figure, the **Civil Society Defender** that organisations can call to intervene if their inputs have been put aside without a reasonable explanation, especially when public interests are at stake. Thanks to this Defender, national or EU institutions will be asked to produce a more detailed report and to reconsider civil society inputs. The Defender will be a person of indisputable independence (neither involved in government nor in civil society) and he/she will be appointed by a Council, gathering representatives of CSOs and representatives of the national government/European institutions.

For the first time there would be a mechanism ensuring a greater accountability from policy-makers. CSOs would finally be given a real tool that will make their opinions being heard.

f) As sixth proposal, civil society organisations at both national and European level should also have the possibility to **denounce** to the ''Civil Society Defender'' **an action, act, policy or a statement** from government or from EU institutions that they consider to be **harmful** for their activity. . The Defender will examine the situation and if he/she thinks it is necessary (for example if a fundamental freedom has been violated) he/she will activate a judicial procedure involving the Court of Justice (European level) or the national Supreme Court. The Court will examine the case and will decide from a legal point of view if CSOs' freedoms and rights have been harmed. In that case the Court will be able to force the

government/EU institutions either to withdraw or to modify the harmful policy, act or statement and in some cases to pay a fine to the organisation.

g) Finally, the last proposal would be to **simplify lengthy and costly procedures** that are sometimes burdensome to CSOs and to create a space where organisations having more expertise can share their practices with other organisations.

These are some concrete proposals mainly targeting EU and national institutions, thus covering one side of the problem. However, the space of civil society does not depend only on political powers. Civil society organisations need to play their role as well and preserve their space.

Moreover, as previously pointed out within this work (Chapter 1 paragraph 1.4 and Chapter 2 paragraph 1.6), CSOs are not perfect either and from my point of view they should improve certain aspects.

Hence, it seems important to identify some **recommendations for CSOs** as well.

First, CSOs need to be **more proactive** at national level where they usually have their roots and they are able to build a closer relationship with political powers. Through national governments, parties and parliamentarians civil society organisations, even the small ones, can have an influence in the EU institutions, in particular in the EU Council.

Secondly, civil society organisations should avoid themselves from being discriminated in political dialogue and in the contacts with policy-makers. For this reason, **they should participate in national and European platforms** that can empower their voice and should be more **vigilant on the internal democracy of these platforms**, making sure of being represented and consulted when there are contacts with institutions and important decisions are taken.

Finally, CSOs should be **more transparent** and **more accountable** with regards to their activities, for example by making their works available on line and consulting more their members before taking important decisions.

This package of proposals (for institutions and CSOs) probably will not guarantee an enlarged space for CSOs but it provides with some useful suggestions that can help to prevent such space will shrink in the future.

The space of civil society is a large topic and there are important aspects that have not been discussed within this study but that should be addressed in order to understand to what extent CSOs can enjoy their freedoms from political powers.

For example, it could be interesting to see whether there are some barriers to the online activity of CSOs that prevent them from expressing themselves. Today internet plays a fundamental role for civil society as it has made it possible to mobilize an unlimited number of people beyond countries' borders.

Today, most civil society organisations have a website and organise online campaigns, online petitions, online advocacy, etc... In other words, internet represents the new place where CSOs can convey their message.

It would, therefore, be interesting to continue the study here conducted by also focusing on the virtual space of CSOs. For this purpose, it could be useful to find out which organisations have seen their activities censored on the internet and to speak directly to them to have first-hand information to rely on.

Another important aspect we should underline is that this study examines only a small part of the large panorama of civil society organisations in Europe. How is the situation for other NGOs' sectors and other kind of CSOs? Do they have enough space to express themselves or are they confined in rigid and narrow schemes?

There still seems to be too many outstanding issues that should be tackled in the near future.

For this reason, it could be useful to produce a follow up study that addresses these questions by focusing on different NGOs' sectors and by highlighting the main differences between such organisations and other kind of CSOs. This type of analysis would give a deeper insight on the topic and it may get us closer to understand the space of civil society in Europe.

Bibliography

ACKERMAN J., *Co-Governance for Accountability: Beyond ''Exit'' and ''Voice''*, World Development Vol. 32, No. 3, Elsevier Ltd., University of California, Santa Cruz, CA, USA, 2003, pp. 463

ACT Alliance, *Changing political spaces of Civil Society Organsiations*, Geneva, February 2011

ACT Alliance, *Shrinking political space of civil society action*, Geneva, June 2011, pp.1-105

ACT ALLIANCE, Shrinking *political space of civil society action*, June 2011, pp. 105 available at http://www.actalliance.org/resources/publications/Shrinking-political-space-of-civil-society-action.pdf

ALTER-EU, *Who we are*, website of Alter-EU, http://alter-eu.org/who-we-are, Page Consulted on 21 June 2015

ARCHAMBAULT Édith (Professor at Paris I Panthéon-Sorbonne University), « Y a-t-il un modèle européen du secteur sans but lucratif ? », *Recma – Revue Internationale De L'économie Sociale,* N. 282, November 2001, pp. 64-83, available at http://recma.org/sites/default/files/282_064083.pdf

ARNETT George, «Three-quarters of declared EU lobby meetings with corporate interests» in the *Guardian* website, 24 June 2015, available at: http://www.theguardian.com/news/datablog/2015/jun/24/three-quarters-declared-eu-lobby-meetings-corporate-interests (page consulted on 28 June 2015)

BOUAL J. C., *Vers une société civile européenne,* La Tour d'Aigues, Éditions de l'Aube, 1999, pp. 225

BRACHET Isabelle, Europe Advocacy Coordinator Action aid, face to face interview on 22 June 2015

CAIMI Valentina, Social Platform Policy and Advocacy Adviser, face to face interview on 19 June 2015

CIVIL SOCIETY HELP DESK (CISOCH), *Structured Dialogue for an efficient partnership in development,* Concluding Paper May 2011, pp.1-22 https://webgate.ec.europa.eu/fpfis/mwikis/aidco/images/e/ea/FINAL_CONCLUDING_PAPER.pdf

COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS European Parliament (Rapporteur Louis Michel), *Report on the situation of fundamental rights in the European Union*, 2012, (2013/2078(INI), available at : http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2014-0051+0+DOC+XML+V0//EN

CONCORD, Cotonou Working Group, *Bottlenecks to a meaningful participation of civil society in EU development policy and aid processes*, June 2010, pp.8

CONCORD, *The EPA between the EU and West Africa: Who benefits?*, Spotlight 2015 Policy Paper, pp.7, available at http://www.concordeurope.org/images/Spotlight_2015-TRADE-EPA-April_2015-EN.pdf

CORPORATE EUROPE OBSERVATORY, «TTIP investor rights: the many voices ignored by the Commission», 3 February 2015, http://corporateeurope.org/international-trade/2015/02/ttip-investor-rights-many-voices-ignored-commission (Date of consultation 21 June 2015)

CPDE, *An Enabling Environment for CSOS: A Synthesis of Evidence of Progress since Busan*, October 2013, pp. 4-37, available at: http://www.csopartnership.org/wp-content/uploads/2014/03/CSO-Contribution-to-Indicator-2.pdf

DI SANTO Silvia, Senior EU Partnership Advisor at CARE International, face to face interview on 24 June 2015

EBRAHIM A., *Accountability in practice : Mechanisms for NGOs, World Development*, Vol.31, No. 5, Elsevier Science Ltd., 10.1016/S0305-750X(03)00014-7, 2003, pp. 813-829

EESC LIAISON GROUP, *Roadmap for the implementation of article 11(1) and article 11(b) of Treaty on European Union,* Riga, 2-3 March 2015, pp.1-20

EU CIVIL SOCIETY CONTACT GROUP, *How to improve relations between NGOs and the council of the European Union?*, Brussels, 25 February 2009, pp.10, available at: http://act4europe.horus.be/module/FileLib/090225_CSCGstudy_AccesstoCouncil_full.pdf

EUROPEAN COMMISSION EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION, *Non-governmental organisations*, Website of the European Commission, available at: http://ec.europa.eu/social/main.jsp?catId=330&langId=en (date of consultation 21st June 2015)

EUROPEAN COMMISSION, *Joint Communication to the European Parliament and the Council. Action Plan on human rights and democracy (2015-2019) "Keeping human rights at the heart of the EU agenda",* Brussels, 28 April 2015, pp.21 JOIN (2015) 16, available at: https://ec.europa.eu/europeaid/sites/devco/files/joint-communication-ap-human-rights-and-democracy_en.pdf

EUROPEAN COMMISSION, *Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties*, Brussels, 11 December 2002, COM(2002) 704 final, pp.28, available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0704:FIN:EN:PDF#_Toc46744741

EUROPEAN COMMUNITIES, *European Parliament, Report drawn up on behalf of the Committee on Legal Affairs and Citizens Rights on Non-Profit making Associations in the European Community* (Rapporteur Mrs. N. Fontaine), Working Documents, Series A, 8 January 1987, (Doc. A 2-196/86)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE, *The civil society organised at European level*, Proceedings of the First Convention, Brussels, 15 and 16 October 1999, pp. 5

EUROPEAN PARLIAMENT, European *Statutes for mutual societies, foundations and associations*, 10 March 2011

EUROPEAN PARLIAMENT, *Resolution on non-profit-making associations in the European Communities*, Vol. 3/87, March 1987

EUROPEAN PARLIAMENT, *Resolution on the participation of citizens and social actors in the institutional system of the European Union*, 10 December 1996(2), OJ C 20, 20.1.1997

EUROPEAN PARLIAMENT, *Resolution on the Role and Administration of Associations and the Law Governing them in the European Community*, Doc. 2-290/84

EUROPEAN PARLIAMENT, *Results of the 2014 European elections,* Website of the European Parliament, available at: http://www.europarl.europa.eu/elections2014-results/en/election-results-2014.html

FAZI Elodie & SMITH Jeremy, *Civil Dialogue: making it work better,* Civil Society Contact Group (CSCG), Brussels, 2006, pp. 85

GRAMSCI Antonio, Gli intellettuali e l'organizzazione della cultura, Einaudi, Torino, 1949, pp.208

Habermas J., *Between facts and norms: Contributions to a discourse theory of law and democracy*, Cambridge: Polity Press., 1996, MIT PRESS, ISBN: 9780262082433, pp. 675

HEGEL G.W Friedrich, *Philosophy of Right,* Translated by S.W Dyde, Batoche Books Kitchener, 2001, available at : http://socserv2.socsci.mcmaster.ca/econ/ugcm/3ll3/hegel/right.pdf

HEIDBREDER Eva G., *Civil society participation in EU governance*, Living Rev. Euro. Gov. 7, No. 2, 2012, pp.29

HOUTART François, « Vers une Société civile mondiale : celle d'en bas et celle d'en haut », CETRI website, January 2001, available at :http://www.cetri.be/Vers-une-societe-civile-mondiale?lang=fr (page consulted on 2/08/2015)

INTERNATIONAL MONETARY FUND, *The IMF and Civil Society Organizations* , Factsheet, 9 April 2015 p.2, available at: http://www.imf.org/external/np/exr/facts/pdf/civ.pdf

KALDOR Mary, *Civil Society and Accountability*, Journal of Human Development, Vol. 4, No. 1, Carfax Publishing, ISSN 1464-9888, 2003, pp.27

LEWIS D., *Nongovernmental Organizations. Definition and History*, London School of Economics and Political Science, Springer-Verlag Berlin Heidelberg, 2009, pp.6, available at: http://personal.lse.ac.uk/lewisd/images/encylciv%20societyngos2009-dl.pdf

MORLINO L., *Changes for democracy. Actors, structures, processes,* Oxford University Press, Oxford, New York, ISBN 978-0-19-969811-0, 2012, p. 264

NAJMOWICZ Alexandrina, European Civic Forum Director, face to face interview on 19 May 2015

O'DONNELL Guillermo A., *Horizontal Accountability in New Democracies*, Journal of Democracy, Vol. 9, N. 3, July 1998, pp.126

OSCE, «Draft amendments to Freedom of Information Act in Hungary should be discussed with all stakeholders, OSCE Representative says», 6 July 2015, Newsroom OSCE website, available at : http://www.osce.org/fom/170231 Page consulted on 11/07/2015

QUITTKAT, Christine and FINKE, Barbara, *The EU Commission Consultation Regime*, in Kohler-Koch, Beate, De Bi`evre, Dirk, Maloney, William (Eds.), *Opening EU-Governance to Civil Society: Gains and Challenges*, Vol. 5 of CONNEX Report Series, University of Mannheim, Mannheim, 2008, pp. 183–222

ROIRANT Jean-Marc, *Pour un statut de l'association européenne,* Avis et rapports du Conseil Economique et Social de la République française, 10 June 2008, pp. 59.

SALAMON Lester M., ANHEIER Helmut K. et al, *Global Civil Society: Dimensions of the Non-profit Sector*, The Johns Hopkins Comparative Non-profit Sector Project, The Johns Hopkins Center for Civil Society Studies, Baltimore MD, ISBN 188634333424, 1999 pp. 511, available at: http://ccss.jhu.edu/wp-content/uploads/downloads/2011/08/Global-Civil-Society-I.pdf

SCHARPF Fritz W., *Governing in Europe: Effective and Democratic?,* Oxford University Press, Oxford, New York. 1999, [Google Books], 0198295456, pp.243

SCHEDLER A., *Conceptualizing accountability*, In A. Schedler, L. Diamond, & M. F. Plattner (Eds.), *The self-restraning state: power and accountability in new democracies*, Boulder, CO: Lynne Rienner Publishers, 1999, pp.13-28

SILÉN Carlos Eduardo Ponce, *Limitations to Freedom of Association of Civil Society Organizations in Latin America: Comparative view and special case study of Nicaragua, Bolivia, Ecuador, Cuba and Venezuela*, TXU001718976 , Office of High Commissioner of Human Rights United Nations, World Report, 2010, available at: http://www.ohchr.org/Documents/Issues/FAssociation/Responses2012/other_contributions/WorldReport_of_Sr.Ponce_on_Free_Asociation_in_Latin_Am.pdf.

SOHET Karine, Act Alliance EU Senior Policy Officer Development Policy, face to face interview on 19 June 2015

Stinchcombe, A. L., *Social Structure and Organizations*, In: J. G. March (Ed.), *Handbook of Organizations*, Chicago, IL: Rand McNally & Company, 1965, pp. 142-193

STRUCTURED DIALOGUE FOR AN EFFICIENT PARTNERSHIP IN DEVELOPMENT, *Final Statement of the Structured Dialogue Budapest*, 19 May 2011. https://webgate.ec.europa.eu/fpfis/mwikis/aidco/images/f/fb/Joint_Final_Statement_May_2011.pdf

STRUCTURED DIALOGUE FOR AN EFFICIENT PARTNERSHIP IN DEVELOPMENT, *Creating a space for dialogue with Civil Society Organisations and Local Authorities: The Policy Forum on Development*, Working document, May 2011, p. 1-5

TAYLOR Charles, *Die Beschwo¨rung der Civil Society: Castelgandolfo-Gespra¨che 1989*, in Michalski, Krzysztof , Klett-Cotta(Eds.), *Europa und die Civil Society*, Stuttgart, 1991, pp. 52- 81

TERLECKI Sabine, Head of Policy and Advocacy at CONCORD, Face to face interview on 9 July 2015

THE BALKAN CIVIL SOCIETY DEVELOPMENT NETWORK, THE EUROPEAN CENTER FOR NOT-FOR-PROFIT LAW AND THE INTERNATIONAL CENTER FOR NOT-FOR-PROFIT LAW, *Monitoring Matrix on Enabling Environment for Civil Society Development The Tool-Kit,* Skopje, January 2013, ISBN 978-608-65119-9-9, pp.72 available at: http://www.tusev.org.tr/usrfiles/files/BCSDN_Monitoring_Matrix_ENG.pdf see also http://monitoringmatrix.net/

THE INTERNATIONAL CENTER FOR NOT-FOR-PROFIT LAW (ICNL), *Defending Civil Society,* Washington D.C.; 2012 pp. 56

THE INTERNATIONAL CENTER FOR NOT-FOR-PROFIT LAW (ICNL), The *Right to Freedom of Expression: Restrictions on a Foundational Right*, Global Trends in Ngo Law, Volume 6 Issue 1, April 2015, pp. 27 available at http://www.icnl.org/research/trends/trends6-1.pdf

THORNING-SCHMIDT M. Helle, *Four good reasons to abolish the Economic and Social Committee*

Contribution to the Convention, May 15 2003, pp.2, available at: http://european-convention.europa.eu/pdf/reg/en/03/cv00/cv00739.en03.pdf

TIWANA M. and BELAY N., *Civil Society: The Clampdown is Real*, Johannesburg: CIVICUS, December 2010

TRÓCAIRE, Democracy *in Action: Protecting Civil Society Space*, TRÓCAIRE Democracy in Action Policy Report, 2012, pp.2-22

UVIN P., *Human rights and development*, Vol. 37, Kumarian Press, ISBN: 978-1-62637-369-3, 2004, pp.241

WEBER M., *Politics as a vocation*, in H.H. Gerth and C. Wright Mills (Translated and edited), *From Max Weber: Essays in Sociology*, pp. 77-128, New York: Oxford University Press, 1946, pp. 77-128.

Wood, G.D., *States without citizens: the problem of the franchise state,* in David Hulme and Michael Edwards (Eds), *NGOs, States and Donors: Too close for Comfort*?, Macmillan in association with Save the Children, Basingstoke, 1997

ANNEXE

Survey on the space of CSOs in some EU Member States

The questionnaire will be divided in 3 sections:

1) CSO participation in policy dialogue and decision-making processes
2) Legal and regulatory environment
3) Funding for CSOs

These 3 parts are considered as key areas to assess the existence of an enabling environment for CSOs. This consideration has been developed taken into account of the four point framework elaborated by the HRDN[101] .

The questionnaire has taken as model of inspiration the Monitoring Matrix on Enabling Environment for civil society development[102] and the CPDE monitoring framework for the Global Partnership for Effective Development Cooperation indicator 2[103]. Some areas and indicators were selected for the purposes of this analysis. Some questions were modified with the aim to be adapted to the particular European context while other new questions were added.

Please note that the names of the respondents will remain disclosed and the names of the organizations will be made not attributable.

The results of this questionnaire will also contribute to Claudia Conticello's (trainee in Policy and Advocacy at CONCORD and student in Communication and European Politics at IHECS in Brussels) Master thesis focused on the space for CSOs in Europe.

---

[101]

http://www.servicevolontaire.org/userfiles/www.hrdn.eu/files/Public/HRDN_Statement_Closing_Space_for_Civil_Society_A_Rights_Based_Approach_for_Action.pdf

[102] THE BALKAN CIVIL SOCIETY DEVELOPMENT NETWORK, THE EUROPEAN CENTER FOR NOT-FOR-PROFIT LAW AND THE INTERNATIONAL CENTER FOR NOT-FOR-PROFIT LAW, *Monitoring Matrix on Enabling Environment for Civil Society Development The Tool-Kit,* Skopje, January 2013, ISBN 978-608-65119-9-9, pp.72 available at : http://www.tusev.org.tr/usrfiles/files/BCSDN_Monitoring_Matrix_ENG.pdf see also http://monitoringmatrix.net/

[103] CPDE, *An Enabling Environment For CSOS: A Synthesis of Evidence of Progress Since Busan*, October 2013, pp. 4-37, available at : http://www.csopartnership.org/wp-content/uploads/2014/03/CSO-Contribution-to-Indicator-2.pdf

CSO participation in policy dialogue and decision-making processes

1) Are there **inclusive and accessible mechanisms and processes for CSOs** of your sector to participate in policy and decision-making processes (consultations, engagement in designing, implementing and monitoring national policies)?

   YES   NO

   Comments:

2) Are **these structured** (there is a clear time for consultation, the agenda is set well in advance for CSO to prepare and coordinate, consultation rooms are accessible, there are mechanisms of follow-up and feedback) at national and local levels?

   YES   NO

   Comments:

3) How is the CSOs feedback taken into account in the policy outcomes on a scale from 1 to 5?(5 fully taken into account)

   5
   4
   No feedback or difficult to assess

4) Are there **initiatives** to **address capacity needs** of CSOs of your sector to fully and effectively **participate in policy dialogue**? (In particular by government)

   YES   NO

   Comments:

5) From your perspective, **are there policies or statements** from governmental officials that **can hamper the cooperation between CSOs and the State**? (for example by diminishing the CSOs public image, by accusing CSOs of false allegations, etc..)

YES   NO

Comments:

6) Can you easily access government information by law or by practice?

YES   NO

Comments:

7) Have you ever **felt directly or indirectly intimidated** by the state because of your advocacy activity on a particular issue?

YES   NO

Comments:

1) In the national law are there **formal requirements** to found and register an association that you consider **restrictive** (or potentially restrictive)of **the right of assembly** (excessive number of people required to found an association, prohibition for foreigners to be founders of an association, prohibition against unregistered group of people, capitalization or initial endowment as requirement) ?

   YES   NO
   Comments:

2) From your point of view, in your sector are there **other additional procedures** (report requirements, raids, auditing, financial transparency checks) that can **present a burden** to the activity of CSOs?

   YES   NO

   Please provide specific examples:

3) Has the adoption of **anti-money laundering legislation** and **counter-terrorism measures** in your country imposed restrictive rules that **indirectly impact CSOs**?(excessive control over CSOs financial transparency, intrusive scrutiny on CSOs working with 'suspected communities' of terrorists)

   YES   NO

   If yes, please specify how these measures have impacted on civil society and whether they can threaten CSOs independence:

4) Have you recently(during the past 2 years) perceived an **unwarranted interference** from the government with the privacy of the CSOs of your sector?

   YES   NO

If yes, please specify how the government has interfered:

5) Do you perceive changes **in the tax burden or in the fiscal law-regulation** on CSOs of your sector that can **hinder** rather than facilitate the existence of **CSOs**?

YES   NO

Comments:

6) In your opinion, in your country is there a **tendency to abuse limitations** (reputation, public order, right to privacy)to **restrict the freedom of expression of CSOs** on matters of government interest?

YES   NO   In the recent past (2-3 years) yes

Comments:

Part III

Funding for CSOs

1) Do you perceived **direct or indirect legal, regulatory, policy or political barriers** (application requirements, the choice of modalities) to seek, secure, and use resources, including foreign resources, for the CSOs of your sector?

YES   NO

Comments:

2) Are there legal or policy **incentives** to **promote financial sustainability** among CSOs of your sector?

YES   NO

Comments:

3) Is there a **law** or **national policy** (document) that regulates **state support** for **institutional development of CSOs**?

YES   NO

4) Are there **clear procedures** that enable an effective[104] CSO participation in all phases of the public funding cycle, such as planning, implementation, monitoring and evaluation?

YES   NO

Comments:

5) Are **CSO funding mechanisms** reliable, transparent, easy to understand, and disbursed impartially (for you sector and from your experience)?

YES   NO

If not please explain:

---

[104] Effective in this case is intended in a way that CSOs inputs are taken into account after the consultation