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Civil Society within the EU Decision-making

Introduction

Within the process of European integration and especially in the context of the "constitutionalisation" of the European Union, the problems of social participation, European citizenship and democratic deficit have become very important. Numerous debates on those issues have also used the concept of civil society, sometimes proving that there is lack of social participation, other times indicating that the role of NGOs in decision-making is even too important. The objective of this paper is therefore to present a view on the concept of the "European civil society". In order to find the answer to the question whether or not there is or would eventually be the civil society of the European level, I will first define the "civil society" as we know it on the national level and then, according to recent methodology used in practice to assess the development of civil societies, I will analyse the environment which is provided by the European Community (notably the European Commission), and the possibilities of emergence of one consistent actor from the variety of national civil societies. Finally, I will try to point out main differences between the civil societies at national and European level, originating in the differences between the governance frameworks at both levels.

1. General overview of the concept of civil society

The concept of civil society has a number of different definitions, still there are some main elements, which are regarded as minimum requirements. Among those the most important are:

1. Civil society is a group organisation of the society,

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2. It is voluntary based,
3. It represents collective interests and serves collective purposes,
4. It is located outside the state and the market, as well as beyond households.

It has been referred to since the beginnings of the sociology – usually recognised as a desirable feature, in opposition to the heightened individualism, which could play a very important role within the system of checks and balances, helping to keep the state accountable on the one side, and serve as ideological forum for all social groups and ideologies on the other hand, which could result in more sustainability within the whole system.[1]

The idea has been usually treated very theoretically and still the field of values promoted by civil society is the most developed one. Therefore, some confusion with social structures can occur. It is, however, important, to underline that even though civil society cannot be "built" without certain values internalised by the society and without or outside existing social structures, they are not equal.

The question of civil society's actual usefulness has been tackled by many research institutions and organisations, especially in the context of its re-emergence in Central Europe at the stage of social resistance to totalitarian regime.[2] According to the CIVICUS,[3] there is an important role for the civil society to play also in modern times, in both socio-economic and socio-cultural development, as well as in governance. Therefore, certain research programmes have been introduced, to both assess the state of civil society in various countries and to transpose the idea of civil society into practice. Not only are they a valuable source of information on civil societies and a vivid example of their existence and evolution, but also they are indicative in the field of the impact of civil society. The most important one described briefly in this paper is the Civil Society Index research action. It has itself been initiated and implemented by, and for, civil society organisations, and now includes governments, donors, academics and the general public. The second programme, NGO Sustainability Index, is similar at its goals, although slightly different in its organisational structure (it is being conducted by the US Aid). Both programmes use sophisticated methodology to evaluate civil society performance and the

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[1] See: A.de Tocqueville, *Democracy in America and Two Essays on America,* Penguin Books 2003, A.Przeworski, *Sustainable democracy*, Cambridge University Press 1995.

[2] This passage does not fully apply to the situation of the Eastern Europe, due to both lack of tradition of civil society (or a very weak one), which could be related to stronger patriarchal patterns in those societies (and thus less drive for social criticism and resistance – the example of Japan is quite indicative in this matter), and differences in regimes existing in the Central and Eastern Europe.

[3] CIVICUS, World Alliance for Citizen Participation, http://www.civicus.org

indicators used by them can also be treated as minimum requirements of civil society. Despite certain differences in approach,[4] both programmes refer to the same issues, although the CIVICUS initiative more in depth, and their findings and yearly reports are the most visible proof not only of civil societies existence (what is particularly important – these reports indicate that although in great variety of forms and stages of development, civil societies exist in most geographical locations and times), as well as a strong argument in favour of the idea of civil society as a tool for "good governance".

The following parts of this paper are based on the analytical framework of the methodology developed for CIVICUS.[5] Therefore, it is essential to present some basic points of this structure.

Civil Society Index

The Civil Society Index assesses four different dimensions of civil society and summarises its findings in the form of a diamond:

- ***Structure*** *– what is the internal make-up of civil society? how large, vibrant and representative is civil society in terms of individuals and organisations?*
- ***Environment*** *– what is the political, socio-economic, cultural and legal environment in which civil society exists? are these factors enabling or disabling, to civil society?*
- ***Values*** *– Does the civil society practise and promote positive social values?*
- ***Impact*** *– What is the impact of civil society? is it effective in resolving social, economic and political problems, and in serving the common good?*

Source: CIVICUS, http://www.civicus.org [6]

Seeking answer to the question on the existence of the European civil society, I will use the two middle dimensions – I will analyse the environment

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[4] NGO Sustainability Index Programme uses seven dimensions: legal environment, organizational capacity, financial viability, advocacy, service provisions, NGO infrastructure and public image. The CIVICUS Civil Society Index Programme has a wider scope (as the name suggests), and concentrates on four groups of dimensions (see further in the text).

[5] Methodology developed for CIVICUS by Dr. Helmut Anheier of the Centre for Civil Society, London School of Economics.

[6] These four dimensions are thoroughly elaborated within sets of indicators. The full list of indicators may be found in the Annex.

created within the European Union framework[7] and proposed within the Constitutional Treaty project, and the scope of values which could be perceived as common for all the Member States' societies (or at least their particular parts).

2. European Community legal environment

The role of civil societies, social participation and support for the policies created increased in importance only in the mid-1970s, when the Community has widened its competences into some fields, which were not originally mentioned in the Treaties (*e.g.* environmental policy, foreign and security policy, regional policy *etc.*). It has become even more visible after the enhancements brought up by the Single European Act (1987) and by the Maastricht Treaty (1993). Many, if not most, of the organisations established in this period were forms of response to the expanding scope of the European competences. They were of various character (from mostly economic or business associations to particular social groups), and usually devoted themselves only to act on the European or international level, as such actions required both considerable resources allocation and specialisation of the participants.[8]

However, neither the original Treaties (Treaty of Rome 1957) nor amending Treaties (Single European Act, Maastricht Treaty, Amsterdam Treaty) mentioned civil society or its role as an important one. The inclusion of the general public, "*modeled on national systems for institutionalising interest group participation in policy formulation and implementation*"[9] was to be ensured by the establishment of the Economic and Social Committee in the very beginning of the process of the European integration (Article 193, Treaty Establishing the European Economic Community, Rome 1957).[10] However, the status of the

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[7] Although the environment is defined broader by the CIVICUS methodology, I will analyse only the legal framework (especially the field of inclusion within decision-making processes), as other parts, such as financial and tax provisions are still mainly regulated by Member States.

[8] See: R.Eising, *Interest groups and the European Union* in: *European Union Politics*, ed. M.Cini, Oxford University Press 2003.

[9] D.Dinan, *Ever Closer Union*, Macmillan 1999, p.318.

[10] There has been some important evolution in the wording of the Article to this regard; in the original Treaty of Rome (1957) it is stated that: "*The Committee shall consist of representatives of the various categories of economic and social activity, in particular, representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations and representatives of the general public*" (Article 193, Treaty Establishing the European Economic Community, Rome 1957). The difference was brought up by the Nice Treaty, stating in the Article 257: "*The Committee shall consist of representatives of the various economic and social components of organised civil society, and in particular representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations, consumers and the general interest*". (Article 257,

Committee itself cannot be regarded very important, as it is only an advisory body and the structure of the Committee is not democratically elected. Different interest groups were of course still able to lobby on the European level, but the field lacked transparency and regulation.

The role of the civic participation was underlined importantly for the first time in the Commission Communication *An Open and Structured Dialogue with Interest Groups* (1992)[11] (the actual term "civil society" has not been used even once in the document). The Communication makes a distinction between "non-profit making organizations ("European and (inter)national associations/federations) and profit making organizations (legal advisers, public relations and public affairs firms, and consultants)" and indicates two main forms of dialogue between the Commission and special interest groups: 1) "through advisory committees and expert groups which assist the Commission in the exercise of its own competences" and 2) "through contact with interest groups on an unstructured, *ad hoc* basis". It also states "Guiding principles", which should rule future contacts between both actors and points out at the need of the organizations to self-regulate themselves with regards to this area.

The actual duty of consultation within the Commission has been brought up by the Amsterdam Treaty (1997). As states the Protocol 7 on the application of the principles of subsidiarity and proportionality, Par. 9: "*Without prejudice to its right of initiative, the Commission should* (…) *except in cases of particular urgency or confidentiality, consult widely before proposing legislation, and whenever appropriate, publish consultation documents...*". However, this area still lacked any other Treaty basis and legal regulation.

Another document which analysed current problems in communication between the European institutions (mainly Commission) and the general civil society (narrowed mainly to NGOs) was published three years later (*The Commission and Non-Governmental Organisations: Building a Stronger Partnership*, Commission Discussion Paper 2000). It underlines the importance of the NGOs within the decision-making process ("fostering participatory democracy", "representing the views of specific groups of citizens to the European Institutions", "contributing to policy making", "contributing to project management", and finally even "contributing to European integration"), points out at difficulties in communication (lack of transparency and mutual information, lack of legally established framework for contacts and complexity of European institutions' structures) and includes also some solutions to those

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Consolidated Version of the Treaty Establishing the European Community, 2002, emphasis added).

[11] http://www.europa.eu.int/comm/secretariat_general/sgc/lobbies/communication/ /communication_en.htm

problems (regarding guidance for best practice, improving transparency and information, as well as pointing out the need for considering establishing of the legal basis for formal consultations).

In the meantime the works on the White Paper on European Governance started. One year later, in 2001, Working Group 2a presented its report *Consultation and Participation of Civil Society*. It has identified main shortcomings in Commission consultation practices (large number – *circa* 700 – of consultation forums, lack of guidance promoting applying best practice, underestimation of the NGOs) and proposed some further, technical solutions (establishing a comprehensive database providing detailed information on civil society organisations active at European level and consultative bodies, as well as setting guidelines for minimum standards for consultation procedures throughout the Commission, which would be monitored and evaluated in order to ensure maximum effectiveness).

These proposals were to large extent taken into account in the White Paper *European Governance* (2001). It strongly presented the idea of civil society actors as important for the quality of the decision-making process[12] and included the postulate of the renewal of the Community method by introducing a less top-down approach. Moreover, it underlined the requirements of better involvement and more openness (among declared actions there were such as: establishing a more systematic dialogue with the representatives of regional and local government and non-governmental organisations, establishing and publishing minimum requirements for consultation on EU policy, establishing partnership arrangements), better policies, regulation and delivery (promoting the use of greater variety of tools, publishing guidelines on collection and use of expert advice and simplifying existing legislation in some fields), global governance (improving dialogue with governmental and non-governmental actors in Non-Member States in cases of developing policies of international impact or dimension) and refocused institutions (ensuring policy coherence and identifying long-term objectives). What is even more important, this White Paper was also an object of a successful public consultation.

One more document worth noticing here is the Communication from the Commission, *European Governance: Better Lawmaking* (COM(2002) 275 final). In this paper, the Commission once again stressed the overall need to improve the decision-making process and, in a very brief manner, dealt with

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[12] „*Civil society plays an important role in giving voice to the concerns of the citizens and delivering services that meet people's needs. (…) Civil society increasingly sees Europe as offering a good platform to change policy orientations and society. (…) It is a real chance to get citizens more actively involved in achieving the Union's objectives and to offer them a structured channel for feedback, criticism and protest*". (White Paper European Governance).

general propositions on how to solve them. The Commission underlines the importance of the Community method in the legislative process, as a unique system "producing rules which can be applied in any national context and which have the backing of legal certainty". At the same time, it states that in order to fully benefit from this framework, more emphasis should be put on accountability of both Community and Member States, effectiveness (through eg. introducing impact assessment procedures), and proportionality of the Community measures (in accordance with the subsidiarity principle). The main solutions mentioned are: simplification and improvement of the regulatory environment, introducing more transparent and systematic approach into dialogue and participation framework, and taking into account regional and local context. Once again, the role of civic participation and support for the Community actions was underlined.

According to the White Paper, the matter of consultation and inclusion of social actors into decision-making process was referred to in another document – Communication from the Commission *Towards a reinforced culture of consultation and dialogue – General Principles and Minimum Standards for consultation of interested parties by the Commission* (2002). Main objectives of this Communication were to: "encourage more involvement of interested parties through a more transparent consultation process, which will enhance the Commission's accountability", "provide general principles and standards for consultation that help the Commission to rationalise its consultation procedures, and to carry them out in a more meaningful and systematic way", "build a framework for consultation that is coherent, yet flexible enough to take account of the specific requirements of all the diverse interests, and of the need to design appropriate consultation strategies for each policy proposal", and "promote mutual learning and exchange of good practices within the Commission". The process of involvement of the civil society into the decision-making is described in it as a "win-win situation", and once again the role of civil society organisations is underlined as "facilitators of a broad policy dialogue". This role is also linked to the fundamental right to form associations in order to pursue a common purpose. The process of improving Commission's consultations procedures is regarded as a continuous one, and although there are some examples of actions already undertaken (Interactive Policy-Making, CONNECS database), the role of learning and supporting best practices is particularly enhanced. The Communication also covers the issue of consultation within the Economic and Social Committee (and the Committee of the Regions) and of introducing a more proactive functions of those bodies. Finally, it states the general principles for consultation:

> ***General principles:***
> - ***participation*** *– an inclusive approach in developing and implementing EU policies:"consulting as widely as possible on major policy initiatives";*
> - ***openness and accountability*** *– the principle of transparency and full information;*
> - ***effectiveness*** *– consultations starting as early as possible, while taking into account certain framework and Treaty obligations;*
> - ***coherence*** *– consistency and transparency in the way [Commission] departments operate their consultation processes; inclusion of mechanisms for feedback, evaluation and review.*

Source: Communication from the Commission: *Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission*, COM (2002) 704 final.

These principles are also reflected in the set of minimum standards, provided in the same document:

> ***Minimum standards for consultation:***
> - ***clear content of the consultation process*** *– "all communications relating to consultation should be clear and concise, and should include all necessary information to facilitate responses";*
> - ***consultation target groups*** *– "when defining the target group(s) in a consultation process, the Commission should ensure that relevant parties have an opportunity to express their opinions";*
> - ***publication*** *– "the Commission should ensure adequate awareness-raising publicity and adapt its communication channels to meet the needs of all target audiences. Without excluding other communication tools, open public consultations should be published on the Internet and announced at the <single access point>";*
> - ***time limits for participation*** *– "the Commission should provide sufficient time for planning and responses to invitations and written contributions. The Commission should strive to allow at least 8 weeks for reception of responses to written public consultations and 20 working days notice for meetings"*
> - ***acknowledge and feedback*** *– "receipt of contributions should be acknowledged. Results of open public consultation should be displayed on websites linked to the single access point on the Internet".*

Source: Communication from the Commission: *Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission*, COM (2002) 704 final.

The most recent, and the most important (should the Treaty enter into force) development in the field of integrating society into the decision-making process is visible in the Treaty Establishing a Constitution for Europe. Under Title VI (*The Democratic Life of the Union*), Article 46 – *The principle of participatory democracy* states:

> 1. *The Union Institutions shall, by appropriate means, give **citizens and representative associations** the opportunity to make known and publicly exchange their views in all areas of Union action.*
> 2. ***The Union Institutions shall maintain an open, transparent and regular dialogue with the representative associations and civil society.***
> 3. *The Commission shall carry out **broad consultations** with **parties concerned** in order to ensure that the Union's actions are **coherent and transparent**.*
> 4. *No less than **one million citizens coming from a significant number of Member States** may invite the Commission to **submit any appropriate proposal** on matters where citizens consider that **a legal act of the Union is required** for the purpose of implementing the Constitutions.* (…)

Source: *Draft Treaty Establishing a Constitution for Europe* (emphasis added).

Therefore, the importance of social participation within the EU decision-making is once again underlined, with an actual term "civil society" used. Moreover, citizens are officially granted the right to initiate the process, under conditions which should not be considered very difficult to meet.

The role of social participation has been finally and (almost) fully recognised in the Article 47 of this Treaty:[13]

> *The European Union recognises and promotes the role of the social partners at Union level, taking into account **the diversity of national systems**; it shall **facilitate dialogue between the social partners**, respecting their autonomy.*

Source: *Draft Treaty Establishing a Constitution for Europe* (emphasis added).

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[13] Of course, the Treaty introduces or repeats also other provisions, with the Union citizenship as one of the most important in the establishing of the common European identity. However, those issues are not directly connected with the issue of civil society involvement in the decision-making process.

3. European "civil society"

Although shaping the legal environment for the civil society at the European level started quite recently, the involvement of different groups have been visible from the very beginning of the existence of the Communities. This may be seen in case of the internal evolution of the Community institutions, starting as early as from the High Authority of the European Coal and Steel Community. They soon started to reflect "*the traditional characteristics of public bureaucracies, especially functional specialization*".[14] As a result of this involvement, first examples of new, European interest groups emerged, in accordance to the neofunctionalist theory.[15] The earliest of them were usually business groups and trade unions (also at European level), as the main goals of the integration process at this time were mostly economic and narrow. Their main objective was to promote their particular interests, as this kind of actions were becoming too difficult and to ineffective (in the context of ceding some of the national competences) at national levels. Therefore, the kind of participation existing from the very beginning can be perceived more as a plain lobbying, than an active involvement of various social groups. This situation has not changed much – still among the seven groups of parties involved identified by Mazey, most are either connected with particular branches of the industry and business (European and national associations, individual firms and lobbying consultancy firms), representing professional interests (Federation of Veterinarians of Europe), or special agencies of public bodies, such as regional and local governments. In recent years, a new tendency can, however, be seen: smaller groups of interest, trying to avoid difficulties connected with the consensus-building at the European associations level, form more *ad hoc* coalitions, focusing on certain issues or initiatives. Of course, organisations of either European or international level are also involved (and sometimes quite successful) in the European politics, however their effectiveness is quite often affected by their own internal complexity and political involvement elsewhere.

The process of the European integration, especially of policies integration, influenced activity of social groups at both national and European level. Paradoxically, the integration effected in emergence of many new national interest representation formations, as the national governments still are recognised as the most important channel for lobbying (even aimed at the European level). Nevertheless, various actors have also turned to European institutions.

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[14] S.Mazey, J.Richardson, *Interests* in: *Developments in the European Union*, eds. L.Cram, D.Dinan, N.Nugent, Macmillan 1999.

[15] E.B.Haas, *The Uniting of Europe: Political, Social and Economic Forces 1950-1957*, London 1958.

The most targeted, despite its own protests concerning its role in the decision-making, would of course be the Commission – as an institution responsible for both:

1. initiative (according to the Commission itself, about 60 to 80% of the proposals are inspired by the ideas from the outside of this institution; of course, Commission's proposals are being altered during the decision-making process, however usually the final act preserves the idea of the original one), and

2. technical details, regulations and settings introduced by the Commission implementing acts.

Both of these responsibilities make targeting the Commission the most rational choice, not only for ensuring the inclusion of particular interests, but also for protecting them even after the act has been adopted. Therefore, it can be said that the Commission became the first choice for all the groups interested in observing their interest at all stages of the adoption, implementation and existence of the Community acts. The complexity of the Commission's structure, as well as lack of transparency (mentioned above) in the consultation process worked both as an obstacle and as an advantage to some extent.

Another institution, which has also been targeted quite often, is the European Parliament. It may seem contradictory to the general knowledge and perception of this institution as a relatively weak one (especially before the procedural changes took place) and indeed, different reasons for such state. Firstly, most of the interest groups recognise the need to introduce the multi-track lobbying strategy, which means that although they already are protecting their concern at the Commission level, they do not want to left out the other institutions, especially as it is (used to be) a weaker and thus more easily approached one. Secondly, it can be seen that the European Parliament used to attract more of other group types – for example feminists, environmentalists or specific consumer groups – so types which could be closer to the broad definition of the civil society. This was of course not only to the particular Parliament's openness, but also (if not mainly) due to the difficulties those groups encountered in contacting the Commission. Such tendency could also be explained by the obvious differences in strength between various parliamentary committees – as they have traditionally been stronger in new, "soft" issues, those kinds of groups and organisations found them more appropriate to target. Finally, after the change in the institutional balance, the Parliament has become a more important actor also for other groups, such as business or industry associations, trying to fight their way back among their social opponents.[16]

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[16] The involvement of social actors in works of Parliament has at time become one of the key issues within this institution. It is now regulated in the Rules of Procedure.

The least addressed institution is of course the Council of Ministers. The lobbying at this level has the most informal character, as the institution itself is the least accessible and there are nearly no official regulations on public consultations or inclusion of the "general" opinion in any other way. Therefore, pressure and protection of interests at this level takes place mainly through the national delegations in Brussels, or by targeting working groups. Still the most obvious and most frequently used way is through the national governments.[17]

Emergence and activity of social groups and organisations at the European level can be explained in many ways. First of all, there is a strong correlation between the intensity of European politics and the formation of interest groups and *vice versa* – various groups of interest and associations are eager to present and defend their opinions and ideas, and more so if the scope of policies conducted at the European level widens, but also the institutions, expanding their competences, in order to be effective and supported in their decision-making, need the feedback from the social actors. This may lead to establishment of a certain fashion – if one of such groups has "won" something for itself, others, even though sometimes irrationally, will more possibly allocate their resources to Brussels, copying behaviour of successful actors.

Another argument which could clarify the rise (or the shift towards the European politics) is connected with Deutsch's communication theory of integration[18] and theory of supranational governance, developed by Stone Sweet and Sandholtz.[19] According to those theories, the process of integration, which is nothing else than more intensive communication and transactions between the states, creates the need for European level regulation. Therefore, the process of institutionalisation follows, relating to both bodies supplying the states with such regulations (such as the European Commission), and to societies of the states involved. Thus, a new society consisting of transnational actors of all kinds is arising. This society can eventually become more effective in targeting national and supranational bodies, than usual ones. Like in the previous argument, this also puts emphasis on the correlation between the widening scope of integration process and the level of activity of the civic organisations:

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[17] Some of the lobbying-like actions have also concerned the European Court of Justice. In this case particular interests could not be presented to the institution itself, however some authors indicate that the cases drawn before the Court (in the field of gender equality for example) have played a similar role to lobbying, provoking desired decisions at the European level.

[18] K.Deutsch, *Communication Theory and Political Integration* in: *The Integration of Political Communities*, eds. P.E.Jacob, J.V.Toscano, Philadelphia 1964.

[19] A.Stone Sweet, W.Standholtz, *European Integration and Supranational Governance*, "Journal of European Public Policy", vol. 4/1997, no. 3, pp. 297-317.

> „*an expansion of the tasks or autonomy of supranational organisations creates opportunities for political action, which actors and groups will seek to exploit, thus expanding transnational society*"

Source: A.Stone Sweet, W.Sandholtz, *European Integration and Supranational Governance*, "Journal of European Public Policy", vol. 4/1997, no. 3, p.305.

It can also be said that actions taken by this new society can induce even more willingness and courage to copy similar behaviour pattern in the future, effecting eventually in more active and more effective transnational society.

However, as it could have been seen thus far, the groups which were most active at the European level represented mainly economic interests and usually took forms of different business or industry associations. This implies that European dimension of civic activity has been narrowed to economic and often sectoral sphere. Moreover, usually actions on this level were taken *ad hoc* or at best coordinated in the medium-term perspective. Therefore, it can be easily concluded, that those organisations have played a different role and have used different instruments than civil society organisations at national levels.

In order to further analyse this issue and to clarify the meaning of the "democratic deficit", some basic facts about the European Community have to be acknowledged. Despite its unique features – exceptional level of integration, strong legal personality, widest scope of competences, great ambitions as well as great successes achieved thus far – and despite the Community method governing the internal relations and balancing the roles of the Member States and the Community institutions, the EU is still an organisation established by the international agreement and deriving its powers from the Member States. A debate on specific terms of "supranational" and "international" character of the Union is still going on, however, for the purpose of this analysis it can be said that both terms are describing patterns of cooperation within the Union. Therefore, the Member States must still be perceived as strong and important actors, who even by ceding their competences still exercise their sovereign powers. As a result of this, and this should be the second important consideration, it would seem more appropriate to compare the Union to other international organisations, if needed, and to try defining new categories (as this organisation is presenting a new quality in the international relations) to be used in the research.

In the context of the above reflections, the "democratic deficit" within the EU would become a category either incomparable with a democratic deficit in the traditional understanding of the term or simply false. Comparing to other international organisations, the European Union is by far the most democratic entity – the citizens not only have the right to vote and elect one of the

institutions – the European Parliament, of significantly growing importance – but also enjoy direct rights and freedoms given to them by the Community acts, whether or not they become implemented (if needed) by their particular Member States. Moreover, no other international organisation has created its own citizenship – which, although complement to the national ones, gives its holders certain benefits. In this comparison the issue of social participation also gives a good impression – although not very transparent (at least until recently), some rules for consultation have been established and the role of the general opinion has been recognised. This feature would also be quite unique worldwide. Therefore, the term of "democratic deficit" in the European context should probably be redefined and connected more firmly to the concept of the European federation, which is still a rather vague and theoretical model. However, for the purpose of this paper the "democratic deficit" will be redefined as a problem concerning a new form of governance, which is a mixture of inter- and supranationalism. To this extent, "democratic deficit" would not be connected with lack of social participation or accountability of the Community institutions (as it is still exercised by a special institutions of the ECJ, CFI and, more importantly, the Member States), but it would point out at the greater need for understanding of the European issues and processes, and in turn, more social support for the Community actions. In this context, the "European civil society" appears as an adequate and useful concept of strengthening the democratic dimension of the integration.

On the basis of these notions, it has to be said that the "European civil society" like most of other concept which are used to measure and describe the new European reality, would be incomparable with the concept of "civil society" as we know it. The main differences in perception of this model would be in:

1. **Membership** – Acting at the European level requires much knowledge and specialisation, as well as strong interest and ability to perform effectively, probably all those qualities to more extent than the membership of the national civil society. Therefore, it can be assumed that the "European civil society" would not consist of all citizens, but mainly of selected members of particular (stronger, more experienced, more specialised) national civil society organisations and associations and of highly educated individuals, who would be further referred to as the "elites". Thus, the main difference would be that the **membership of the "European civil society" would not be representative** (which is one of the main assets of healthy national civil societies). Although one can argue that the "elites" are somehow representative of the rest of societies, such civil society would definitely not be an egalitarian one.

2. **Interests** – Presumably, the **interests** of the "European civil society" would remain **narrowed mainly to economic issues**, and most definitely, at least for the time being, to the fields in which the Community holds at least some degree of competence. New topics and issues (even such as social problems) would probably be drawn up only in the long-term. However, on the positive side, the **interests represented** by the "European civil society" organisations would be **of more universal nature**, as it would be nearly impossible to hold on to particular national interests at the European level and within institutions consisting of the citizens of more than one country. The largest amount of particularism would probably be kept in the fields of policies of regional impact (regional, environmental, agricultural policies).

3. **Role** – As the European Union is not a state, the "European civil society" would have a different role than the national civil societies. The control of the Community institutions is already exercised by fairly independent bodies, such as the European Court of Justice and the Court of Auditors, as well as the Member States, therefore the responsibility of a watchdog could be mostly of **moral** or **ethical** significance (also because prudent control of the European level politics would require great knowledge and specialisation).Thus, the "European civil society" could only play a role of a **forum**, providing the Community with greater (but rational) **variety of views** and **more support** for the decisions, as well as **source of European education**. Most importantly, however, the "European civil society" could play **a significant role in the process of the European integration**.

4. Conclusions – chances for the "European civil society"?

Bearing in mind the differences, it can be said that the "European civil society" exists even now, at least to some extent. It is not very vivid nor visible for the ordinary citizens (maybe it is also due to the European perspective which has to be applied in order to spot such phenomenon), however it is generally known that social groups of some sorts are affecting decisions taken within the Community institutions, that these actors tend to be more transnational and more universal in their opinions, and that they play an important role in further activation of the societies (even if mainly on national levels).

However, in order to fully answer the question stated in this paper, and to describe the "European civil society" one has to concentrate on the "ideal model" of such body, and even more on the real chances of establishing anything close to this ideal.

First of all, it has to be clarified that the process of establishing the "European civil society" is not possible to be launched by a top-down actions and initiatives. As the communication and supranational governance theories put it, the rise of the transnational, "European civil society" would be of course an effect of the expanding European policies, but an effect of voluntary and spontaneous nature. Of course, there is also a question about the expansion of the European governance – one can argue, and probably would be right, that the rise of the Community as a whole was also inspired by certain elites, and the process of integration, apart from the spill-over effect, is still modeled by similar elites. This implies that the third dimension of the Civil Society Index methodology would be at least partially appropriate for the description of the process of forming the "European civil society" – as in case of national civil society, some values have to be internalised and common to all the members of a certain entity, in order to establish a sound capacity for the civil society (in other words: there has to be an elite, sharing common views and values, and this elite in turn has to establish instruments or at least opportunities for the rest of the society to take action).

Secondly, what belongs together must grow together. Therefore, the process of true emergence of the "European civil society" has to be parallel to the process of the European integration. This means, that the elites from all Member States should be joining up and learning how to play at the European level together or should be of European origin. It would be difficult to deny the fact that European elites are determined by their national cultures, it is however quite obvious that there are some values and attitudes shared by all of them. Apart from the cultural roots of the European culture (defined as a sum of national cultures) – Greek logics and esthetics, Roman understanding of the legal system, and Judeo-Christian beliefs and values (especially individualism), common patterns of behaviour, eagerness to debate and seek consensus, certain open-mindedness and at least relative tolerance are common and have been developed well since the medieval tradition of the universities. The most important feature about the European elites would be (from the very beginning of their existence) their cosmopolitism. Thus, the dimension of the shared values has been built for more than ten ages now, which is probably the most promising fact about the establishment of the "European civil society". Of course, the disparities caused by many, mostly political and historical factors, most vivid probably in case of the new Member States, can still cause much distortion and be a source of great confusion even among the elites, however undoubtedly the resemblance of these elites is the most important example of the integration and unity in Europe.

All the above does not have to be true as regards the societies of the Member States. Unlike the elites, the "ordinary citizens" still are traditionally more bound to their home countries (and homelands such as regions), and the borders which

have been present throughout the ages are still very vivid in their minds. Despite the globalisation processes and the overall improvement of the communication technologies, distances are still too large for most of them and they hold on more to their nationalities than they respect their European identity. This of course, may be (and probably is) connected to the fact that even though most of the societies are quite egalitarian these days, the equality of chances does not have to lead to the equality of the achievements and social positions.[20] Therefore, it is crucial to point out that new "European elites" membership (and therefore, the membership of the "European civil society") would have be to rather self-achieved, than inherited in any way. Nevertheless, the "European civil society" could provide a learning forum for all the national societies and could truly bring the Europe "closer to its citizens", even though the patterns are not being copied enthusiastically or immediately from the elites to the citizens, and such process could take some time. Achieving the objective of this action would not necessarily mean greater democratisation of the civil society at the European level, but at least greater knowledge about the European issues.

Finally, as it has already been mentioned, the "European civil society" as the "elites", although not referred to this way then, may have existed long before the integration processes in Europe had started. The launching of the European integration process and the plans to establish the European Communities (especially the European Coal and Steel Community) may serve as an example of an action conducted by that actor. Therefore, apart from the debate on the (lack of) democracy within the "European civil society", one more important issue should be tackled – its role in the integrating process. According to the reflections presented in this paper, this actor could be the one that would give this process a new dynamics, whether directing it in more or less federal path.

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[20] See: A.de Tocqueville, *Democracy in America and Two Essays on America*, Penguin Books 2003.

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Annex: Civil Society Index – Indicators

1. STRUCTURE

1.1. The scope of social participation (how popular is the involvement into various civil society activities?) (measured in % of the citizens)

1.1.1. Non-party political activities (signing petitions and letters etc.)
1.1.2. Philanthropy (supporting charity activities)
1.1.3. Membership (at least one civil society organization)
1.1.4. Voluntary-based activities (at least once a year)
1.1.5. Joint actions for local community

1.2. The depth of social participation (how intensive is the social participation in the civil society?)

1.2.1. Philanthropy (% of income contributed to charity activities annually)
1.2.2. Voluntary-based activities (number of hours worked within the social work monthly)
1.2.3. Membership (% of citizens being members of more than one organization)

1.3. Diversity of civil society actors (how diverse is the civil society?)

1.3.1. Membership (how well are all important social groups represented? / are any groups dominating? / are there any groups excluded from the civil society?)

1.3.2.   Leaders (do leaders come from all important social groups?)

1.3.3.   Regional allocation of civil society organizations

1.4.   Level of institutionalization (how well organized is the civil society? is there enough support for it?)

1.4.1.   Umbrella organizations (% of civil society organizations associated within federations/umbrella organizations)

1.4.2.   Effectiveness of umbrella organizations (how do regional leaders and experts perceive the effectiveness of federations/umbrella organizations in achieving goals)

1.4.3.   Self-regulation (are there any self-regulating actions? Are the existing self-regulations being followed?)

1.4.4.   Infrastructure supporting organization's activities (number of supporting organizations & their effectiveness)

1.4.5.   International connections (% of civil society organizations being members of international networks etc.)

1.5.   Internal relations (how intensively various actors of the civil society communicate with one another?)

1.5.1.   Communication (extent of information circulation between the organizations)

1.5.2.   Co-operation (extent of co-operation between civil society organizations for the common good / cross-sectoral coalitions of civil society organizations)

1.6.   Resources (to what extent the resources available to the civil society organizations are adequate to pursued goals?)

1.6.1.   Resources (level of financing, organization, human and technological resources / do regional leaders and experts perceive them as sufficient?)

2.   ENVIRONMENT

2.1.   Political context (what is the political situation of the country and how does it influence the civil society?)

2.1.1.   Political rights & freedoms (what are the limitations of civil political rights & freedoms?)

2.1.2.   Political competition (party system characteristics)

2.1.3.   Rule of law (is the rule of law actually maintained?)

2.1.4.   Corruption (the level of corruption in public sector)

2.1.5.   State's effectiveness (to what extent the state is able to exercise its functions?)

2.1.6.   Decentralization (to what extent does the regional and local government decide on public finances?)

2.2.   Fundamental rights & freedoms (to what extent are the fundamental rights & freedoms guaranteed by the law and protected in practice?)

2.2.1.   Civil freedoms (to what extent are they respected in practice?)

2.2.2. Access to information (to what extent is general public able to obtain information?)

2.2.3. Freedom of press (to what extent is it respected in practice?)

2.3. Socio-economic context (what is the socio-economic situation of the country and how does it influence the civil society?)

2.3.1. To what extent does socio-economic context limit the existence of effective civil society? (poverty – 40% of the citizens, less than 2 USD per day – World Bank index; civil war or other armed conflict within last five years; recent ethnic or religious conflict of major importance; serious economic crisis, debt exceeding GDP level; serious social crisis – famine, AIDS epidemics, natural disaster – within last two years; level of illiteracy higher than 40%, lack of IT infrastructure)

2.4. Socio-cultural context (to what extent socio-cultural patterns support or hamper development of the civil society?)

2.4.1. Trust (to what extent citizens trust one another?)

2.4.2. Tolerance (towards other races, religions, ethnicities, emigrants, homosexuals etc.)

2.4.3. Civil honesty (social consent for various types of dishonest actions)

2.5. Legal environment (to what extent the legal environment supports or hampers development of the civil society?)

2.5.1. Civil society organization's registration process (is the process complicated? is it fully legal? does it require large amount of money or time? are there any other obstacles during the process?)

2.5.2. Advocacy (to what extent can civil service organizations take an active role within the advocacy or critique of the government?)

2.5.3. Tax regulations concerning civil society organizations (to what extent do the tax regulations support the civil society organizations? what kinds of organizations are eligible for tax reductions? what kinds of tax reductions are these?)

2.5.4. Tax reductions for donors (are there any tax reductions / deductions / preferential credits for private and organized donors – for example companies?)

2.6. Relationship between the state and the civil society (what are the specific features of the relations between the state and the civil society?)

2.6.1. Autonomy (to what extent can the civil society function autonomously from the state? to what extent does the state interfere into the sphere of civil society?)

2.6.2. Dialogue (to what extent does the state conduct a dialogue with the civil society?)

2.6.3. Co-operation / support (do any institutions obtain support from the state – contracts, grants etc? how significant this support was – for example in comparison with other sources of income?)

2.7. Relationship between the business sector and the civil society (what are the specific features of the relationship between the business sector and the civil society?)

2.7.1. Business sector's attitude towards the civil society (what is the overall attitude of the business sector towards the civil service?)

2.7.2. Social responsibility of the business sector (to what extent are the awareness and social activities of the business developed?)

2.7.3. Business sector's philanthropy (are civil society organizations supported by private companies? how significant this support was – for example in comparison to other sources of their income?)

3. VALUES

3.1. Democracy (to what extent do civil society organizations act democratically and promote democracy?)

3.1.1. Democracy in civil society organizations (to what extent do civil society organizations act in accordance with the democratic rules? are the leaders elected in democratic way?)

3.1.2. Civil society organizations activities promoting democracy (how actively is the civil society promoting democracy? are there any civil society organizations specialized in promoting democracy?)

3.2. Transparency

3.2.1. Corruption in the civil society (to what extent is the corruption widespread within the civil society?)

3.2.2. Financial transparency of civil society organizations (how many civil society organizations are financially transparent? how many financial reports are accessible for the general public?)

3.2.3. Civil society's activities promoting transparency (does the civil society support the transparency of business and public sectors? are there any organizations specialized in promoting transparency?)

3.3. Tolerance (to what extent are civil society organizations tolerant and promote tolerance?)

3.3.1. Tolerance within the civil society (to what extent the civil society is tolerant? are there any reports on racism, discrimination and intolerance? does the society condemn such behaviours?)

3.3.2. Civil society activities promoting tolerance (do the civil society organizations promote tolerance within the society?)

3.4. Anti-violence activities (to what extent is the civil society free from violence and undertakes anti-violence activities?)

3.4.1. Anti-violence activities in civil society organizations (how often is violence used in the public sphere? are acts of violence condemned by the society?)

3.4.2. Anti-violence activities of the civil society (how actively is the society promoting free-from-violence social pattern?)

3.5. Equality of sexes (to what extent do civil society organizations act in accordance to the rule of equality of sexes and promote this rule?)

3.5.1. Equality of sexes in civil society organizations (is the rule followed within civil society organizations? what percentage of the leaders are women? how often is the inappropriate behaviour taking place?)

3.5.2. Practice of following the rule of equality of sexes in civil society organizations (are there strict, written rules concerning the equality of sexes? are they followed?)

3.5.3. Civil society activities promoting the equality of sexes (how actively do the organizations promote the rule? are there any organizations specialized in promoting the rule?)

3.6. Anti-poverty actions (to what extent do civil society organizations act against the poverty?)

3.6.1. Anti-poverty actions of civil society organizations (to what extent are the organizations acting against the poverty? are there any organizations specialized in anti-poverty actions?)

3.7. Protection of the environment (to what extent do the organizations act in accordance with the environmental requirements and promote protection of the environment?)

3.7.1. Civil society organizations actions aimed at environmental protection (to what extent are the organizations acting towards the environmental protection? are there any organizations specialized in environmental protection?)

4. IMPACT

4.1. Impact on the social policy (how actively do civil society organizations influence the shaping of social policy?)

4.2. Monitoring of public institutions and private corporations' financial activities (how active and effective are civil society organizations in monitoring public institutions and private corporations' financial activities?)

4.3. Reacting to the social problems/needs (to what extent do civil society organizations react to the social problems and needs?)

4.3.1. Responding to most urgent social problems and needs (how effectively does the civil society respond to urgent social problems and needs? are there any

examples of such problems or needs which are not tackled by the civil society? why?)

4.3.2. Social trust (how many citizens trust the actors of civil society? are civil society organizations trusted more than public or business institutions?)

4.4. Citizens' activation (to what extent is the civil society active and effective in citizens' activation, especially marginalized groups?)

4.4.1. Information and education (to what extent does the civil society educate and inform citizens about the public sphere issues? are there any organizations specialized in education/information, for example on freedoms & rights? are they significant?)

4.4.2. Creating a friendly environment for joint citizens actions (are there any actions aiming at creating a friendly environment for self-organization of citizens, obtaining resources or solving problems?)

4.4.3. Activation of marginalized groups (does the civil society aim at activating marginalized groups? how effective are these actions?)

4.4.4. Activation of women (does the civil society take actions aiming at activating women? how effective are these actions?)

4.4.5. Building social capacity (to what extent does the civil society build social capacity? what is the level of trust, tolerance and eagerness to work of the members of civil society organizations in comparison to non-members?)

4.4.6. Improving living conditions (does the civil society aim at fighting unemployment and supporting sources of income, especially for the poor?)

4.5. Responding to social problems (to what extent is the civil society active and effective in responding to social needs, especially those of poor and marginalized groups?)

4.5.1. Lobbying for service providing (does the civil service effectively lobby the state in the field of responding to social needs? is there a debate on the subject of appropriate division of activities between providers of social services – state, market, civil service?)

4.5.2. Direct responding to social needs (does the civil society actively support and effectively respond to urgent social needs? are civil society organizations promoting any alternative ways of solving problems? do these organizations take part in providing social services?)

4.5.3. Responding to needs of marginalized groups (are civil society organizations more effective in providing social services to marginalized groups than the state?)