REPRESENTATIVE VERSUS PARTICIPATORY DEMOCRACY?
FRANCE, EUROPE AND CIVIL SOCIETY

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Paper presented at the ECPR Joint Sessions of Workshops, University of Uppsala,
Sweden, April 13-18, 2004
Work in progress
French democratic thought is based on government through representation. The principles of the pluralist democracy give the French State the mission to guarantee the superiority of the general interest over egoistic interests of groups and individuals (Mény, 1986; Manin, 1995). It is generally said that the only link between groups and the state is based on a tradition of conflict and frontal confrontation.

If confronted with this conception of democracy, the European Union efforts to democratise its system seem to be in complete opposition. Whereas the debate on the democratic deficit of the EC concentrates henceforth more and more on questions of accountability, diffuse control, output legitimacy as well as direct, associative or participatory democracy, the classical concept of representative democracy at the European level is still only present through the European Parliament. Different forms of associative and participatory democracy are however, increasingly often called upon by European institutions (Commission 1992, 1997, 2001, 2002). The Draft European Constitution, and in particular Title VI, is the central document to analyse in this context.

Instead of concluding that the French tradition of democratic thought rejects the European form of participatory democracy as undemocratic, the present contribution proposes to take a closer look at the these two elements. In order to do so, the paper aims at analysing first the EU’s understanding of participatory democracy. The second part looks then at the apparent contradiction with France’s Jacobinic State. Finally, we will look at empirical evidence regarding state-society and in particular civil society, relationships in France. Organised civil society is increasingly numerous and requests access to decision-making processes. This leads to new debates among French political scientists, who see in new forms of political participation a first step to a transformation of French political representation. The paper will analyse if this seemingly new understanding of representative democracy leads to a specific conception of participatory democracy in France and make it compatible with the EU’s conception of it.

1. Attempts to transform the European Union in a participatory democracy

Scholarly and political literature criticises the European Union for its democratic deficit. Despite numerous reformative efforts undertaken by the European institutions, the main reproach made is linked to the absence of a functioning political representational system at the European level. To speak about political representation in the European Union is a daring venture. Not only because, as underlines Philippe Braud (1985), the stakes in analysing the concept of political
representation make every attempt to clarify the term conceptually difficult, but also because the notion of political representation is generally linked to that of representative democracy. The term of representation is usually studied under the angle of institutional and social capacities (Manin 1995) or it is connected with the idea of monopolising the access to positions of power (Gaxie 1993). Under this angle, elective representation constitutes the heart of the meaning; the central actors are political parties or better the representatives of political parties who are capable of creating identification amongst their public. Political representation understood in these terms seems problematic in the European context for at least two reasons. On one hand, if representation is only linked to the notion of elective representation, the analysis is restricted to two or three objects: the European Parliament, because its members are elected representatives and possess the right to represent the citizens directly, the Council of the EU and the European Council, and finally, the Committee of Regions and the Economic and Social Committee, which are characterized by an indirect representation of the EU members States' citizens. On the other hand, studies on public opinion (Cautrès 2001, Cautrès and Reynié 2001) show that even institutions endowed with the right of direct representation - in particular the European Parliament - are hardly capable of creating feelings of identification on behalf of the European citizens. The EU’s political system is described as one of multiple governance (Hooghe and Marks 2001), in which the numerous actors, public and private, interact in the decision-making processes at local, regional, national and European levels. Within this system, the representation of European citizens is assured directly by the European Parliament and indirectly by the Council. The central role that the European bureaucracy, namely the Commission, plays in the decision-making process compared to the European Parliament, understood as the only organism through which direct citizen representation is possible¹ raised numerous criticisms evoking a democratic deficit of the system.

Whereas studies insisted initially on the weakness of the legislative powers of the European Parliament, the absence of transparency in the processes of the policy-making or still that of an European identity, allowing the creation of an European demos (Kielmansegg 1996), the debate on the democratic deficit of the EC concentrates henceforth more and more on questions of accountability, diffuse control (Costa et al, on 2001; Saurugger 2003) or output legitimacy (Scharpf 1999).

Confronted with ever increasing criticism about its inherent democratic deficit, the European Union has reacted and calls increasingly often upon the European civil society in its institutional reform projects (Commission 1992, 1997, 2001, 2002; European Convention 2003). Linking civil

¹ Compared to indirect political representation provided through the Council of the European Union (Sherrington, 2003)
society to the European decision-making process is related to a new understanding of representation. Not only territorial representation is considered to be the basis of a democratic European political system, but new forms of representation based on elements stemming from deliberative and associative democracy make their way to the institutional and even constitutional debates in the EU. Direct civil society participation is seen as a means to decrease the so-called democratic deficit and bring the European decision-making process closer to the individual citizen.

Associative and participatory democracy as an answer to the crisis of representation?

Political representation understood as elective representation is a concept dating from the beginning of the twentieth century. Without going into the details of a history on representative government, it is important to underline that at the beginning of the twentieth century, the principle of representation was confronted with the reality of the number of people to be represented. To preserve a representative democracy entailed the emergence of an elite (Gaxie 1973). In the schumpeterian conception (1942), any political initiative stems from elite action as well as the regulation of political issues, and this not in order to exercise the will of the voters but to make decisions which are imperative. This fact is all the more central for the study of representation in the European Union as this “reduction of the democratic principles in the elective process is a requirement of functionality in a social system which definitively abandons the theory of public space” (Arcy and Saez 1985, 21). Thus, the political and academic debate on the emergence of an European public space is less linked to the logic of a traditional understanding of legitimacy by the representation of citizens than in a new conceptualisation of representation which emerged in the 1970s: direct representation of citizens. This form of political representation is linked to the idea of a crisis of traditional political representation. A number of general and structural problems seem to arise: a serious mismatch between increasingly global problems and an inadequate and undemocratic institutional structure at the supranational level; the complete incapacity and unwillingness and increasingly the lack of capability and power of strong states; and, finally, a serious lack of economic and social governance capabilities of governments relying on a limited set of mechanisms of political governance.

Linking civil society closer to policy-making processes implies a general concept of participative democracy. Without considering the totality of ‘democratic innovations’ (Saward 2003, 116), the
paper will concentrate on two contemporary ideas of democracy which are central for the understanding of the article’s ‘puzzle’: deliberative and associative democracy. Both consider civil society under the angle of a new form of political representation. Whereas official EU documents use the term of ‘participatory democracy’ (European Convention 2003), a closer look at its definition shows that the more appropriate term would be ‘associative democracy’ to understand the discussions regarding a European civil society.

Deliberative democracy has been the dominant new strand in democratic theory over the past fifteen years. This model, as well as the concept of associative democracy, arose out of the concern that dominant aggregative conceptions of democracy, which focus on voting and elections, were deeply inadequate. Instead, democracy must involve discussion on an equal and inclusive basis (Habermas, 1987). Deliberative democracy looks to transform people’s preferences through open and inclusive discussion, not merely to design electoral procedures to reflect them (Bohman, 1998). The communicative interaction and the taking into consideration of civil society are its central characteristics (Habermas 1978, 1987; Ferry 2000). According to this conception, a real public space, conceived along criteria of publicity and public discourse, would allow to establish the conditions of a complex participative democracy, where dialogue is continuously taking place between political authorities and public opinion, between scientific expertise and political decision-making. However, to realize this space of discourse and publicity, it is necessary to link it to the citizens. During the 1980s, we notice, as at the national level, an ascent in power of ideas linked to the concept of participative democracy at the European level. The concept is particularly critical vis-à-vis majority. There seems nothing especially worthy, in democratic terms, about an aggregate majority of views which simply reflect popular ignorance. On the one hand, the new approach deals with the rejection of the representation concept, defended by strong social groups, such as environmental movements, representing new values ignored by traditional political parties. On the other hand, this conceptualisation brought about mechanisms aiming at widening the participation of the citizens in political life and at fighting against the non-political masses (Murswieck, 1985). However, the studies of social movements show that contrary to the wish to reinstall a system of direct representation by including citizens in national decision-making, the new approach reproduces elitism inside the system. Only the most competent and experienced individuals, capable of presenting their expertise, are selected and become the privileged interlocutors of public authorities and therefore reproduce the cleavage between masses and elites (Arcy and Saez 1985). Whereas deliberative democracy concentrates in particular on the element of process: linking civil society to the deliberative process

\[\text{See Elster (1998), Eriksen (1994).}\]
and how to decide on the appropriate setting of deliberative forums, associative democracy is more interested in the element of the institutional framework that would allow civil society to participate in policy-making procedures.

The European Union, more than any other form of transnational governance, seems at present confronted with a dilemma which articulates between the efficiency of the system and the participation of its citizens (Dahl 1994, Scharpf 1999). Democratizing the European Union and strengthening the participation of the citizens in the process of policy-making must lead to a decrease of the Union’s efficiency. If, on the contrary, the efficiency of the system is improved, by establishing effective mechanisms to react to political problems which arise at the same moment at the national and international level, the participation of the citizens in the processes decreases.

If this analysis seems to become a reality at the European level, criticised as opaque and technocratic, it nevertheless presents a shortcut. Based on the premise of a majority democracy, namely a democracy of elective representativeness, this approach neglects the other forms of representative democracy. Several authors (Hirst 1994, Cohen and Rogers 1995, Bellamy 1999; Schmalz-Bruns 1995, Grande 2000) plead this cause strongly when they remind the existence of consensual and corporatist political systems. In the logic of this argument, the 'abnormalities' of the classic model of collective representation can be considered as 'modern' forms of democratic systems. According to theorists of neocorporatism, the narrow association of private actors in the policy-making processes is a means to assure the efficiency and the legitimacy of public policies. In the ideal-type originally developed by Schmitter, neocorporatism is a system of interest intermediation in which interest groups are part of a limited number of organizations, for which membership is compulsory. These are organized in a hierarchical manner and differentiated by branches of industry. They are acknowledged and, sometimes, created by the State which grants them a monopoly of representation in their specific sector in exchange for a certain control in the processes of selection of the leaders and formulation of political demands (Schmitter 1974). The State accepts the delegation of power for different reasons: For organizations the objective is to restrict, to discipline, to give responsibilities and to reach in greater predictability of behaviour in case of conflict which results from bureaucratization. In the case of pluralist interest groups to which the State grants public status and which obtain the right of self-administration, the main motive is delegation, devolvement and transfer of political demands towards an arena, which does not jeopardize the stability of the central government or the cohesion of one or several
parties in power. On the contrary, this type of delegation strengthens the State by helping it to reduce its overloaded agenda.

Within consensual systems, the central decisions are taken unanimously and the political process is more generally characterized by a consensual approach than by a search for majorities. From an institutional point of view, three characteristics should be underlined: Crucial decisions should be taken unanimously, territorial and political interests of public and private actors must be considered in the policy-making processes and, finally, institutional guarantees are foreseen to protect minorities in the case of the majority decisions. To guarantee citizens’ participation in these consensual and corporatist systems, one must take into account two options: on the one hand the strengthening of interest groups’ organizational capacities to control political power and on the other hand institutional checks and balances. Private organizations possess better resources than individual citizens, which can be used in the representation of their interests in the public sphere.

The model of associative democracy, by binding the neocorporatist agenda to the requirements of the theory of liberal democracy, assumes that interest groups can be at the same time instruments to improve the efficiency of policy-making and assure citizens’ participation. In situations where political parties do not supply adequate access to citizens in order to allow them to participate in the decision-making processes, interest groups can offer opportunities for such participation.

In their concept of associative democracy, J. Cohen and J. Rogers emphasize not only the capacities of management of associations in question, but also their potential contribution to the democratic order. So, associations can strengthen popular sovereign power and political equality, improve distributive equity, civil consciousness, economic performance and strengthen the capacities of the State. If their participation is beneficial, they nevertheless have to perform a certain number of conditions: associations have must cover vast domains of interest, which must be clearly defined; the groups involved are relatively encompassing with respect to potential membership; they must be capable of disciplining their members to whom they are accountable; they need a stable and generally accepted organizational structure; and, finally, they have to possess a quasi-public status which strengthens at the same time the power of the association over its members and its responsibility for the general interest (Cohen and Rogers 1995, 61).

While Cohen and Rogers’s vision of associational democracy is oriented more towards top-down state fostering of appropriate associations for making public decisions and public services, Hirst’s understanding involves considerably more genuine decentralisation and localism. In Hirst’s associative democracy the existing structures of liberal democracy would be supplemented, and in
some cases replaced by a range of new institutions, mostly local associations such as religious and cultural organizations, interest groups and trade unions. Publicly funded according to a formula reflecting the quality, coverage and character of their provisions, these associations would take over much of the delivery of welfare services (Hirst 1995; Hirst and Bader 2001). With respect to the direct – representative divide, associative democracy adopts and radically modifies elements of both in a new structure of representation and participation. The direct element is exercised not primarily through voting, but rather via participation in and through associational life. One’s needs are represented through associations which gain or lose materially according to how well they are perceived to serve the relevant interests.

However, these characteristics are only partially visible when one looks at the activities of groups of interest at the EU level. Private actors active at this level, and, in particular those trying to influence the decision-making processes are not solely associations. Empirically one observes national and European interest groups, organised associations as well as individual firms, which become increasingly numerous to choose the European level as their level of action (Cohen 1997, 1998). They do not only differ by their organizational shape, but also by their financial and social resources, their capacity to produce expertise and to obtain access to the community institutions as well as their unequal participation in the central European decision-making entities – committees. Even more so – the concept of associative democracy is put in jeopardy through the increasing professionalisation of interest representation, whose foundations can be found in the studies of political professionalisation (Saurugger forthcoming).

The EU - transforming to a participatory democracy?

As we have seen, the idea to make civil society participate in policy-making processes is not a new one. However, at the European level the Draft European Constitution is the first official document which uses the term «European civil society». Under Title VI, the project presents eight articles on the democratic life of the European Union. If Article 1-45 underlines that the functioning of the Union is founded on the principle of representative democracy, in differentiating between direct representation of the citizen by the European Parliament, and indirect representation by the European Council and the Council of the European Union, it is Article I-46 that is central to the question of civil society participation in the EU policy-making processes. The Article on “Participatory democracy” indicates that:

3 For an analysis of the emergence of the European civil society in working documents and declarations see Smismans (2003).
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 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 Constitution. A European law shall determine the provisions for the specific procedures and conditions required for such a citizens’ initiative.

Despite the innovative character of this article, a large number of questions arise which can be compared to the preparatory documents issued by the Commission and the Economic and Social Committee (ESC) (Smismans 2003). Despite the fact that the organised European civil society has influenced the European Convention to a certain extent, its participation does not correspond to the framework suggested by participatory and associative democracy approaches. Two specific problems must be underlined in this context. First, there is the problem of definition. According to the ESC, in a definition taken over by the Commission’s White Paper on European Governance (Commission 2001), ‘civil society organisations’ include the social partners; organisations representing social and economic players that are not social partners in the strict sense of the term; NGOs that bring people together for a common cause, such as environmental organisations, charitable organisations, etc.; community-based organisations (CBOs), i.e. organisations set up within a society at the grassroots level to pursue member-oriented objectives (e.g. youth organisations); and religious communities. This extremely large definition of civil society seems to be framed by the use of the term “representative organisations”. There is, however, an important difference in resources (social as well as financial) between business or professional organisations and civic associations. No measures are yet taken by the European institutions to allow for a balanced approach which would allow civic associations the same access as do have business organisations. The term of representativeness is equally problematic. No EU document defines the term of representativeness, which is left open to individual decisions. Is the central argument the number of members, the inclusiveness (associations of all member states) or its recognition as representative associations at the national level, which is extremely problematic in the French case, as we will show below. Finally, there is the problem of the term of consultation by “appropriate means” and by “an open, transparent and regular dialogue”. It is not clear how European institutions will provide for such an

4 Which reminds of the document published by the Commission in 1992, attempting to structure the dialogue with economic interest groups (Commission 1992).
consultation with representative associations and civil society. Their access is not regulated and it seems that the Commission in particular relies on the notion of an open and non-regulated dialogue to allow for consultation of a maximum of non-state actors. However, this non-regulation leaves the doors wide open for a much criticised opacity of decision-making processes. In absence of an access regulation for the organised civil society, the action repertoires and strategies providing for efficient interests representation at the European level remain the key elements for exercising influence at the European level. This absence of regulation seems to reinforce a situation in which groups possessing financial and social resources are privileged whereas small associations, may they be civic or small business groups, are not heard in the consultation process. It is therefore again only a part of the organised civil society which takes part in the policy-making process.

Thus, the premises of a participatory and associative democracy are not yet met by the project for a European Constitution. With regard to the concept of participatory democracy, understood in its Habermasian form, Article 46 does not allow for the creation of public spaces (François et Neveu 1999), where dialogue takes place continuously between public opinion, scientific expertise and political actors. Despite considerable efforts undertaken since 1995 (Saurugger forthcoming), participatory and associative forms of democracy are not yet created at the European level. The participation of citizens in the decision-making processes are still linked to the mastery of European forms of interest representation, which is strongly influenced by the EU institutions' need of expertise and legitimation, and less by the idea to create new forms of political representation at the European level.

However, compared to the EU’s conception of participatory democracy - as opposed to its empirical reality, French democratic thought is linked to the classical idea of representative democracy, leaving little space for civil society participation in the political sphere.

2. A historical heritage: France as a representative democracy?

In France, the principles of representative democracy give the State the mission to guarantee, above the interests of individuals and groups, the superiority of the general interest. There are numerous constitutional and legislative precautions to assure the respect of this ideal. Yves Mény lists four elements: «The elected representatives represent all citizens and not only the interest of a limited territory or a specific group, as it is forbidden for MPs to constitute interest groups or to become their advocates in the Assembly; ...; the access to civil service in France is organised
through competitive examination, and successful candidates gain the official status of a « titulaire » to exclude the interference of private interests in this civil service; finally the Conseil d'Etat has elaborated a severe jurisprudence which defines practically every governmental decision as general interest, and excludes, sometimes deliberately, all forms of contestation in defining them as private interests” (Mény 1986, 102).

In this sense, France is an interesting case for the concept of participative democracy in the European Union’s sense. France has for a long time been considered as a ‘civic desert’, compared with the vibrant community life of Anglo-Saxon and Scandinavian countries (Barthélémy, 2000, Laville et al, 2001). Their legal recognition came later than in the United States or other European countries. The spirit of the French revolution was to suppress all intermediary bodies between the citizens and the state, fearing the reconstitution of the Ancient Regime’s guilds and the development of factions distorting the general will. However, until the 18th century, professional associations dominate political life in France, as in other European societies. These associations were more interested to defend their established privileges than to conquer new rights. These professional associations and guilds are submissive to the authority of the king and have a legal status since the 13th century. Professional associations become increasingly generalised and form independent groups. Most of them exercised charitable functions. Mutual help associations only develop in the 18th century. At the same time, a new form of associations develops which attempts to influence the government in their favour: provincial academies, literary societies, philosophical and political associations fighting against slavery or anti-Semitism or in favour of religious liberties.

The first years of the French Revolution, extremely fertile for all kinds of collective action, extend these associative practices. Clubs of different sorts mushroom, and the right to assemble and establish societies is recognised by the Law of 21 August 1790. The political society represents a major innovation as an arena where citizens exchange views and learn how to do politics. Their numbers are impressive: the political society constitutes an essential element of the French Revolution and contributes to the emergence of political parties in general.

However, the proliferation of clubs and political societies worries the assemblies, first the constituent then the legislative one, in particular its right wing. The ‘Left’, despite its more individualistic character, seems to be more in favour of these associations and allows their existence. The double heritage of the Revolution, liberal – as far as the individual must not be influences by the corporations, and democratic – which means to give the citizen the right to participate, through voting, in political life, seems contradictory. Thus, the 1789 declaration of
rights does not proclaim the right to associate. The Le Chapelier law of 1791 forbids the establishment of associations. The decree of 18 August 1792 abolishes religious congregations. The Revolutions canalises the citizens' actions: Popular societies, which multiply after 1792 with support of the revolution government, are both linked to the exercise of Jacobinic power, and domesticated and controlled by it (Huard, 1996). For more than a century, all governments will see them as a threat to the social and political order and repress their development, the Right afraid these popular societies would strengthen the rising power of working classes and the Republicans anxious to counter the influence of the Catholic Church. The unions are condemned to go underground until the Waldeck-Rousseau law of 1884 and the totality of associative life is dependent on official authorisations, successive liberalisation and repression and thus on political arbitrary. State individualism and the obsession of maintaining order are the basis of democratic life in France. The Le Chapelier law symbolises the originality and the ambiguity of the French republican tradition. In order to justify the non-recognition of the right to associate, the liberals use the ideological argument in the line of Jean-Jacques Rousseau: Public opinion is essentially composed by the majority of individual opinions. Therefore, it would be harmful to create a distinction amongst citizens in authorising the establishment of private societies and in particular those of political societies, qualified as political corporations (Barthélemy, 2000, 41).

The legal recognition will only come in 1901 for associations, after some forty unfruitful attempts (Rosanvallon 2003). The law of 1901, still in force, is very liberal. It defines associations broadly as the contract by which two people or more put together their knowledge or their activity, with "another purpose than profit" (Article 1). They can form freely, they do not need to ask for an authorisation, they do not even need to be declared (Article 2). But only the declared associations are considered as legal entities, with the personnalité civile which entitles them to go to court, own property etc. Only religious congregations, in the midst of a fierce battle between the Church and the State, were kept under an even stricter control. The law will allow the development of the many associations that had appeared at the turn of the century. Or, the legitimations of associations does not proceed bottom-up, according to the subsidiarity principle, but top-down.

The criteria allowing recognition, according to the republican conception, is the educational character of the association: the 'good' association is being a 'school for democracy' and mirrors therefore the general interest.

However, despite this solid ideological and legal construction, the French State has never stopped establishing ambiguous relations with civil society associations. On the one hand, associations are rejected as we have shown above, on the basis of their contradiction with the general interest. On
the other, however, the State establishes very strong and dense relationships with a number of associations, where it is sometimes difficult to differentiate between public and private interests. (Mény, 1986).

Three attitudes regarding the refusal of consultation with the organised civil society, defined in a large sense, can be differentiated. The first type of attitude is to disqualify groups that use the action repertoire of protest, may it be pacifistic or violent: one does not discuss with the street. This strategy of ignorance or refusal is based on republican values: the exclusion of violence from the political sphere and the necessity to be representative. The peaceful attitude is often mentioned by groups that look for access to the policy-making arena in France. However, this refusal becomes problematic when we look at the groups considered to be representative such as the French farmers union FNSEA, which, despite its somewhat violent attitude, is always granted access to the political arena. The second type of attitude is based on the term of “disinterested activities”. According to the administration, only those groups can be granted access to the policy-making processes which participate already in the general interest that the French administration is thought to represent. This vision allows to exclude ‘trouble-makers’ from participation. For example, if a local association defends the interests of landowners and inhabitants, it represents a special interest and will have difficulties to be heard. The attitude of the French State seems to be ambivalent: hostile towards those groups that show their disagreement to clearly, and potentially colonizing towards the others. The only action repertoire accepted is that of consultation - again, protestation or mobilisation of citizens is rejected (Meny, 1986, 105). The third criteria to refuse access to an association is linked to its “non representativeness”. However, as at the EU level, representativeness is no defined by the French administration. Representativeness is generally based on the comparison of influence between different groups active in a more or less homogenous sector. The central elements are either membership density or voting, without, however, offering precise rules on how this representativeness should be acquired. Thus, the French State does not generally reject the inclusion of associations in the policy-making as long as they are defined as representative as we can see in the particular case of the management of the Welfare State. In France the representative unions and business associations administrate the employment agencies ASSEDIC, UNEDIC and ANPE (amongst others Lazar 2000).

Finally, the account of French public-private relationships would be inaccurate without mentioning a much more individualistic and tight knitted relationship known as pantouflage. It is characterised by the possibility of senior civil servants to leave the civil service to work in the

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5 The present French government offers a perfect example for this attitude. Prime Minister Jean-Pierre Raffarin underlined this when confronted with the artists’ protests: “It’s not the street that makes politics in France”.
private sector, mostly in public enterprises or former public enterprises. This particular relationship -“panouflage”- is linked to a form of French dirigisme made up of interventionist policies and top-down policy making processes. While dirigisme today is very much diminished (Cohen 1992), the movement of individuals between the private and the public sector is still very common. Vivien Schmidt portrays this particular relationship: “Business in particular, given CEO’s special access to decision makers as a result of personal relationships, old school ties and […] the membership in prestigious civil service corps, despite often having been portrayed as the victim of state dirigisme, has in fact managed to get its way much of the time” (Schmidt 1996). This form of public-private relationship can be considered as an other form of access of associations to the policy-making process. It is used by business actors – be it business associations or individual firms. Thus, as at the European level, one can distinguish between insider and outsider groups - those who have access and those whose access is denied, decisions mostly taken on the basis of the form of action repertoires used by the group.

With regard to the EU’s concept of participatory and associative democracy, the French understanding of democracy raises a number of questions. Vivien Schmidt underlines this contradiction in her work on the Europeanization of polities (Schmidt 2004). In the policy formulation process, the EU’s quasi-pluralist approach clashes in principle with statist systems’ foundational concepts of democratic participation and representation. In France, involving organized interests in policy formulation by way of pluralist processes offends French ideas prevalent since the Revolution that have viewed any such interest intermediation as illegitimate, since the State is to be the sole representative of the people, to act in the name of the collective will for the collective good. In Anglo-Saxon, Scandinavian and Nordic countries, interest intermediation interferes with notions of parliamentary sovereignty as embodied in the executive—although parliamentary lobbying is acceptable so long as the government keeps its distance. In practice, though, while theses countries interest involvement in EU level pluralism raises few real questions of legitimacy since interests have always had some voice in national policymaking, French interests’ experience of EU level pluralism can raise questions about the legitimacy of national policymaking principles that deny them access and voice in national policy formulation processes, especially when these involve EU-related policies.

However, a closer look at the empirical evidence shows that while the French conception of democracy might contradict the realisation of a European Union participatory and associative democracy, the French civil society is extremely active in participating in public debates.
3. A transformation of French democratic design?

As this article has shown, despite the hostile ideological and legal background, the French government and administration have never stopped establishing a large number of contacts with specific parts of civil society. However, instead of reinforcing the consistency of civil society vis-à-vis the State, the associations have helped the State to reinforce its hold of the civil society. This seems to change in the 1970, when a number of associations confronted the jacobine understanding of the State.

Civil society in France

The most spectacular associational boom started in the seventies, following the changes of the French society. In the wake of the New Social Movements, feminist, environmental, antinuclear, humanitarian networks were the first to grow. The rise of individualistic post materialist values also expanded the sports, culture and leisure sector. With the socialist victory of 1981, because foreigners recovered the right to associate which they had been deprived of in 1939, came a wave of associations defending the rights of immigrants and their children. With the 1982 decentralisation Act, associations gained more influence at the local level. Lastly, the economic recession and the emergence of the “new poor” led them often to replace the state in the sector of welfare and health. As Nonna Mayer (forthcoming) shows in her study, nowadays, some 70 000 associations are declared every year, three times more than in the sixties and ten times more than at the beginning of the century⁶ (CNVA 2000, 53-55). Of course many will not last, and their disappearance is not registered. In order to get a more precise picture, Viviane Tchernogog launched a large postal survey in 1 400 communes, giving a detailed account of 13 000 associations. On this base, she estimates the actual number of existing and active associations in France at 880 000 (Tchernogog 2001). The non profit sector in France compares today with its European counterparts, with a little over 20 million members, the equivalent of a million full time salaried employees and almost as many volunteer workers, and its operating expenditures constitute 3.7 percent of the gross domestic product (GDP) (Archambault 1999). The fields of culture and leisure, education and research, health and social services, represent alone 80 percent of the non-profit sector organisations (respectively 42, 16 and 23 percent) (Archambault 1999).

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⁶ The trend is just starting to slow down: in metropolitan France the peak was reached in 1996 with 64 918 creations, compared with 67 778 in 1995 and 62 897 in 1997 (CNVA 2000 : 53).
Nonna Mayer’s survey data confirm these global trends. According to the periodic surveys of the CREDOC conducted since 1979 on national representative samples, asking about membership in six types of voluntary associations, 43 percent of the adult population living in France belonged to at least one association in 1997, compared with one third in 1967 (Hatchuel et Loisel 1999). If one adds to the six groups of associations taken into account by the survey (sports, leisure and culture, religion, PTA, environment, professional unions) youth and students movements, consumers organisations, political parties and “other” associations, the figure rises to half of the French adult population (48 percent in 1999, compared with 31 percent in 1967).

European and international level influences

This general increase in the number of associations is accentuated by the European and international context. In most policy areas, empirical data confirms the creation of new groups (Grossman and Saurugger, 2004). These may respond to the transformation of the “capitalist” economy and the emergence of new types of political participation, but also less recent social, cultural or economic actors exploring new ways of political participation.

A good example is French trade unionism. Classic trade unions face external changes, such as the transformation of industry and diminishing salaries as well as endogenous factors preventing them from adapting to changes in the economy and in the society. The number of unionised workers has steadily decreased for the past two decades and there are very few young and female unionised workers (Labbé and Andolfatto, 2000). New forms of mobilisation emerge: the number of associations has doubled between 1975 and 1990 reaching 900 000 towards the end of the century (Barthélemy, 2000).

To some extent associations appear to remedy to the « crisis of representation ». Unlike parties and trade unions, the image of associations has improved significantly over the past 25 years. However, associations are extremely heterogeneous concerning their organisational forms as well as their will to become involved with politics.

As far as trade unions are concerned, the emergence of SUD (Solidaires, unitaires et démocratiques) is certainly one of the most significant examples. This trade union was born from internal opposition within CFDT, carried on by officials which had joined that trade union in 1968 and which belong to the extreme left. This opposition is related to the CFDT’s attempt to transform itself since the accession to power of François Mitterrand in 1981, to adopt a more co-operative negotiation style in order to become the primary partner of public authorities and employers. In 1985, the sectional groups at Air Inter is excluded from CFDT and becomes SUD aérien. It is
followed by postal sections, education, railways, ANPE (public employment agency), EDF and others.

The success of SUD is largely due to its ability to take into account the new needs of employees and to create new network-like structures, i.e. less hierarchy than in traditional trade unions. SUD is active in a variety of areas and participates in numerous initiatives such as those of A C! (Agir contre le chômage, an association against unemployment) or ATTAC (Association pour une taxation des transactions financières pour l’aide aux citoyens) the major French anti-globalisation group (Sommier, 2003).

The most significant innovation in this area, however is due to the « new social movements ». There has been a lot of work done explaining the emergence of those movements. Very often the latter are initiated more or less directly by public authorities. For instance, public authorities have created a roundtable in 1951 with different structures in the area of consumer defence, creating the Union fédérale des consommateurs, which obtains the statute of an official consulting body and exclusive competence in this area (Neveu, 2002, 112). In the area of environment, a similar evolution takes place, with associations being invited into governmental committees in order to enhance the legitimacy of certain policy objectives (Ollitrault, 2001). At the same time, a certain number of organisations emerge without any government input: the “sans” (the withouts) (Mouchard, 2002). There are especially the sans-emploi (without jobs) (Péchu, 2001), the sans-logis (without homes) or the sans-papiers (without papers)(Siméant, 1998), who materialise in associations such as Droits devant !!, created in 1994.

Those movements fight the extreme atomisation of society and defend human rights and fundamental social rights, such as housing, jobs etc. They are active not only at the national level but participate actively in the anti- or alter-globalisation movements in Seattle, Nice, Genova or Florence. They internationalise, in so far as they create networks and transnational contacts and organise transnational mobilisations. David Meyer and Sidney Tarrow (1998) show that the protest and the mobilisation of civil society is followed by a stabilisation and even institutionalisation process. Social movements thus become an action repertoire as such in public policy-making processes. Contrary to movements in the 1960s and 1970s, protest has become today a permanent form of action on the political scène. Its objective is not any more the rejection of a political system as a whole, but it attempts to influence very limited social or economic debates, such as the regularisation of the without papers (sans papiers) or the question of tariffs of medical consultation.
Influenced by economic internationalisation and European economic integration, a third type of actors has emerged as interest groups in France. Major firms are able to exploit the multiple access points to a political system without any need for collective action. Put differently, big firms do not need to rely on national federations but may access public authorities directly. A convincing argument is put forth by David Coen for the EU level. He underlines that European institutions dialogue with firms in order to obtain a different kind of legitimacy. The Commission instrumentalises firms in order to establish a privileged access to national governments\(^7\).

Thus, the arrival of new groups disturbs the longstanding relations between established interest groups and the state. New groups are, frequently, in direct contact with the international level, but stay also linked with the national level. Their increased flexibility to react when confronted with international and European challenges is an important advantage as we have seen in the case of large firms as well as social movements such as ATTAC.

Finally, do these changes influence the French understanding of participatory and associative democracy? We have seen that the hostility of the French democratic thought towards the organised civil society must be analysed as a complex relationship in which the State plays a colonizing role. Since the 1970s however, the French organised civil society becomes more numerous as well as heterogeneous, influenced by developments at the European and international level. This increase in numbers is also followed by a new self-understanding of non-state actors in France. Regarding the civic component of French civil society, one observes that, in speaking up in a rather anarchical way, the contestation movements disturb the established institutions, public administrations as well as traditional interest groups such as business organisations and trade unions. They are even more disturbing as they claim to conduct politics outside the established context. In the last five years, the French political parties have increasingly often created contacts with those new associations and linked them to social, economic and political debates. However, they are not (yet?), as requested by the theorists of participatory and associative democracy, linked to the decision-making process. More often then consulted they are heard through their protest. Therefore, one cannot conclude in saying that, despite this increase in numbers and eventually influence, one observes a reconciliation between the French and the European Union’s idea of democracy. This is linked to the still existing differences in the conception of democracy - in France, political representation is still seen as elective representation, whereas, since their creation, the European Union institutions have established close contacts with both civil and business associations. However, the EU’s understanding of

participative and associative democracy remains problematic, insofar as the precise consultation mechanisms are not explicit. The non-definition of representativeness, the large definition of civil society and the non-regulation of access might lead to a diffuse form of participatory democracy where social and financial resources remain key elements to the democratic process. This, however, is an explicit contradiction to the general understanding of participatory and associative democracy.

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