Towards a Constitution for European Citizens?

An Assessment of the Engagement of Organised Interests in the Constitutional Process

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Abstract

The 2001 Laeken Declaration recognises citizens’ demands for “good governance” and “for a clear, open, effective, democratically controlled Community”. Between February 2002 and June 2003, the Convention for the Reform of the European Union (EU) drafted a constitutional text aimed at bringing citizens closer to the European design and European institutions; organising politics and the European political area in an enlarged Union; and developing the Union into a stabilising factor and a model in the new world order. This paper investigates the participation of organised interests, by comparing the engagement of civil society organisations and business interests in the drafting of the new EU constitution. The aim of this analysis is to identify the challenges and opportunities that the constitutional process offered organised interests. Specifically, the following questions will be addressed: What were the policy preferences of organised interests? Is it possible to identify differences in the strategies and resources of these two sets of actors when trying to influence the debate? Does the inclusion of a new article on participatory democracy and a new article on the social dialogue reflect the ability of organised interests to shape the debate and influence outcomes? Is the Convention experience an exercise of good governance at work or just another example of managerial democracy? These questions will be answered against the background of empirical evidence derived from the contributions of the main business interest organisations via UNICE and the two main civil society actors, the European Citizens Action Service (ECAS) and the Civil Society Contact Group (CSCG).
Introduction

Organised interests have been involved in history-making decisions spanning throughout the process of European integration. The business sector has traditionally dominated interest representation at the EU level and “remain the best mobilised of all ‘outside interests’”.1 Yet, as Mazey and Richardson argue, business interests have not monopolised the consultation process since from the point of view of the European Parliament (EP) and particularly the European Commission, pursuing an exclusive policy towards interest groups would limit the robustness and workability of policy proposals and curtail its legitimacy: “the Commission recognises that relying on producer groups for advice, however technical and accurate it might be, is a risky business in terms of legitimacy”.2

The 2001 Laeken Declaration recognises citizens’ demands for “good governance” understood as “opening up fresh opportunities, not imposing further red tape” and “for a clear, open, effective, democratically controlled Community”.3 Between February 2002 and June 2003, the Convention for the Reform of the European Union (EU) drafted a constitutional text aimed at bringing citizens closer to the European design and European institutions; organising politics and the European political area in an enlarged Union; and developing the Union into a stabilising factor and a model in the new world order. During the Convention process, organised interests participated as observers. The Forum website was set up to allow organised interests to keep track of the Convention’s proceedings and to provide input into the debate. It was the Convention’s official attempt to consult beyond its own members thus on 24th-25th June 2002 plenary session Civil Society Hearings took place as part of the Convention proceedings. The European Economic and Social Committee (EESC) participated as an observer and it was proactive in organising meetings with civil society, which were attended by Praesidium members.

This paper investigates the challenges and opportunities that the Convention process and the constitutional treaty offer offered organised interests in Europe. Specifically, the following questions will be addressed: What were the policy preferences of organised interests? Is it possible to identify differences in the strategies and preferences of organised business interests and organised civil society when trying to influence the debate? Does the inclusion of a new article on participatory democracy and a new article on the social dialogue reflect the ability of organised interests to shape the debate and influence outcomes? Was the Convention experience an exercise of good governance at work or just another example of managerial democracy? These questions

will be answered against the background of empirical evidence derived from the contributions of the main business interest organisations through the Union of Industrial Employers’ Confederations of Europe (UNICE) and the two most visible civil society actors, the European Citizens Action Service (ECAS) and the Civil Society Contact Group (CSCG).

The paper will be divided into three sections:

- An analysis of the role of organised interests in the EU polity in order to ascertain whether they can truly contribute to a more open, transparent and legitimate Union.
- An assessment of the key priorities and contributions outlined by the two sect of actors this paper is concerned with: the main EU business interest associations (BIAs) represented by UNICE in the Convention proceedings and civil society organisations by focusing on most active actors: ECAS and the CSCG.
- Some concluding reflections on the challenges and opportunities for business interest in the post-Convention environment.

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3 European Council, *Laeken Declaration on the Future of the European Union, Annex I to the Presidency Conclusions*, Laeken, 14 and 15 December 2001, SN 300/1/01 REV 1

4 Namely the American Chamber of Commerce (AmCham) ERT (European Round Table of Industrialists), EUROCHAMBRES (Association of European Chambers of Commerce and Industry), EUROCOMMERCE (European Federation of Retailing and Distribution).

5 ECAS was created in 1990 as an international non-profit organization, independent of political parties, commercial interests and the EU Institutions. The association’s mission is to enable NGOs and individuals to make their voice heard with the EU. ECAS’ members cover different areas of activity in the EU and applicant countries: civil liberties, culture, development, health and social welfare.

6 The Civil Society Contact Group is the umbrella organisation for a number of social, environmental, human rights and development NGOs and the European Trade Unions Confederation (ETUC). Other active civil society organisations were: The Social Platform (www.socialplateform.org); The European Environmental Bureau (www.eeb.org); Human Rights NGOs network: Concord; The Development Sector NGO (www.eurostep.org); The Women’s Lobby (www.womenlobby.org); European Referendum Campaign (www.european-referendum.org).

7 UNICE is part and parcel of the consultation arrangements existing at the EU level, namely the Economic and Social Committee (ESC), the Standing Committee on Employment (SCE), Tripartite Conferences, the Social Dialogue meetings with the Troika of Presidencies and the Macroeconomic Dialogue, that allow for the participation of social partners in collective bargaining, whilst displaying a more cohesive structure. EUROCHAMBRES and EUROCOMMERCE have a secondary status and thus not always included in existing consultative procedures.
1. The Participation of Organised Interests in European Governance

As Dehousse argues, reflections on European constitutionalism must avoid two kinds of evils: statism which he defines as “the tendency to reason as if one could simply transpose at supranational level solutions experienced at national level” and “advocating a return to the good all days when national sovereignty, embodied in national parliaments, was the answer to all legitimacy concerns”. The debate about the democratic deficit of the EU has revolved around the output democracy paradigm, which regards the EP as the ultimate democratic institution and the democratic nature of the EU as being based on its ability to produce more efficient, transparent and accountable policies. However, this model is faced with a number of constraints when applied to the specific nature of EU polity, “a transnational entity [that] remains in limbo between a system of democratic governments and a democratic system of government”.

In this system of governance, the executive branches of government (i.e. the Council and the European Commission) that are secretive and unaccountable are the main decision-makers. Hence, the standard solution to the EU’s democratic deficit is an increase in the power of the European Parliament, which reproduces the method of democratic accountability in European nation-states. This argument was corroborated by the German Constitutional Court’s ruling on the Maastricht Treaty that depicted the European Parliament as “a source of additional democratic underpinning for the policies of the European Union”.

This logic reflects the importance of the representative democracy model in Western political thought, which in Dehousse’s view is “analytically-weak and ill-adapted to the specificity of the European Union”. In fact, representative democracy in the EU suffers from a number of normative and structural weaknesses namely: a) the EU is not a state but a hybrid system of variable networks, operating at different levels, and with institutions that consist of diverse actors with divergent interests. Political environments are fragmented and the political process does not operate in a stable equilibrium; b) there is not a common European identity, people’s primary allegiances remain to their states; c) the development of a pan-European debate is hampered by the absence of a common language, wide-European media, and truly European political parties; d) there is not a European demos but a plurality of demoi, hence a purely majoritarian system is difficult to conceive; e) the legitimacy of the supranational institutions is not endorsed by the

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8 Dehousse, Reanud “Beyond Representative Democracy” in J.H.H. Weiler, and Marlene Wind (eds.) European Constitutionalism Beyond the State, Cambridge: Cambridge University Press, 2003, pp. 139-140.


10 Case Nos. 2BvR2134 and 2159/92, 12 October 1993 as reproduced by Dehousse, Reanud op. cit. p. 136.

11 Dehousse, Reanud op. cit. p. 136
electoral process; f) the decision-making process remains obscure and afoof.12 Along a similar line of argument, Majone maintains that the EU is a regulatory state that does not engage in redistributive policies and whose policy-making system would be isolated from the standard process of democratic policies.13 From a different perspective, the intergovernmentalist argument also questions the validity of the traditional representative model suggesting that the fact that national governments retain the ultimate decision-making power in the EU is a democratic feature of the EU since they are accountable to their national parliaments.14

In his assessment of this debate Magnette argues that in the context of the EU, it is very unlikely that the accepted notion of civic participation can be extended “beyond the well-established and constantly declining procedures of representative democracy”.15 In his view, while participation is meant to enhance the efficiency and legitimacy of European governance, it is generally understood by both the academic and practitioner communities in very limited terms: “it will probably remain the monopoly of already organised groups, while ordinary citizens will not be encouraged to become more active”.16 This simply reflects not just the difference between the EU and national democracies but also crucially a conception of participation, which does not go beyond the consultation with stakeholders. Nevertheless, although not ideal, this concept of participation does not mean that the system is undemocratic, and Magnette17 outlines four characteristics that define the democratic nature of this “elitist” approach to participation:

- Active citizenship is rarely widespread in Western societies.
- All citizens benefit from the mobilisation and vigilance of the more active citizens among them.
- It can contribute to enhancing the accountability of the EU.
- This approach responds to a wider tendency in the Western world towards a “continuous democracy, combining electoral rights with new kinds of participatory patterns [which] is a global evolution that cannot be ignored by European institutions”.

The role of organised interests in helping overcome the constraints of representative the EU level should be placed at the core of this debate, especially bearing in mind the actual wording of article 46 which combines dialogue with stakeholders with citizens’ initiatives and both the

12 Dehousse, Reanud op. cit. pp. 137-139.
dynamism of the debate amongst scholars and practitioners alike and the key role played by organised interests in the policy making process. Lobbying as a means of influencing the formulation and implementation of European policies has a long tradition. After the creation of the European Economic Community in 1957 it became evident that supranational decisions were inevitable, and that therefore, interest groups would need to engage in lobbying activities at the EC level in order to influence the shape and direction of large scale policy outcomes. Europe-wide pressure groups were created and their strategies incorporated all levels of the EC policy-making process.

By 1970, more than 300 Eurogroups could be identified in Brussels. The implementation of the Single European Market in the 1980s saw an enormous proliferation of interest group activity in Brussels and Strasbourg. In 1986, Grote identified 654 groups while Mazey and Richardson identified 525 by 1990. In the early 1990s, up to 10,000 lobbyists were believed to be active in Brussels, including national interest groups, company representatives, commercial lobbyists and public interests. New actors emerged in the Brussels arena such as the first subnational entities of government (regions and cities), intermediaries representing national ministries of the member states, large companies from Europe, the US and Japan, NGOs and professional lobbyists. This explosion in numbers initiated a progressive overcrowding of the EU’s interest representation arena and strengthened the creation of issue specific and ad hoc coalitions.

In its 1993 Communication on “An Open and Structured Dialogue between the Commission and Special Interest Groups”, the Commission acknowledged the existence of 3,000 interest groups trying to

exercise their influence in Brussels.\textsuperscript{23} In January 1997, a first version of a directory of special interest groups was published comprising more than 600 non-profit organisations working at Community level and covering approximately 100 branches of activity.\textsuperscript{24} At present the electronic version of the directory features 800 associations.\textsuperscript{25} This figure is also contested. Recent research by Greenwood identifies 1,450 associations.\textsuperscript{26}

Drawing on empirical data and public policy analysis, Mazey and Richardson\textsuperscript{27} distinguish four factors explaining this growth in the number of organised interests present in Brussels, namely: the Commission’s constituency mobilisation strategy, the interest groups’ risk avoidance approach, their preference for Euro-level solutions, and the development of opportunity structures. Firstly, the Commission’s constituency mobilisation strategy is a feature common to most developed democracies, where bureaucracies assist the emergence and creation of interest groups. This approach is consistent with neo-functionalist models of European integration which regard EU interest groups as the driving force behind Europeanisation, as the transnational character of their activities fosters the creation of a transnational European community, even a European community of interests.\textsuperscript{28} Secondly, Mazey and Richardson argue, “lobbying creates more lobbying”: interest groups will mobilise in order to avoid leaving public policy space to the monopoly of rival interests. In the same manner, joining a European association responds to the risk of an unwelcome group decision derived from non-membership. Thirdly, organised interest groups, particularly those with a transnational interest, demand more transnational regulation “as it facilitates efficient (and increased) transnational exchange”.\textsuperscript{29} This Europeanisation of the regulatory process, while increasing the importance of the EP, the European Commission, the Council of Ministers and the European Court of Justice (ECJ) as lobbying targets, does not preclude the dismissal of domestic actors as lobbying targets. Quite the contrary, there is not a dominant European route of interest intermediation; and organised interests develop a multi-tier

\textsuperscript{23} Commission of the European Communities, \textit{An Open and Structured Dialogue between the Commission and Special Interest Groups}, SEC (92) 2272 final, Brussels 1992, (93/C63/02) OJEC 5-3-93, p. 4.

\textsuperscript{24} The information is provided on a voluntary basis and the directory does not restrict the access of Commission officials to interest groups but, on the contrary increases their awareness of the importance of consulting interest parties more systematically. It also raises the profile of certain organisations that are less well known and therefore less frequently consulted.

\textsuperscript{25} Commission of the European Communities, \textit{Directory of Special Interest Groups} http://europa.eu.int/comm/secretariat_general/sgc/lobbies/repertoire/indexrep_en.htm


\textsuperscript{27} Mazey, Sonia and Richardson, Jeremy 2001, op. cit., pp. 218-233.

strategy which reflects the fragmented and disaggregated character of EU policy-making, the existence of multiple actors involved in the formulation of policy and its increasing flexibility. This system of multi-level bargaining confronts interest groups with a tremendous challenge. The “target structure” is fragmented. The main problem “is not the shortage but the over-supply of potential routes to power”. Therefore, the EU reveals a scenario where power is fragmented and public decision-making bodies are integrated into shifting networks of joint decision-making, characterised by uncertain agendas and unstable procedural rules. Mazey and Richardson maintain that this uncertainty provokes a promiscuous behaviour amongst policy actors. Thus interest groups exploit and sometimes create new opportunity structures, which they believe will maximise their ability to influence public policy to their advantage.

The breadth, wealth and importance of interest representation at the EU level explain the identification of a “European model of interest intermediation”, which “has both transformed national policy-making systems and fundamentally changed the roster of actors who constitute the power elites in Europe”. Kohler-Koch argues that

Whenever regulatory competences are shifted onto the EC-level, the heterogeneous national arenas will lose their importance and be substituted by a far more homogeneous set-up which then will develop its own ‘logic of influence’. At the same time it could be assumed that growing economic interdependence and the increasing harmonisation of legal frameworks will ensure that the ‘logic of membership’ will also develop similar characteristics.

Along this line of argument, Greenwood notes that there are five categories of core issues, which make up the logic behind interest aggregation in Brussels. (i) Regulation, concerned with restriction and governance of activities, usually on public interest grounds; (ii) Promotion, such as the promotion of industrial application of key technologies: (iii) Integration, such as measures aimed at ensuring free and fair competition within the Single Market; (iv) Funding, being able to bid and receive European funding and; (v) Enablement, where responses are made to pressing problems with support measures. These categories are not mutually exclusive and they may well overlap.

34 Greenwood, Justin Interest Representation in the EU: Demos Rules OK?: Arena Research Seminar, April 8th 2003a.
From a different perspective, Dehousse regards the work of organised interests at the EU level as a means towards promoting more consultation and openness, which might improve public awareness and contribute to the emergence of a pan-European public sphere. Several critical analytical questions arise from the recent governance debate, including: who gets involved in these proposed new modes of governance; how representative are these processes; what forms of participation are feasible at European cross-national level; how can efficiency and legitimacy be ensured; and what is the connection with traditional representative decision-making? In this context, recent debate on the role of organised interests at the EU level focuses on: the potential of the European Economic and Social Committee (EESC) as the institutional forum for consulting, representing, informing and expressing the views of organised civil society; the changing patterns of interest representation; and the potential for Europeanising civil society. In this context Warleigh argues that

The EU requires a set of actors from outside official circles (and with widely perceived legitimacy) to demonstrate the value of engaging with EU decision-making process, to train citizens in relevant skills […] and begin, or more optimistically continue, the process of generating transnational solidarity through the construction of cross-border supporter bases.

Similarly, the EU itself has emphasised the importance of rendering EU policies and decision-making processes more accessible and open to civil society and the wider European public, in order to ensure their quality, relevance and effectiveness. Particularly the European Commission’s White Paper on European Governance develops the emergence of the ‘governance’ agenda in European public policy- and decision-making. New modes of governance, based on networking among stakeholders and a stronger articulation of the interests and stakes of citizens and consumers in the policy process, have been proposed as an extension of traditional modes of government, based on hierarchical, state-led decision-making processes. The White Paper on European Governance has given weight to this emerging agenda by making proposals, and thus stimulating wider debate; about what policy

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35 Renaud Dehousse, op. cit. 151.


deliberation and decision-making processes should and could look like in an enlarged and integrated EU.\textsuperscript{39}

In a parallel effort the European Commission has developed CONNECS (Consultation, the European Commission and Civil Society),\textsuperscript{40} a database to foster consultation with organised interests. Similarly, in relation to science and technology, the Commission’s\textit{ Communication Towards a European Research Area} (point 7.1) calls for the establishment of platforms for dialogue between researchers, civil society actors and citizens, in order to tackle the often problematic relationship between science, technology and European society. However, despite limited exceptions it seems apparent that organised interests (whether civil society or business organisations) may not be acting as bridging between the EU institutions and the citizens in the member states. At a time when “initiatives to reach out to the wider society have taken a rather perfunctory character and have failed to reach much beyond the established European political in-crowd”\textsuperscript{41} the observer role of the EESC and UNICE and the framework of the Forum provide a potential scenario for the socialisation between organised interests and their constituencies which could ultimately facilitate citizen engagement with the EU. Moreover, the non-exclusive introduction of the principle of representative democracy (art. 45) and the principle of participatory democracy (art. 46) may illustrate the EU’s attempt to strengthen its legitimacy and cure the democratic deficit by securing every citizen’s right to participate in the democratic life of the Union through the electoral process and the regular dialogue with representative associations and civil society. Section two of this paper will highlight some of the business sector’s initiatives to promote a participatory model of democracy at the EU level.

2. Organised Interests: Key Priorities and Contributions to the Constitutional Process

This section of the paper, assesses the priorities and suggestions to the draft constitution presented by business and civil society organisations. This analysis will be informed by the extent to which the debate captured the attention of organised interests and their ability to produce a


\textsuperscript{40} The database for Consultation, the European Commission and Civil Society (CONECCS) is part of the Commission’s commitment to provide better information about its consultation processes. It offers information about the Commission’s formal or structured consultative bodies, in which civil society organisations participate. And a directory of non-profit making civil society organisations organised at European level. The directory is established on a voluntary basis and it is intended only for information. Inclusion in the directory does not constitute any recognition on the part of the Commission. http://europa.eu.int/comm/civil_society/coneccs/index_en.htm

\textsuperscript{41} Crum, B. Laying Building Blocks or Just Window-Dressing? - The First Half Year of the Convention on the Future of the EU, 2002 http://www.euractiv.com/cgi-bin/cgint.exe?204&OIDN=250498
coordinated response. As Wallace argues “the patterns of participation and attempts to influence policy are characterised more by competition among the varying interest than by successful collusion”.42

Civil Society: Key Priorities and Contributions to the Constitutional Process

The Convention set up a forum in the form of website where the views of civil society were displayed. A number of contact groups were established on issues such as social policy, the environment, regions, human rights, development, culture, academia, citizens and the institutions. Spokesmen for each group made proposals to a hearing of the Convention in June while a youth convention produced a declaration. However, the general perception amongst representatives of civil society was that despite the forum and the contact groups, old fashioned lobbying was still the only effective way to get result while the hearings with civil society involved mainly the Brussels establishment and produced few ideas.43

The most active civil society organisations were the European Citizens Action Service (ECAS) and the Civil Society Contact Group (CSCG). The CSCG sought to work with the Praesidium to ensure more effective consultation with civil society. The Group launched a pan-European civil society campaign, called "act4europe", in order to raise awareness amongst civil society actors and the general public about the significance of the Convention and the renegotiation of the Treaty. The priorities of European civil society in view of the Convention were outlined in June 2002 through a Common Statement from the NGO members of the Civil Society Contact Group.44 These included:

- The EU should become a clear and unified voice for peace, justice, equality and solidarity within the EU and throughout the world. Thus the EU should promote a sustainable development in which the social and environmental dimensions will be in equilibrium with economic considerations, both in its domestic and international policies.

- The EU Charter of Fundamental Rights should be improved and incorporated in the Treaties. The EU should accede to the European Convention on Human Rights, to the revised European Social Charter, and to all other relevant regional and international human rights instruments.

- The role of all actors of civil society in promoting a greater participation of citizens in the building of Europe must be recognised. An article should be proposed on the civil dialogue directly between citizens and their organisations and the decision-making bodies of the Union, alongside the existing social dialogue.


43 ECAS, 50 Questions and Answers on the Treaty Establishing a Constitution for Europe, Brussels 2005, p. 11
The new Constitution should ensure gender equality and fight all forms of discrimination.

The EU must ensure that decision-making processes and institutional mechanisms are accountable, democratic and transparent in order to ensure the effective delivery of its objectives.

The Convention should continue to consult with all actors of civil society so that its recommendations can count upon the widest possible level of support across the European Union.

Civil society’s assessment of the Convention proceedings and the resulting constitutional text are less positive than that of the business community. Civil society identified a number of problems in its ability to influence the Convention proceedings. The CSCG acknowledged the many efforts made by Convention members who spoke out for and supported demands from civil society organisations. However, in the future, we believe transparency could be further improved and the dialogue with civil society has to be better organised and more regular.

According to ECAS

The approach to civil society was too controlling and not sufficiently enabling and at arms length, resulting at times in a fractious and artificial dialogue. Clearly lessons for the future need to be drawn by politicians but also by NGOs.

Of particular concern was the Convention’s cautious approach to civil society. According to the 1st informal meeting of the Praesidium on 22 February

Hearings should be organized on the basis of a structured approach (selection of participants and focus on specific issues) and two members of the Praesidium should ideally participate, together with M. Dehaene, in each hearing.

ECAS suggests that the Forum was used as a substitute for real dialogue, thus before the June hearings with civil society that

While it was felt unwise to take any commitment at this stage for a second session devoted to civil society, it was agreed that Chairmen of contact groups might indicate, if necessary, that further meetings of contact groups could be organised. In any case participants in contact groups should be reminded that they may submit written contributions to the Forum web site.

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44 Civil Society Contact Group, A Common Statement from the NGO members of the Civil Society Contact Group, 24 June 2002.

45 The analysis below draws on ECAS, European Citizens’ Initiatives, Brussels, November 2004 and Civil Society Contact Group, The NGO members of the Civil Society Contact Group Assess the Outcome of the European Convention, 17th June 2003, Brussels.

46 Civil Society Contact Group, The NGO members of the Civil Society Contact Group Assess the Outcome of the European Convention, 17th June 2003, Brussels

47 ECAS, ECAS Demands more openness in finalising the Constitutional Treaty - 1/09/2003

48 ECAS, ECAS Demands more openness in finalising the Constitutional Treaty - 1/09/2003
According to the CSCG the Convention achieved limited progress in establishing the EU as a voice for justice, peace, equality and solidarity and, committed to eradicating poverty. While the Union’s objectives and the general provision on external action showed some progress, development co-operation and humanitarian aid have been subordinated to the security agenda the lack of unity in foreign policy was regarded as hampering the EU’s effectiveness on the world stage to achieve justice, peace, equality, and solidarity. Moreover, the Constitutional Treaty (CT) is regarded as being too focused on the single market and economic goals, without recognising fully that the economy should be a tool for the promotion of social integration and the protection of the environment.

Civil society viewed the incorporation of the Charter of Fundamental Rights into the Constitutional treaty as a significant success while the commitment to the European Convention on Human Rights helps compensate the Charter’s weaknesses although commitment to the European Social Charter and to other international human rights instruments would have been welcomed. The CSCG’s main concern relates to the EU’s ability to implement those principles.

Civil society perceived the incorporation of article 46 as a response to widespread calls from civil society […] recognizing its role as a complement to representative democracy and the social dialogue.

The Article is a welcome step forward. According to ECAS, the incorporation of the principle of participatory democracy in the Constitutional Treaty is a major improvement in the managing of the democratic life of the EU since it makes a practice that has been part of the Union’s rhetoric legally binding. Yet the CSCG points out that it is not sufficiently clear in committing the EU to engaging in a guaranteed and structured dialogue with organised civil society. Furthermore, the provisions concerning the Commission’s consultations with civil society remain too vague and open to minimalist interpretations. ECAS has called for the Commission to engage in early and wide consultation with stakeholders before ratification ends while drawing its proposals from similar experiences in nation-states.

The incorporation of article 46 should is not a panacea to remedy the EU’s democratic deficit. ECAS warns that the citizens’ initiatives in particular may not fulfil expectations because they represent a demand from the bottom-up rather than the top down, based on motivation for the cause of Europe and a way of bringing the EU closer to the
citizens; and could contradict each other, or be used to stir up a public controversy beyond their stated purpose of be seized on as a weapon by the extreme right.

Moreover, while the right to suggest policy initiatives to the Commission may allow citizens to agenda-setters, clearly not all items in the EU agenda lend themselves to this approach. At the same time, for over one million signatures to be collected from a significant number of countries, there has to be a genuine European public opinion over a policy issue which would be relevant to European citizens across countries. The collection of signatures could be time consuming unless, it is an issue that gathers sufficient popular attention. According to ECAS, focused single issues may gather more attention that general issues. While the issue should affect a sufficient number of citizens within the relevant member states to make up the 1 million signatures required. This requirement will affect the choice of issues and the way in which they are presented. As ECAS suggests it is “precisely in such areas where there is a rare link between concerns shared by large numbers of people and the EU’s capacity to legislate, that citizens’ initiatives are likely to emerge”. Thus it could be expected that the citizens’ initiative may be rare as method behind legislative initiative.

The implementation of article 46 will need to account for other issues such as whether there should be a time limit to the period required for the collection of signatures as well as to the time provided to institutions to response. What kind of amendments should the Commission be able to make? ECAS argues that while the Commission should make technical amendments it should not change the substance of the initiative. Could the Commission refuse citizens’ initiatives? ECAS maintains that the Commission could refuse citizens’ initiatives only on the basis that it would violate the fundamental principles of the constitutional treaty, these being defined as “the four internal market freedoms; respect for fundamental rights; equal treatment between men and women; the general anti-discrimination clause and the obligations of integration in areas such as environmental consumer protection”.

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50 1 million signatures (0.28% of population in the EU) below the constitutional requirements for similar initiatives in MS where the population requirements ranges from 0.26% in Slovenia to 10% in Latvia.
51 ECAS 2004 p. 7.
52 ECAS 2004 p. 8.
suggest the involvement of the EP in assessing the citizens’ initiative since EP has experience in assessing petitions but it would also secure the prominence of representative democracy over participatory democracy as established in the constitutional treaty.

A major disappointment for organised civil society was the refusal of the Convention to include the right to access to justice via the European Court of Justice for citizens and their organisations: “Access to justice is an essential element of participatory democracy”. Yet the appearance of equality in the values of the Union was welcomed, as well as the inclusion of non-discrimination and equality between men and women as objectives in the horizontal clauses in Part III. Yet civil society was concerned that the Convention failed to introduce QMV and co-decision for measures to combat discrimination.

Regarding the establishment of an accountable, democratic and transparent decision-making processes, civil society recognised that while the Convention improved transparency in the functioning of the Council and strengthen the role of the EP by expanding co-decision, the Convention should have gone further in turning the EP into co-legislator for all policy areas.

**BIAs: Key Priorities and Contributions to the Constitutional Process**

Historically, the business sector has dominated interest representation at the EU level. The best-known example is the ERT’s role as the engine behind the Single Market while industry round tables were set up in the 1990s to achieve priorities in key areas. Similarly, the Commission regards large firms as powerful allies for agenda-setting and policy purposes, to enhance its credibility and legitimacy and to influence member state positions towards integration. Nevertheless, the influence of BIAs should not be exaggerated. As Greenwood argues

Despite the close relationships between the Commission and private interests there is little guarantee that the partnership can prevail through the Parliament and on to legislation agreed in the Council of Ministers [Moreover] Business now has to grapple with change agendas such as Corporate Social Responsibility, and to share the EU agenda with public interest NGOs.56

The Convention process offered BIAs the possibility of expressing opinions and providing suggestions on wide-ranging issues regarding European Integration. This broad collection of issues affected the strategies undertaken by business organisations which had to depart from the ordinary approaches to lobbying and consulting with EU institution on narrowly based policy

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55 Civil Society Contact Group, *The NGO members of the Civil Society Contact Group Assess the Outcome of the European Convention*, 17th June 2003, Brussels

56 Greenwood, Justin, 2003a, op cit.
As argued by Crossick and Allio while business interests contributed constructively to the Constitutional Convention they are less inclined than their American counterparts to involve themselves directly in constitutional activity. The implications of Treaty reform are essential for business interests since they define the overall political environment and the specific sectoral environments in which European business operates (Pérez-Solórzano 2004). Consequently, the four leading multi-sectoral business organisations in Europe made their views known, before and during the Convention, on both the institutional and policy issues. The leading business organisations strongly supported the creation of the Convention as a means to further enhance European integration. As it will be revealed below they contributed actively to the debate and welcomed the final text.

Business interests were represented in the Convention proceedings by the then President of UNICE, George Jacobs who participated as an observer contributing to plenary sessions and working groups. The key business priorities for the future of the EU included:

a. Liberty, democracy, respect for human rights, diversity, fundamental freedoms, rule of law and social cohesion should remain the basis for further European integration.

b. The Convention must strengthen the EU institutions while clarifying values and objectives, general competences, decision-making procedures and division of power, with the aim to create rapid, foreseeable, transparent decision-making procedures that guarantee democratic participation. In view of the ERT, a growing lack of “unity of purpose” at EU level and slow decision-making in areas crucial to business negatively affect the competitiveness of companies operating in Europe.

c. The EU should deliver a business friendly environment by furthering economic growth, social progress, high level of employment, and a balanced and sustainable development based on market economies. These would allow companies to compete, and adapt to the increasing challenges of globalisation. UNICE outlined four specific objectives:

- strengthening European competitiveness, adaptability to structural change and improvement of employment prospects;
- strengthening Europe’s economies and full realisation of EMU’s potential;

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60 ERT, the European Round Table of Industrialists is a forum of around 45 leaders of large companies of European parentage operating internationally. Its “core” mission is to promote the competitiveness of European industry in international markets. The ERT expresses views, therefore, on major issues affecting the conditions that are essential to a proper EU environment for successful business operations.
enlargement of the EU without distortion of the Internal Market;

strengthening Europe’s role on the international stage.62

d. The principle of participatory democracy is a keystone of European integration. Thus a targeted, systematic, structured and representative system of consultation that takes account of the new socio-economic components of Europe should be put in place. The Convention should communicate and raise the awareness of citizens and businesses of the objectives that it is pursuing, while fostering dialogue with civil society.

BIAs offered the following proposals for the implementation of the priorities outlined above:

1. Efficient and Transparent Decision-Making Process. The new Treaty should strengthen the basis for Europe’s competitiveness to secure the achievement of the ‘Lisbon’ goal, making Europe into a highly competitive, knowledge-based economy by 2010. The political conditions for enhancing competitiveness must first be created through fast and effective decision-making. To this end, the EU should develop a more reliable and flexible legal and administrative framework.

UNICE advised the EU to focus on those core tasks that could be best resolved at Community level namely trade and customs union, monetary policy, consolidation of the Internal Market, competition policy, environmental protection, common representation in the global economic stage, common foreign policy, asylum and refugee policies, fight against international crime.63 Regarding the distribution of competencies, BIAs called for further respect for the principles of subsidiarity and proportionality. UNICE proposed the creation of an independent body entrusted with the task of reviewing the observance of the subsidiarity principle.64 The ERT suggested the definition of an independent subsidiarity test to be applied “quickly and early in the decision-making process”.65 UNICE highlighted the dual nature of the subsidiarity principle. Subsidiarity has a vertical (territorial) and a horizontal (functional) dimension. Hence, it should not be assessed only in the context of the distribution of competencies amongst levels of government, but also in the context of the distribution of competencies amongst actors with specific expertise. In UNICE’s view,

Functional subsidiarity means that when an action is justified at EU level, there is a need to assess whether the objectives of the proposed EU action cannot be achieved by other actors than the EU institutions (e.g. agencies, social partners and other representative actors of the civil society agreeing among themselves how best to reach a given objective)66

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63 UNICE, op cit. 2002
EUROCHAMBRES’ proposal, however, focused on the vertical character of subsidiarity while highlighting the impact of policy implementation on aspects of diversity.

The impact and results that a policy has depend essentially on the manner in which it is applied, on the propensity to take into consideration cultural and sociological particularities as well as on the diversity of the local and regional situations, while respecting the constitutional rules of the Member States.

BIAs supported an independent and strong Commission able to retain exclusive right of initiative for legal proposals while reinforcing its role in monitoring the implementation of EU legislation. Additionally, the Commission should implement more effective and transparent administrative procedures that ensure preservation of the rights of companies. As explained by the ERT, business relies on a strong European Commission applying efficient working methods as the only sure source of the policies needed to further develop the Single Market. Finally, the Commission’s authority and legitimacy should be strengthened by a more democratic nomination process.

EU business associations asked for a more efficient distribution of competencies between the European Council and the Council of Ministers. Hence, the European Council should set strategic medium and long-term objectives for the EU; while the Council of ministers should take more decisions rather than referring them to the European Council. In this context, EU business associations called for an extension of qualified majority voting (QMV) to all areas relevant to cross-border business in Europe as well as to external economic relations of the Union. According to UNICE unanimity should be reserved for social policy matters and new policy initiatives in the field of taxation. Regarding the European Parliament (EP), the ERT acknowledged that, "the EP’s own complicated decision-making procedures should be simplified and made more transparent. They confuse everyone - politicians, citizens and business alike". The ERT asked the Convention to ensure distinct roles for the European and national parliaments, while promoting closer links between MEPs and their constituency. Ye the ERT did not support an

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67 EUROCHAMBRES, the Association of European Chambers of Commerce and Industry was founded in 1958 with the aim of representing the interests of the European enterprise. Today it represents 34 National Chamber Organisations, 1,300 Chambers of Commerce and Industry, and 14,000,000 enterprises, and has established links with EFTA and the associated countries. Through its structure, EUROCHAMBRES guarantees a pan-European coverage, reflecting the interests of the European business community. The association of chambers of commerce performs three main tasks: it represents and informs the member chambers; it improves their ability to network; and it provides services. It is a second-level social partner that participates in the Social Dialogue.


increased involvement of national parliaments’ in European process is to exert democratic control over their national representatives at Council level”. 71

Business argued that the European Court of Justice (ECJ) should be given additional resources while fast-track procedures should be put in place. UNICE suggested the creation of specialised chambers such as an Intellectual Property Court. While acknowledging the role of the ESC as the forum for civil dialogue, UNICE called for a clear distinction between civil dialogue and social dialogue. The latter being an autonomous process between the social partners and that takes place outside the ESC. Additionally, UNICE asked for ESC opinions to be available at an early stage of the legislative process. 72

2. A Business Friendly Environment. BIAs proposed a lighter regulatory framework and a better use of self and co-regulation. The target set by the European Council in Lisbon in March 2000 was to make Europe the most dynamic and competitive knowledge-based economy in the world by 2010. Therefore a commitment in the Constitutional Treaty to European competitiveness in the globalising economy was an essential priority. In this context, UNICE’s suggestions featured the creation of specific mechanisms to better assess the impact of regulation, namely a independent institution that would examine

the need for EU regulation, its economic impact, and its added value to the functioning of the internal market. This body could also have a role in the deregulation process by regularly checking the effectiveness of existing regulation. 73

In line with a recommendation by UNICE all business associations coincided in proposing mechanisms to test Community regulation before it comes into force. EUROCHAMBRES offered specific guidelines to be followed: “to analyse the socio-economic consequences of its application; to identify who is targeted and to what extent; to assess the effects of this proposal on national laws”. 74

3. Increased Consultation to Bring Europe Closer to Its Citizens and Businesses. BIAs agreed that the success of European Integration requires the involvement of citizens and economic actors [my emphasis]. EUROCHAMBRES maintained that citizens and businesses should be better informed about European policy objectives and the processes by which these policies are decided. To this end EUROCHAMBRES proposed a more convincing communication policy based on

73 UNICE, op cit. 2002, p. 3
information distribution networks in the form of partnerships.\textsuperscript{75} To improve the quality of consultation UNICE advocated the adoption of a comprehensive code that would set out clear guidelines for the definition of core stakeholders and their representativeness, and the purpose, content, methodology and timeframe of the consultation. The representativeness of organisations should be assessed according to the following criteria:

- **Composition and mandate to act at European level.** Organisations should
  - be representative in the majority of member states;
  - be representative of collective interests;
  - be regarded at their respective national levels as representative of the interests they defend;
  - be composed of members who join voluntarily, at both national and European level;

- **Accountability:** capable of justifying their actions to their members.

- **Independence:** demonstrably independent of the public authorities, at both national and European level, in terms of financial resources.

- **Resources:** based on a well-resourced structure, which allows constituents to be consulted rapidly and efficiently.

- **Expertise:** able to call on the knowledge of its members in order to guarantee a certain level of expertise.\textsuperscript{76}

Similarly, EUROCOMMERCE called for a more independent and structured social dialogue\textsuperscript{77} and, an earlier and closer involvement of the social partners to obtain an outcome which responds as well possible to social and economic realities.\textsuperscript{78} The European trade association expressed concerns about the effect of the 2004 enlargement on the social dialogue. While supporting the accession process and the development of a structured and reliable social dialogue in he candidate countries, EUROCOMMERENCE raised the alarm about the absence of clearly identified sectoral social partners. Moreover, the European sectoral social partners face the lack of representativeness of the few recognised federations.\textsuperscript{79}

EUROCHAMBRES raised the need for further inclusion of the chambers of commerce in the consultation process on the basis that they “are the only organisations that are able to illustrate

\textsuperscript{75} EUROCHAMBRES, op cit. 2002, p. 11.

\textsuperscript{76} UNICE, op cit. 2002, p. 4.

\textsuperscript{77} The European Commission usually takes the lead on the agenda of social issues.


\textsuperscript{79} EUROCOMMERCE, op cit 2002, p. 7.
concretely the principle of proximity as a result of their regional implantation; are the only organisations that carry out horizontal actions in support of the economic development of their region”.

The interaction between civil society and organised business interests was also part of the BIAs’ strategy to improve consultation and bring the EU closer to its citizens. Both UNICE and EUROCOMMERCE supported a flexible relationship with civil society whenever possible but without jeopardizing the social dialogue. UNICE called for a distinction between the social dialogue and consultation of civil society,

dialogue at European level is a clearly structured and autonomous process involving the social partners. In the framework of the Treaty’s social chapter, the social partners have a responsibility for political decision-making which cannot be extended to other areas or other players in civil society.

EUROCOMMERCE expressed a similar view and explained the disadvantages of an arbitrary inclusion of other actors in the social dialogue,

opening the debate to everybody would jeopardise the relevance of the response to be taken, as it dilutes the debate and considerably increases its length as well as the complexity to reach a common position.

EUROCHAMBRES offered a more compromising approach by demanding a system of governance that explicitly establishes partnerships between the institutions and civil society.

Regarding their success, BIAs heralded two main achievements in shaping the draft Constitution. Firstly, Article 3 makes specific reference to European competitiveness. This element was not included in the initial draft version of the article, which prompted a letter by Mr. Jacobs to the President of the Convention, Mr Giscard d’Estaing on 28 May 2003 insisting “on the importance of ensuring that such a reference is reintroduced in the Treaty”. At the same time Mr Jacobs draws attention in his letter to the legitimacy of his claim on the basis of UNICE’s constituency,

Companies in Europe do not understand why this reference has been taken-out of the revised draft […] The justifications for the amended version do not evidence any request to withdraw this reference”.

Article 3 paragraph 3 now reads

80 EUROCHAMBRES, op cit. 2002, p. 3.
84 Jacobs, George, Letter to Mr Valéry Giscard d’Estaing, President of the Convention, Brussels, 28 May 2003
The Union shall work for the sustainable development of Europe based on balanced economic growth, a social market economy, highly competitive [my emphasis] and aiming at full employment and social progress, and with a high level of protection and improvement of the quality of the environment.

I would argue that flagging UNICE’s membership base as part of the arguments put forward to the President of the Convention reflects the response of businesses to the challenges posed by the overall climate in favour greater transparency and accountability amongst organised interests in return for more participation and why not legitimacy.85

Secondly, the official recognition of the nature and role of social partners and social dialogue. Hence, Article 47 reads,

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.

Clearly, the BIAs’ aim to protect the individuality of the social dialogue and limit the indiscriminate expansion of partner status with the subsequent diffusion of power has been achieved. As stated by Mr Jacobs in his address to the Convention on 4 April 2003 “the social partners have a responsibility for political decision-making which cannot be extended to other areas or other players in civil society”.

Measures for further citizen participation and “good governance” are clearly outlined in Article 46 The principle of participatory democracy:

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.

Other key priorities for business interests were also taken on board regarding the EU’s legal personality (Art. 6), the Union’s economic competences (Arts. 11, 12 and 14) and the Commission’s prerogative to initiate legislation and co-ordinate the implementation of policies (Art. 25). Yet, some of the most interesting proposals tabled by business to increase consultation were not adopted, namely increased involvement of social partners in drawing the social agenda for Europe; extended self-regulation; the creation of an independent body entrusted with the task
of reviewing the observance of the subsidiarity principle; the development of the functional
dimension of subsidiarity to involve actors other than EU institutions in achieving the objectives
of a proposed EU action; and the establishment of specific criteria to assess the representativeness
of organisations.

3. Concluding Remarks

The open nature of the Convention process offered organised interests in Europe a new
opportunity structure to participate in the shaping of the European Union. Both organised
business interests and civil society organisations recognised its success based on its openness and
the ability to establish a direct dialogue with policy makers. According to Nicolas Beger,
Coordinator of the Civil Society Contact Group

By July 2002 the ENGOs, the platforms and the Civil Society Contact Group had established
firm connections with a strong segment of Convention Members. Although the lobbying
process was channelled in the usual way of personal contacts, the effects of NGO campaigns –
backed through a strong cross-sectoral network at national level aided by the act4europe
campaign and by the sectors themselves – were high. Many closing speeches, certainly
including Jean-Luc Dehaene’s, acknowledged the enormous work civil society had
contributed to the Convention process and rated it positively. And the draft Constitution
indeed contained quite a number of the essential demands of the NGO sectors.86

Equally, BIAs made a very positive assessment of their Convention experience. The draft
constitution preserves the BIAs’ role as key contributors to the integration process. The final
outcome provides “a good basis to allow further integration of Europe and for business to
develop and prosper in the EU […] The draft treaty that is on the table should allow the EU to
be more transparent, more competitive and closer to its citizens”.87 The very participation of
organised interests in the process strengthened the EU’s legitimacy for “organized interests
have historically been an important means of contact for EU central institutions that are
remote and lacking in democratic legitimacy”.88 Yet the EU’s newly acquired participatory
democracy is still to be tested, hence a number of caveats should be considered here.

Firstly, as discussed earlier in this paper, the influence of organised interests should not be
exaggerated given the changing agendas, the proliferation of ad hoc single-issue coalitions and the
exploitation of opportunity structures by organised interests. If the Constitutional Treaty is
ratified, the post-constitutional scenario offers organised interests the chance to contribute to a

86 Beger, Nicolas, Participatory Democracy: organised civil society and the “new” dialogue: Paper
July 2004.
88 Greenwood, Justin, 2003a op. cit. pp. 4-5.
more open and accessible EU. Moreover, with the inclusion of articles 46 and 47, the differentiation between civil dialogue and social dialogue is clearly outlined establishing some kind of functional legitimacy for European stakeholders.\textsuperscript{89} As stated by the EU Committee of the American Chamber of Commerce\textsuperscript{90},

social partners “consumers, citizens and industry need to create a platform for the understanding of each other’s interests and concerns […] the concept of civil society, is considered as being unhelpful in creating such platform.\textsuperscript{91}

Interestingly enough, worries were expressed by the business community in view of the potential rift created by this differentiation, particularly given that business interests have to share the EU agenda with public interest NGOs. It is no coincidence that in his address to the Convention on 24 June 2002, Mr Jacobs stated that “companies are also an important part of civil society”. This delineation of functions, on the other hand, sends a clearer message to the average citizen on the street about the EU’s commitment to openness and transparency. Despite initiatives such as ‘Citizen’s First!’ and CONNECS, the EU still lacks a targeted, systematic, structured and representative system of consultation that is relevant to the average citizen. With 55\% of people having never heard of the Convention, and 52\% unaware of the kind of text produced by the Convention\textsuperscript{92}, the ivory tower view of Brussels institutional politics\textsuperscript{93} is not likely to fade soon. In this context, the very implementation of article 46 may make the role of professionalized interest even more important. As discussed earlier, for citizens to become agenda setters they need to package policy initiatives in an efficient way while identifying those representatives who will be able to present them to the European Commission as part of the citizens’ initiative. Similarly, collecting signatures, identifying “European issues” and fostering a public European space may best be achieved by organised interests who are familiar with the Brussels game. Whether, as argued by Warleigh, this will aid the value of engaging with EU decision-making process, to train citizens in relevant skills […] and begin, or more optimistically continue, the process of generating transnational solidarity through the construction of cross-border supporter bases, is still to be seen. Other issues such as the time-span for the collection of signature, the ability of the

\textsuperscript{89} Pérez-Solórzano Borragán, Nieves 2004.

\textsuperscript{90} AMCHAM-EU is the EU Committee of the American Chamber of Commerce and Industry that represents the views of companies of American parentage committed to Europe. It sees itself as representing “some of the earliest and most committed business supporters of the European ideal and, in particular, of the single market concept”. Amcham-EU directs its lobbying efforts to those initiatives impacting trade between the US and Europe, investment by US companies in Europe, and the competitiveness of our members established in Europe.

\textsuperscript{91} The EU Committee of the American Chamber of Commerce, Contribution by Marc Taquet-Graziani, Chair of the Institutional Affairs Subcommittee, 23 April 2003.

\textsuperscript{92} European Commission (Press Room), European Public Opinion still Hazy about the Convention, Brussels 25 July 2003.

\textsuperscript{93} Warleigh, Alex, op. cit. 2001.
Commission to make amendments and the possible engagement of the European Parliament will inform the materialisation of participatory democracy in the EU.

Secondly, it is interesting to mention here that the Praesidium was under pressure from members of the Convention and within its own ranks - particularly Mr. Amato - to do more to stimulate a wider public debate. The Secretariat proposed ideas for a wider public debate and suggested that where possible working parties should meet in public. The minutes however reveal that ideas such as a questionnaire to all European citizens, holding a deliberative poll or simply conducting a coordinated press activity in early 2003 received a lukewarm response or the items were simply postponed. ECAS' suggestion that the Convention lacked a collective political will to maximize public debate and participation in its constitution building exercise may find some confirmation in the level of national debate on the Convention. The Eurobarometer results quoted earlier are clear. The situation had not improved in January 2004 when only 25% of Europeans in the EU-25 felt they were well informed about the Constitution. When asked whether under the new text one million citizens of the EU could invite the European Commission to submit a policy proposal, 42% of EU-25 were aware of the citizens’ initiative as defined by Art. 46 paragraph 4. Interestingly enough, the citizens of the EU are not opposed in principle to an EU constitution. As the Eurobarometer data show, when asked whether or not the EU must adopt a constitution a majority of respondents (77%) in the EU-25 agreed with the suggestion. The apathy and growing Euroscepticism that characterised the June 2004 elections to the EP may offer an additional indication of citizens’ dissatisfaction and disengagement with the constitutional process and the evolution of EU integration. It is in this context, that the role of organised interests (whether sectoral or civil) could be exploited in order to bridge the gap between citizens and political elites.

Thirdly, whether the constitution-making exercise has truly met the citizens’ expectations of democracy efficiency and transparency is still to be assessed. Nicolaides argues that this assessment should move beyond the nation-state parameters. In her view, the EU might be able to promote “new forms of participatory and deliberative democracy — including through the Web — that are more ambitious and inclusive than those found in the member states themselves, but which do not aggregate the expressions of popular will”. However, she rightly suggests that the constitutional text fails to realize that

The democratic question in Europe is not just about the role of citizens and civil society in EU governance but also about the role of EU governance in supporting vibrant civil societies and local democracy in Member States.95


For over one million signatures to be collected from a significant number of countries, there has to be a genuine European public opinion over a policy issue which would be relevant to European citizens across countries. Therefore, while article 46 may help dynamise the emergence of a European public sphere, it implementation requires the existence of a vibrant civil society operating at the national and subnational levels capable of articulating policy priorities towards the EU. The packaging of policy priorities will still need the active participation of organised interests (whether civic or economic or both) to articulate those policy priorities and engage in the dialogue with the EU institutions.

Finally, on 18th June 2004 the European Council achieved the required political consensus to agree on an EU Constitution. In the context of the debate over power sharing in the EU, organised interests favoured an agreement while trying to secure their participation in a mainly intergovernmental debate. Commentators are warning about the possibility of failure of ratification. Whatever the ratification results, it is undeniable that the Convention offered a unique opportunity for organised interests to advocate their concerns and to engage in a process that has previously been inaccessible to them. Yet, while the Constitutional Treaty has brought about an improvement in the promotion of citizen participation and “good governance”, more research is needed into the representativity and viability of new modes of governance based on networking among stakeholders and a stronger articulation of the interests and stakes of citizens and consumers in the policy process.

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