THE DISTINCTION BETWEEN THE SOCIAL AND THE CIVIL DIALOGUE IN THE EUROPEAN UNION

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ABSTRACT

The Commission's success in incorporating the social dialogue, a legal framework for the involvement of the European level representatives of management and labour in Union lawmaking, in the Amsterdam Treaty was paralleled by a civil dialogue initiative aimed at establishing a Treaty based mechanism for mandatory consultation on social policy matters of public or diffuse interest groups, i.e. voluntary associations, or non-governmental organisations in the Euro jargon. However, the civil dialogue initiative failed to be endorsed at the European Amsterdam summit. The examination of the distinctive features of the civil and social dialogue shows that the European level employers' and employees' organisations are given a significant role in Union lawmaking because they occupy vital locations in economy as the major producer groups which are recognized by the Union institutions as resourceful partners in the European level strategy for fighting unemployment. The collaboration with representatives of both sides of the production chain, employers and labour, is considered in various Union documents to be of the greatest importance for securing the national budgetary discipline deemed to be a necessary requirement for participation in the third stage of the Monetary Union and ensuring that a reduction in the general for government deficit does not contribute to a sharp increase in unemployment. Whereas the Union gives considerable powers and responsibilities to the social partners as important partners in the process of the implementation of the European employment strategy, the relevant Union documents on the coordination of employment assigned no concrete role to voluntary organisations, the civil dialogue protagonists, in this area because of the fact that their social power is relatively insignificant compare to that of labour and management. Nevertheless, the Commissions civil dialogue initiative should not be regarded as a public relation exercise deprived of any substitutional value. By attempting to introduce another Treaty based mechanism for interest groups collective action in Union decision-making, the Commission effectively contributes towards further increase in the non-state actors influence on the European policy process.
The Commission's success in incorporating the social dialogue, a legal framework for the involvement of the European level representatives of management and labour in Union lawmaking, in the Amsterdam Treaty was paralleled by a civil dialogue initiative aimed at establishing a Treaty based mechanism for mandatory consultation on social policy matters of public or diffuse interest groups, i.e. voluntary associations, or non-governmental organisations in the Euro jargon. However, the civil dialogue initiative failed to be endorsed at the European Amsterdam summit.

Mr Padraig Flynn, the European Commissioner responsible for Social Affairs, in evaluating the results gained in the Amsterdam Treaty regretted the fact that the `new Treaty does not include specific provision for consultation and dialogue with non-governmental organisations (NGOs)', despite the intense efforts by the Commission to gain such a provision.1 'The lack of additional, explicit provision in the Treaty for civil dialogue is therefore a setback', the Commissioner commented, calling for increased cooperation, more dialogue and greater partnership with voluntary organisations, as `a strong civil dialogue becomes itself an instrument in helping to achieve social inclusion'.2

By the civil dialogue one should understand a range of ad hoc, unstructured and flexible consultations, mainly on social policy issues, developed over the years between the Commission and so called non-governmental associations, or voluntary, non-profit organisations represented at the European level, which the Commission has recently attempted to structure and institutionalize by including specific stipulations in the Amsterdam Treaty. However, the civil dialogue failed to become a Treaty based consultation mechanism which could be deployed in Union policy formulation. The Amsterdam Treaty did not clarify the legal basis of the relationship between the European Union and voluntary organisations.

This attempt of the Commission to place on a formalized footing the involvement of voluntary organisations in the Union legislative process resembles, in some respects, its earlier successful efforts to institutionalize the long standing ad hoc dialogue between European level employers' and employees' associations on social policy matters. In fact, the Commission intended to formalize the civil dialogue in the manner in which it codified its so called 'social dialogue' with European management and labour through the Agreement on Social Policy attached to the Maastricht Treaty. However, the Commission's proposal for establishing the Treaty based mechanism for the involvement of voluntary organisations in Union decision-making was not of such a far reaching nature as its action to establish the social partners as decision-makers in their own right by virtue of the Social Policy Agreement.

The main aim of this article is to examine the distinction between the social and the civil dialogue and to elaborate parameters for their comparison as specific models of interest intermediation in the Union.

**The Commission's definition of voluntary organisations**

Diffuse interests - collective interests held by large numbers of individuals3 - are considered by the Commission to be expressed through the work of voluntary organisations which share to varying degrees the following features:4

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1 Agence Europe, 23 June 1997, p. 15.
2 Ibidem.
4 Commission of the European Communities (1997) Communication from the
(a) some degree of formal or institutional existence;
(b) non-profit-distributing nature;
(c) independence from public authorities;
(d) disinterested management; and
(e) public purpose.

To a certain degree foundations\(^5\) share the features of voluntary organisations, but in addition they are bodies with their own sources of funds, which they spend according to their own judgment.

The Commission expressly excluded political parties, religious congregations and trade unions and employers organisations from its syndrome definition of voluntary organisations.

According to the Commission, most voluntary organisations and foundations have the following functions:
(a) provision of services: such as social services, health care, training, information, advice or support;
(b) advocacy: i.e. organisations whose purpose is to campaign, lobby, and otherwise argue on behalf of some cause or group with the aim of changing public perception or policy;
(c) mutual aid: organisations typically formed by groups of individuals with some common interest or need in order to provide mutual help, information, support and cooperation; and
(d) coordination of activities in a particular field.

The definition provided by the Commission is based on criteria established in the John Hopkins study on voluntary associations.\(^6\) The criterion added by the Commission is that of public purpose requirement. However, not all the criteria for the definition of voluntary organisation proposed by the Commission could be considered to be operationally applicable. First of all, the public interest concept is unsustainable in the framework of the European Union,\(^7\) Secondly, the findings of an analysis of the existing legal systems in the various member states undertaken by the Commission\(^8\) raise doubts about the applicability of the ‘institutional existence’ criterion. This means that the non-profit-making nature and independence from the public authorities could be regarded as distinctive features of voluntary associations.

The Commission’s definition of voluntary organisations is of relatively recent origin. A lack of shared understanding across member states as to what the concept actually means, and what it might embrace, is reflected in a considerable degree of diversity and confusion in the usage and vocabulary at the level of the Union’s institutions.\(^9\) ‘Non-profit associations', 'non-governmental

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\(^5\) There are some 100 000 foundations in Europe which dispose of large resources to fund voluntary organisations (Source: European Foundation Centre, 1997).


\(^8\) Commission of the European Communities (1997) Communication from the Commission on promoting the role of voluntary organisations and foundations in Europe, COM(97) 241, Brussels 6.6.1997, Annexes II and III.

organisations', `third sector', `social economy', etc., are examples of terms which are all used in European discourse focusing purely or primarily on public or diffuse interest groups. To help guide my analysis, I use the term voluntary organisations in accordance with the definition which has been provided by the Commission.

The evolution of the relationship between the Commission and voluntary organisations

The Commission has a long history of contacts and informal consultation with voluntary organisations within a wide range of Union policy sectors. Many Directorate-Generals (DG) have some degree of engagement with voluntary associations, but the four most significant are DGV (Social Policy and Employment), DGVIII (Development), DGXI (Environment) and DGXII (Youth).\footnote{It should be noted that the Commission has had a long standing dialogue with the development NGOs through the EC-NGO Liaison Committee which receives 90 per cent of its funding from the Commission (see Commission of the European Communities (1997) Communication from the Commission on promoting the role of voluntary organisations and foundations in Europe, COM(97) 241, Brussels 6.6.1997, p. 7). It is estimated that overall some 800 milion ECU (of which 196 MECU is in the form of cofinancing) annualy of European Union development assistance is channeled through NGOs and the Commission looks to these associations in many policy issues towards developing countries (see Commission of the European Communities (1997) Communication from the Commission on promoting the role of voluntary organisations and foundations in Europe, COM(97) 241, Brussels 6.6.1997, point 9.9). This cooperation is expected to be regulated by law, i.e, placed on a legal footing (see Commission of the European Communities (1998) Re-examined proposal for a Council Regulation (EC) on co-financing operations with European non-governmental development organisations (NGOs) in the field of interest to the developing countries, COM(1998) 404, Brussels, 8 July 1998).}

In contrast to the mentioned DGs, only DGXIII (Enterprise policy, distributive trades, tourism and cooperatives) has an explicit institutional mandate under Union law for consulting voluntary organisations. Namely, in March 1998 the Commission decided to create a Consultative Committee on Cooperatives, Mutual Societies, Associations and foundations, on which voluntary organisations are represented.\footnote{Commission Decision of 13 March 1998 setting up a consultative committee for cooperatives, mutual societies, associations and foundations (CMAF), 98/215/EC, OJ L 80/51 of 18.3.98.} The members are appointed by the Commission. The Committee may be consulted by the Commission on all questions relating to the promotion and implementation of Union policy on the activity of voluntary organisations.\footnote{Ibid, Article 2.} This means that primary role of this committee is an advisory one. It is important to underscore that the Commission does not have an obligation to consult this committee, but it may request an opinion from the Committee if it wishes to do so. However, the Commission believes that civil dialogue will be progressed in part through the operation of this committee.\footnote{Commission of the European Communities (1997) Communication from the Commission on promoting the role of voluntary organisations and foundations in Europe, COM(97) 241, Brussels 6.6.1997, point 9.4.}
Previously, since 1995, cooperatives, mutual societies, associations and foundations were consulted via a self-managed consultative committee, by means of subsidies granted annually by the Committee. By its institutionalisation, the current committee is expected to give impetus to the greater and more systematic involvement of these associations in Union decision-making. The other area in which a legal framework is provided for close consultation of the Commission with voluntary organisations (called social and economic partners in this case) is the implementation and development of the Structural Funds.\(^{15}\)

Thus, the Commission's attempts to formalize its unstructured relations with voluntary organisations is of relatively recent origin. The Commission's previous encounters with the regulation of representation of public interest groups concerned only lobbying as an occasional single issue campaign and essentially rent-seeking activity.\(^{16}\)

This paper attempts to highlight only the Commission's effort to formalize its dialogue with voluntary organisations in the field of social policy and employment and is not intended to provide a comprehensive overview of the Commission's encounters in all Union policy areas where these organisations exist.

**The civil dialogue initiative**

In last few years the Commission has launched several initiatives to promote the establishment of a regular and formalised dialogue with voluntary associations in the domain of social affairs.\(^{17}\) These include: the Social Policy Forum initiative, the establishment of the Comité des Sages, and the publication of the Communication on promoting the role of voluntary organisations.\(^{18}\)

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\(^{15}\) Council Regulation (EEC) No 2081/93 of 20 July 1993 amending Regulation (EEC) No 2052/88 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments, OJ L 193/5 of 31.7.93, Article 4(1).


\(^{17}\) The commission also had intended to deepen the political, social and civil dialogue on the most important social and societal aspects of the Information Society, but this initiative has remained underdeveloped (see Commission of the European Communities (1996) Green paper on ‘Living and working in the Information Society: Peoples first’, COM(96) 389, Brussels, 24.7.1996, p. 5).

\(^{18}\) Commission of the European Communities (1997) Communication from the
The European Social Policy Forum

The European Social Forum was conceived as a part of the Commission's response to Declaration 23 of the Maastricht Treaty,\(^{19}\) which stresses the importance of cooperation between the European Union and charitable associations, foundations and institutions responsible for social welfare establishments and services. Voluntary associations were first consulted in a systematic manner when preparing the Green Paper on European social policy,\(^{20}\) while an increasingly pivotal role has been played by voluntary organisations in a wide range of issues central to the construction of Europe.\(^{21}\) In its White Paper entitled 'European social policy - a way forward for the Union', published in July 1994, the Commission proposed to set up 'a forum within which social policy issues will be discussed (...) This forum will convene every 18 months to consult with the widest possible range of interested bodies'.\(^{22}\)

In April 1995, the Medium-Term Social Action Programme for 1995-97 set out the forum's content and goals.\(^{23}\) The Commission argued that 'voluntary and other organisations should be consulted on a wide range of social issues'. The first European Social Policy Forum was held from 27 to 30 March 1996. The Forum marks, according to Commissioner Flynn, the beginning of a civil dialogue: this conference signalled the opening of a dialogue between non-governmental organisations and European institutions.\(^{24}\)

The Comité des Sages Report

The Commission's request for giving express recognition in the Treaty to the partnership role of voluntary associations in social matters was advanced in the Report by the Comité des Sages set up in 1995 by the Commission in the framework of the preparation for the 1996 Intergovernmental Conference.\(^{25}\) The work of the Comité des Sages was envisaged in the Commission on promoting the role of voluntary organisations and foundations in Europe, COM(97) 241, Brussels 6.6.1997.

\(^{19}\) Declaration 23 states: 'The Conference stresses the importance, in pursuing the objectives of Article 117 of the Treaty establishing the European Community, of cooperation between the latter and charitable associations and foundations as institutions responsible for welfare establishments and services'.


\(^{22}\) Commission of the European Communities (1994) European social policy - a way forward for the Union: a white paper, COM(94) 333, 27.7.1994, Brussels, p. 44.


European Commission's Medium-term social action programme 1995-97. The Comité des Sages Report was presented at the 1996 Forum on social policy. The Report recommended the standardization of the dialogue between the Commission and voluntary organisations by means of Treaty provisions. According to the Report by the Comité des Sages `it is necessary for non-profit-making organisations and foundations, and more generally the collective representatives of the community at large, to be involved in social policy decision-taking. This should be provided for in the Treaty'.

The Communication on voluntary organisations

The publication of the Communication on voluntary organisations represents the turning point in the Commission's strategy for developing more structured relations with voluntary organisations at the European level. In this communication the Commission in fact renounced its plan of an explicit reference to the voluntary role being enshrined in the Treaty. The Commission states that `it is important not to overbureaucratise or institutionalise consultation of the voluntary sector and to strive instead for a flexible but systematic approach in developing the civil dialogue and relations between the voluntary sector and the European institutions'.

This means that the Commission in the aforementioned Communication repudiated its previous intention to incorporate specific provisions for the consultation of, and dialogue with voluntary associations in the Treaty framework, i.e. in the manner in which the social partners' involvement was structured at the Maastricht Summit. The Commission remains committed `to establishing systematic and regular dialogue and consultation' with voluntary organisations, but it changes its original intention to achieve that objective by legal instruments. Instead, the Commission opts for more flexible and less rigid and formal mechanisms, such as advisory committee deliberation, debating and discussions at the European Social Policy Forum including the setting up of the new budget line promoting cooperation with voluntary organisations. The Commission concluded this Communication with the announcement that it will launch a study of the role and structures of these organisations in the member states, and will explore with them what role they can play at the European level. This initiative has already been provided in its earlier documents. In this context it should be recalled that the Commission published a directory on European interest associations in order to enable officials to consult more systematically and as widely as possible.

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The Amsterdam Summit setback

The Commission's request to institutionalize the civil dialogue, i.e. to move forward the process of consolidating cooperation with, and instigating more systematic consultation of voluntary organisations was not acted upon at the Amsterdam Summit. The civil dialogue failed to become a Treaty based consultation mechanism deplorable in Union social policy formulation. Voluntary organisations are, however, affected by the declarations on voluntary services and sport adopted in Amsterdam. These declarations recognize the importance of exchange of information and experiences with voluntary organisations operating in the field of social services and sport, with particular emphasis on the encouraging European dimension of these association.

The second European Forum: the revival of the social dialogue proposal

The second European Forum on social policy was organized by the Commission from 24 to 26 June 1998 in Brussels. The Forum concluded its work by highlighting the necessity of setting in place, alongside the European social dialogue between unions and employers, a European civil dialogue (among all representatives of civil society), making it possible for citizens to participate in the European construction process and, consequently, in adaptation of social policy to changes in society. Commissioner Flynn expresses his determination to continue to press for due recognition, and stronger partnership with voluntary organisations because the development and application of social policy in the Union demands the engagement of these associations as interlocutors of civil society. The purpose of civil dialogue is said to be the advancing of the debate and discussions on the future of social policy, and not the introduction of one more level of policy formation in the European Union, which would enable voluntary organisations to assume the role of decision-makers in their own right.

The civil dialogue budget line

One of mechanisms used by the Commission for promoting the civil dialogue is the introduction of a new budget heading for that purpose. Although the Commission had been

32 Declaration 38 reads: The Conference recognizes the important contribution made by voluntary service activities to developing social solidarity. The Community will encourage the European dimension of voluntary organisations with particular emphasis on the exchange of information and experiences as well as on the participation of the young and the elderly in voluntary work.

33 Declaration 29 states: The Conference emphasizes the social significance of sport, in particular its role in forging identity and bringing people together. The Conference therefore calls on the bodies of the European Union to listen to sports associations when important questions affecting sport are at issue. In this connection, special consideration should be given to the particular characteristics of amateur sport.


providing financial assistance to voluntary organisations acting at the European level for many years,\(^{37}\) the new civil dialogue budget line, B3-4101, was created in 1997 following the proposal of Commissioner Flynn presented to the Forum 96 to provide financial support for NGOs for active involvement in deliberations on the subject of the future of European social policy.\(^{38}\) This new budgetary heading was intended to promote cooperation with NGOs and to strengthen the capacity of these organisations to engage in civil dialogue at the European level.\(^{39}\) However, the proposal made by the Chairman of the European Parliament's Committee on Social Affairs, Stephen Hughes, that this newly created budget heading 'civil dialogue' be included in the 1997 budget was not accepted by the European Parliament. For the 1998 budget the Commission once again proposed that a separate budget heading be introduced; an allocation of ECU 4.5 million was proposed and it is expected that the Parliament will endorse these proposals. The Commission has taken action under the abovementioned budget headings by introducing a series of appropriate projects which have been carried out by various organisations.\(^{40}\)

**The civil dialogue initiative and the Union institutions**

*The mixed reaction of the Union institutions to the civil dialogue process*

It is important to underline that not all Union institutions and auxiliary bodies share the Commission's enthusiasm for establishing regular consultation with the voluntary organisations. While the Committee of the Regions\(^{41}\) and the Economic and Social Committee adopt a positive approach to the voluntary organisations' involvement in the Union decision-making process,\(^{42}\) the European Parliament expresses serious reservations towards such development.

*The Economic and Social Committee*

The Economic and Social Committee has not only heightened awareness of the role and importance of voluntary organisations as economic and social partners in the European Union, but has also put forward concrete proposals for institutionalizing cooperation with voluntary

\(^{37}\) For example, in 1996 ECU 2 million were allocated for `cooperation with charitable associations' (Opinion of the Economic and Social Committee on `Cooperation with Charitable Associations as Economic and Social Partners in the Field of Social Welfare', OJ 98/C 73/23 of 9.3.98., Appendix II, p. 99).


\(^{40}\) Opinion of the Economic and Social Committee on `Cooperation with Charitable Associations as Economic and Social Partners in the Field of Social Welfare', OJ 98/C 73/23 of 9.3.98., Appendix II, p. 99.

\(^{41}\) Opinion of the Committee of the Regions on `The role of voluntary organisations - a contribution to a European society', OJ 98/C 180/10 of 11.6.98, point 3.2.4.

\(^{42}\) Opinion of the Economic and Social Committee on `Voluntary organisations and foundations in Europe', OJ 98/C 95/20, points 2.1. and 2.9.
associations and placing it on a systematic footing.\textsuperscript{43} The Committee supports the Commission's position that civil dialogue should be developed in order to back up social dialogue between the traditional social partners in the labour market.\textsuperscript{44} Similarly to the Commission, the Economic and Social Committee finds that the reason for more structured involvement of the voluntary organisations in Union decision-making is their ability to play a significant role in boosting employment in the field of so called social economy, i.e. the provision of social welfare establishments and services.\textsuperscript{45} It also endorses the Commission's proposal to set up a special fund to facilitate European cooperation for voluntary organisations and foundations.\textsuperscript{46}

\textit{The European Parliament}

Contrary to the claims of some authors that the European Parliament could be considered as a champion of diffuse interests,\textsuperscript{47} particularly in the run-up to the 1996 Intergovernmental Conference when it organized a public hearing in October 1995 to sound out the opinions of non-governmental organisations,\textsuperscript{48} the Parliament does not unreservedly back up the Commission initiative for institutionalizing the civil dialogue. In the mid 1980s the Parliament referred, though very vaguely, in one of its reports, to the need for promotion of the role of voluntary organisations.\textsuperscript{49} The representatives of the European Parliament participating at the 1996 and 1998 European social policy forums set out the Parliament's support for promoting the greater involvement of voluntary organisations in Union policy formation.\textsuperscript{50} Finally, in response to the Commission's communication on voluntary

\begin{itemize}
  \item \textsuperscript{43} Opinion of the Economic and Social Committee on 'Cooperation with charitable associations as economic and social partners in the field of social welfare', OJ 98/C 73/23 of 9.3.98, p. 92, points 2.1. and 4.1. to 4.6.
  \item \textsuperscript{44} Opinion of the Economic and Social Committee on 'Voluntary Organizations and Foundations in Europe', OJ 98/C 95/20 of 30.3.98, point 7.6.
  \item \textsuperscript{45} Opinion of the Economic and Social Committee on 'Voluntary organisations and foundations in Europe', OJ 98/C 95/20 of 30.3.98, points 4.1. to 4.4.; Opinion of the Economic and Social Committee on the 'European Council on employment', OJ 97/C 355/13 of 21.11.97, point 2.3.4. and Opinion of the Economic and Social Committee on the 'Action for employment in Europe: a confidence pact', OJ 97/C 56/09 of 24.2.1997, point 1.14.
  \item \textsuperscript{46} Opinion of the Economic and Social Committee on 'Voluntary Organizations and Foundations in Europe', OJ 98/C 95/20 of 30.3.98, point 7.10.
  \item \textsuperscript{49} European Parliament (1986) Report drawn up on behalf of the Committee on Social Affairs and Employment on the role of the social partners in the labour market; Rapporteur Mr Andrea Raggio, PE DOC A2-144/86, 29.10.1986, point IX.
\end{itemize}
organisations, the Parliament calls for a serious, structured sectoral dialogue to be set in motion between the European institutions and the voluntary organisations represented at the European level.\footnote{51}

However, in the Parliament's opinion the scope of powers granted to voluntary organisations in Union lawmaking should be very limited and should not go beyond advisory rights. The European Parliament's reservations towards the formalisation of the role of voluntary organisations were not withdrawn after the Commission expressly emphasized that although voluntary organisations are important to the democratic process, they could never take on the role occupied by elected representatives.\footnote{52}

While the European Parliament insists on the importance of defining the legal status of non-profit associations, considering them to be a decisive instrument of cooperation at the Union level,\footnote{53} and advocates that a general right to be consulted should be applicable to all citizens,\footnote{54} it quite openly opposes the incorporation of consultation by the Union institutions with voluntary organisations into the Treaty structure. It pleads only for the engagement of voluntary organisations in the deliberation on the future of European social policy.\footnote{55}

Although the Parliament considers appropriate the development of channels through which


\footnote{53} The European Parliament in 1987 adopted a Resolution on non-profit-making associations in the European Communities requesting the Commission to draw up a proposal for a regulation incorporating a Community-wide statute for associations covering the requirements of associations operating in more than one member state and national associations wishing to act in concert at the European level (see European Parliament (1987), Resolution on non-profit-making associations in the European Communities, OJ C 99/205 of 13. 4. 1987, p. 205). It repeated the proposal in 1991 (see European Parliament (1991) Resolution on a statute for a European cooperative society and other undertakings in the mutual sector in general, OJ C 48/114 of 25.2.91) and later it approved the proposal for a regulation relating to a statute for a European association, European cooperative society and European mutual society (OJ C 42/84 of 15.2.93).


voluntary organisations would express their opinions, it opposes the establishment of a Treaty based mechanism adding another layer to the Union decision-making. The Parliament supports the call by Platform of Social NGOs\textsuperscript{56} for a civil dialogue to be set up in the field of social policy, but disagrees with the Platform's proposal for the establishment of an intersectoral dialogue which would include all the NGOs active in the various Community polices and with its proposal for the compiling by the Commission of a list of registered European and international voluntary organisations.\textsuperscript{57} Thus, in principal, the Parliament opposes the idea of empowering voluntary organisations to become one of the Union's decision-making actors, even with very limited competence.

It takes the view that the civil dialogue should be based on common criteria and procedures and that different resulting viewpoints should be coordinated, within the European institutions, through a multi-sectoral administrative structure.\textsuperscript{58}

The suggested approach is based on an essentially American model of the regulation of lobbying input in politics. This mode focuses on codifying and developing the detailed regulation of the participation of interest groups, i.e. the establishment of procedural rules governing the participation of interest groups in the policy-making process. The model is premised on a procedural notion of the 'common good/public interest', which would be the outcome of a fair procedure. Several scholars advocate the application of this approach at the level of the European Union.\textsuperscript{59} The main characteristic of this approach is the establishment of strict procedural rules which regulate the access of numerous interest groups to the European institutions and enable them to be heard by the decision-makers, but not the formalization of an institutional route for their active involvement in policy definition.

Thus, the Parliament is willing to engage in discussion with various voluntary organisations only if a clear distinction is made between consultation of citizens and dialogue with representative social players. The latter, which is, in the Parliament's view, related to the institutional procedure leading to a decision, would involve the Economic and Social Committee, the Committee of the Regions, and the Employment Committee, i.e. the Union's bodies. The Parliament could not only take part in the dialogue, but could also encourage it.\textsuperscript{60} This means that decisions are a matter for institutions, not for various non-governmental actors, such as voluntary associations. The Parliament finds that 'a closer relationship between elected representatives and social players (...) does not confer political authority on the latter. They will be consulted about the key economic and political issues, and concerted action will be pursued with their cooperation', advocates the Parliament, 'but they do not wish to take responsibility for decisions and nor should they be called upon to do so'.\textsuperscript{61} Accordingly, the Parliament

\textsuperscript{56}The Platform of Social NGOs, Position paper 'The European Union and Consultation of Social NGOs: Considerations and Proposals', Brussels, February 1998.
\textsuperscript{59}For a brief overview of this scholarship see Curtin, Deirdre (1996) "Civil society" and the European Union: opening spaces for deliberative democracy', Florence: Collected courses of the Academy of European Law, p. 89.
\textsuperscript{60}Ibidem.
\textsuperscript{61}Ibidem, p. 11.
recognizes voluntary organisations as 'discussion partners' with the Union institutions, but not as partners in decision-making.

The Parliament's reluctance to endorse the structured involvement of voluntary organisations into the Union policy process resembles its dissatisfaction with the fact that it has no role to play in the social dialogue. Being completely excluded from the legislative procedure laid down in Articles 3 and 4 of the Agreement on Social Policy, which constitutes the legal framework of the social dialogue, the Parliament has expressed on several occasions its opposition to such practices and has called for its own incorporation into these procedures. Already made redundant within the legislative procedure involving representatives of the two sides of industry which is prescribed by the Agreement on social policy incorporated into the Treaty of Amsterdam, the Parliament fears further erosion of its power because of the possibility of widening the involvement of interest groups in Union lawmaking through more formalized consultation with voluntary organisations. The institutionalisation of the role of an even greater number of interest groups in Union policy formation is perceived by the Parliament as a process leading towards the substantial undermining of its position within Union decision-taking. As the codification of the social partners' engagement in Union social policy resulted in the loss of the Parliament's powers in this area, the regular and structured dialogue between the Union institutions and voluntary organisations on a range of questions may contribute, in the Parliament's view, to the continuing weakening of its status. The Parliament considers that its prerogatives, already circumvented by the social partners, could be further limited by formalization of the voluntary organisations' input into the Union decision-making. That is why it opposes the extension of the social dialogue to cover the whole of society, and is of the opinion that the Commission has other options available for involving voluntary associations in the policy direction of the Union.

The voluntary organisations' response to the civil dialogue initiative

Encouraged by the Commission's proclamation in its 1994 White paper on social policy that voluntary organisations play an extremely important role as interfaces between citizens and government authorities and by the Court of Justice's recognition of the special status of charitable associations, voluntary organisations operating at the European level were no

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64 European Parliament (1997) Resolution on the Commission communication concerning the development of the social dialogue at Community level (COM(96) 448 - C4-052696), OJ C 286/338 of 22.9.97, point 23.


66 The Court of Justice has ruled that under European Union law all member states are entitled to give priority treatment to charitable associations over other profit-orientated enterprises, Case C-70/95, Sodemare v Regione Lombardia, ECR [1997] I-3395, at I-3439 -
longer satisfied with a single lobbying role, but were asking to be consulted systematically and regularly by Union institutions on all matters which might affect the work they do. The European Citizen's Action Service has recently argued that somewhere between five and 10 per cent of the lobbying activity undertaken at the Commission level is for public purposes rather than by private business.\(^6^7\)

During the 1996 Social Policy Forum, 19 voluntary organisations\(^6^8\) working in the social domain set up a European Platform of social non-governmental associations with the intention of becoming a partner in civil dialogue.\(^6^9\) The Platform stated that 'associations in the social sector have both the right and the duty to make proposals to encourage the European Union to assume its responsibilities as regards social policy'.\(^7^0\)

The request for the insertion of the civil dialogue procedure in the European Union Treaty launched at the Forum 1996 was further pursued by various European voluntary associations. For example, the European Anti-Poverty Network used one of its encounters with Commissioner Flynn to call for the strengthening of the consultation mechanisms of non-governmental organisations.\(^7^1\) In the framework of the preparations for the 1996 Intergovernmental Conference, Euro Citizen Action Service (ECAS)\(^7^2\) in its detailed

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\(^6^8\) At the time of the Forum, the Platform brought together the following organizations: Confederation of Family Organizations in the EC (Coface), European Liaison Committee for Social Housing (Cecodhas), Eurolink Age, European Anti-Poverty Network (EAPN), European Association of Organizations for Home Care and Help at Home, European Disability Forum, European Federation of National Organizations Working with the Homeless (Feantsa), European Forum for Child Welfare, European Network of the Unemployed, European Round Table of Charitable Social Welfare Associations (ET Welfare), European Social Action Network (ESAN), European Union Migrants Forum, European Women's Lobby, International Council on Social Welfare, International Movement ATD Fourth World, International Save the Children Alliance, Mobility International, Red Cross/EU Liaison Bureau and Youth Forum.


In 1992 the European Round Table of Charitable Social Welfare Associations - ET Welfare - was set up with specific reference to Declaration No 23; since 1996 this Round Table has operated under the legal form of a non-profit European economic interest association. With the assistance of the Commission, ET Welfare has carried out two pilot projects using funding from the Union budget. One of the aims of these pilot projects was to improve cooperation between welfare associations through the exchange of staff from associations in all member states. With a view to preparing the Forum on social policy in 1996, the NGOs working in the social field set up a Platform of Social NGOs.

\(^7^0\) Ibidem.

\(^7^1\) Agence Europe, 10/11 March 1997, p. 13.

\(^7^2\) ECAS is an independent international non-profit association whose members are over 300 NGOs which promote civil liberties, culture, health and social welfare.
submissions on 'Giving Substance to Citizens Europe in a Revised Treaty' proposed recognition of the right to associate in the Treaty itself (both to create associations or foundations with other persons resident or established within the Union and to participate in existing associations) as well as the imposition of an obligation on the Council to adopt 'measures to provide associations with an appropriate legal framework for the expression of the specifically European aspirations of civil society'. In addition, ECAS requests the Union to contribute towards the development of a European forum for associations.73

Indeed, in the run-up to the 1996 Intergovernmental Conference, voluntary organisations had high hopes of an explicit reference to their role being enshrined in the Treaty. Just weeks before the conclusion of the work of the Conference in June 1997 in Amsterdam, organisations representing civil society adopted a Declaration for a Civil and Social Europe which calls for a more explicit role of associations in the Union decision-making and their involvement in the process of drawing up and following up social policies.74 Similarly, the Permanent Forum of the Civil Society calls for the establishment of an advisory status for civil society organisation within the European decision-making system.75

Although the civil dialogue was not codified by means of the Treaty stipulations at the Amsterdam summit, the structuring of the voluntary organisations' involvement in Union social policy formation stays high on the non-governmental associations agenda. In February 1998 the Platform of Social Non-Governmental Organisations (NGOs) issued a position paper 'The European Union and Consultation of Social NGOs: Considerations and Proposals' which calls upon the Commission to establish the civil dialogue, i.e. regular, organized and comprehensive consultations with NGOs, since the existing legislative vacuum is not conducive to the development of their active role in the Union policy process. In the view of social NGOs, the first essential step in this direction is for the Commission to compile a list of NGOs with which it would consult on a regular basis. In the future it could be recognized by both the European Parliament and the Council of the European Union.

The social NGOs consider that the drawing up of this list would be an opportunity for regulating the relations between listed NGOs and the Commission in a formal legal manner, setting out the rights and duties of each. This would give the NGOs the assurance of permanence in their relations with the Commission. This regulating instrument should include provisions on the Commission's financial support to listed NGOs.

The social dialogue in the Union

The Commission's intention to standardize the involvement of voluntary associations in Union decision-making denoted as the civil dialogue was developed in relation to the already established social dialogue between the European level management and labour. The social dialogue has slowly, but persistently been built up by the Commission over the years. Essentially, it represented an informal forum for occasional meetings between the European organisations of management and labour which produced a number of non-binding joint declarations. This forum was formalized by virtue of the Agreement on social policy attached to the Maastricht Treaty, which recognized the representatives of management and labour organized at the European level, the so called social partners, as decision-makers in their own

rights in the Union policy process. The excessive involvement of the social partners in Union policy formation has been strengthened by the integration of the Agreement into the core of the Amsterdam Treaty.

According to the Agreement, the Commission's legislative proposals in social policy are to be the subject of a two-stage consultation process with the possibility for the Commission to suspend the legislative process if the social partners announce their intention to open negotiation. The opening of negotiations is totally in the hands of the social partners and the negotiation process is based upon principles of autonomy and mutual recognition of the negotiating parties. If the agreement is concluded, the social partners may choose whether they wish to implement the agreement via collective bargaining or via a Council decision.

To date, the social partners, the European Trade Union Confederations (ETUC), the Union of Industrial Trade Union Confederation (UNICE) and the European Centre of Public Enterprises (CEEP), have concluded two framework agreements under this procedure, which were implemented by the Council directives, while at the sectoral level the framework agreement on the improvement of paid employment in agriculture was concluded between relevant European organisations to serve as a recommendation framework agreement for negotiations between the social partners at member state level. Sectoral social partners in catering and from rail and shipping sector signed in October 1998 the framework agreements in their respective sectors. Currently, European employers’ and employees’ associations are negotiating on the protection of workers excluded from the working time directive.

The establishment of the social dialogue in the Union policy process implies increased opportunities and responsibilities for the social partners organised at the European level in the shaping of social policy. It creates an framework for excessive involvement of private interest groups in the Union lawmaking process. It provides for the direct role of private interests in making public policy, since it gives unions and management at the European level the opportunity to negotiate agreements in the place of Union initiated social legislation. The legislative procedure is replaced by negotiation by private interest groups. The social partners, therefore, not only influence the Union social policy but also make public policy in their own right. They act as private agents which make public policy.

The social dialogue and the civil dialogue: the complementarity approach developed by the Commission

The partnership between the social partners and voluntary organisations

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79 Agence Europe, 1 April 1998, p. 9.
Against this background of the significantly developed social dialogue and the embedded role of the limited number of private interest groups from production in Union decision-making, the Commission has launched its civil dialogue initiative, which concerns the involvement of numerous diffuse groups representing non-functional interests from the non-productive sphere of society. The intention of the Commission was to ensure that the significant means and powers granted to social partners be complemented by the granting of means of influencing European social policy to voluntary organisations.

Social partners are considered to be representatives of private interests organized within the world of production while voluntary organisations by definition seek to pursue diffuse interests. In its 1994 White paper on social policy the Commission, stated that ‘whilst recognizing the unique role played by consensus and collective agreements between employers and trade unions in the European social model, it is clear that voluntary and other representative organisations have the right to be consulted by the Union (...)’ Further, it was suggested in the Report by the Comité des Sages that ‘democratic consultation must give weight to the traditional social partners but cannot be restricted to them alone. It must also encompass new players, and in particular non-governmental organisations’. Speaking at the Forum 1996, Commissioner Flynn recognized the civil dialogue as a significant mechanism intended to contribute to the formulation of the future Union social action programme on the same footing as the political dialogue with member states and the social dialogue with employers and trade unions.

In the Commission’s view, the development of the civil dialogue could be considered as a process complementary not antagonistic to the operation of the social dialogue, based on the approach that both social and civil dialogue represent the specific mode of involvement of interest groups i.e. non-state actors in Union policy formation, particularly in the field of social policy. The involvement of voluntary organisations in the Union policy process should complement the major role played by the social partners in promoting social Europe, notably through the social dialogue. The Commission considers that voluntary organisations should have a role to play in a wide range of social issues without prejudice to the particular role of the social partners. Jacques Santer, President of the European Commission, stressed the complementarity of action taken by the social partners and the voluntary organisations in the world of work. Santer claimed that possible partnership should be envisaged between social partners and non-governmental organisations. Furthermore, in the wide range of its official documents, the Commission suggests that the civil dialogue should be used alongside the policy dialogue with the national authorities and the social dialogue with the social partners to set frameworks for the achievement of social policy objectives.

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82 Ibidem, p. 8.
84 Ibidem, p. 16.
85 Ibidem, p. 10.
86 See European Commission (1996) Progress report on the implementation of the
The social partners as participants in the civil dialogue

The Commission's undertaking on the complementarity of the social and civil dialogue has been reinforced by its statement that not only voluntary organisations but also the social partners are to be considered as parties to the civil dialogue. However, the social partners should be included in the civil dialogue 'in view of their civic rather than their collective bargaining functions'.

The Commission considers that one of the positive outcomes of the Forum 96 was the beginning of 'a mutual understanding about the respective roles, responsibilities and capacities of the various actors in civil society in developing a strong civil dialogue, involving both social partners and voluntary organisations'.

The European Social Forum is perceived by the Commission as an arena where the debate on the future of the European welfare model between the social partners and voluntary organisations and foundations should be developed in greater detail. Thus, it can be concluded that both the social partners and voluntary organisations are identified by the Commission as active participants in the civil dialogue.

In this context it is interesting to note the ongoing discussions between social economy representatives and the European Trade Union Confederation (ETUC) concerning the introduction of civil dialogue. In fact, ETUC has supported for a long time the call of voluntary organisations for their right to be heard and consulted in the same way as the social partners. ETUC sees a need for concerted dialogue and action from all social actors, particularly to deal with economic growth, job creation and social exclusion. For example, within the framework of the 1998 Social Policy Forum, the European Platform of Social NGOs and the European Trade Union Confederation held an Open Forum, a kind of 'trade fair' where local and national organisations presented projects and examples of best practice for boosting employment.
The distinction between the roles of social and civil dialogue in Union lawmaking

The blurred delimitation between functions of the social partners and voluntary organisations

Introducing the idea of the compatibility of the social with the civil dialogue, the Commission does not simultaneously identify the distinctive roles of social partners and voluntary associations in the civil dialogue, nor provide the particular criteria for the clear division of responsibilities and tasks of both sets of organisations.

The social dialogue - civil dialogue dichotomy: an attempt to reconcile the economic and social objectives of the Union

The first distinction in the roles of the social partners and voluntary organisations in the civil dialogue referred to by the Commission concerns the nature of their intentions and preferences. While the social partners should address the economic aspects of Union social policy, voluntary organisations need to be actively engaged in helping to reconcile economic performance with a social solidarity. Voluntary associations should balance or offset the efforts of producers to shape European social policy. According to the Commission, the introduction of the civil dialogue is supposed to remedy the situation arising from the selective promotion of only producers' interests underscored by the social dialogue and from the consequent neglect of groups which lie outside the productive centre of society. For example, speaking at the Forum 96 Commissioner Flynn pointed out that support of voluntary associations is vital for reaching the balance between the social and economic dimensions of Union social policy. A similar opinion is expressed in the Commission Communication on voluntary organisations, which acknowledges the increasing delegation to voluntary organisations of services, particularly social services, previously delivered by public authorities.

Thus, the Commission opinion that the social dialogue, which pursues the interests of producers, should be supplemented with the civil dialogue, which promotes interests excluded from profit-driven economic activity, and its proclamation for striking a balance between economic and social aspects of Union social policy should be considered in the light of a widespread concern that there is political distortion in the Union which follows from the promotion of the special interests of management and labour, and lack of balance between public interest and private interest. That is the reason why Beatrice Rangoni Machiavelli, the President of the European Economic and Social Committee, calls for development of civil dialogue as a complement to social dialogue. The civil dialogue should promote legitimate interests of non-productive part of the society and counter balance the interest representation of

http://europa.eu.int/comm/dg05/news_en.htm

producers.\textsuperscript{97}

Many students of European Union governance have argued that the Union systematically privileges concentrated and mobile producers over other societal interests, thus creating special challenges to these interests.\textsuperscript{98} Some of those scholars state that there is a widespread belief that business groups have dominated politics of European integration for years.\textsuperscript{99} Namely, the European social dialogue pursues specific interests of the productivistic heart of society. This leads to the preferential treatment of production-related interests to the disadvantage of more general `citizens' interests' on the one hand and more special `marginal group interests', such as those of the unemployed, on the other. This political selectivity, which is, according to Vobruba, an essential feature of the social dialogue, has the effect of excluding interests of a more general nature as well as those which are more specific than the interests of the productive centre of society.\textsuperscript{100} He emphasizes that this problem is recognized in the 1993 Commission's Green paper on social policy.\textsuperscript{101} On balance, it has to be noted that there are also scholars who find that diffuse or civic interests are extensively incorporated in Union rules, both directly and indirectly.\textsuperscript{102}

\textit{The prominence of the social partners and voluntary organisations in the Union employment strategy}

The second distinction between the social dialogue and the civil dialogue concerns the part they are assigned to play in the process of implementation of the Union employment strategy. Although both are supposed to be actively involved in addressing the problem of unemployment resulting from massive structural changes facing the Union,\textsuperscript{103} their assignments have been substantially different.

\textit{The role of the social partners in the European employment initiative}

\textsuperscript{97}Agence Europe, 22 October 1998, p. 16.
\textsuperscript{101}The Green paper is well aware of this problem and asks: `How can we stimulate a kind of consolidated statement of citizens' rights within the Union, which would make explicit existing rights and seek to shift the existing 'labour market orientation' to a more general people-oriented approach on the basis of values common to member states (Commission of the European Communities, (1993) `Green paper: European social policy: opinions for the Union', COM(93) 551, p. 72.
\textsuperscript{103}Ibidem, p. 16.
The Commission assigned to the social partners a central role in the context of the Essen strategy for employment. The successive European Councils confirmed the pivotal role of the social partners in this strategy, as well President Santer's initiative on 'Action for employment in Europe - a pact of confidence' based on the idea of partnership for employment, the Dublin Declaration on Employment and the Amsterdam Council Resolution on Growth and Employment, which emphasizes that the social dialogue 'should serve to underpin the Council's work on employment'. In addition, the Amsterdam Council resolution calls upon the 'social partners to fully face their responsibilities within their respective spheres of activity'.

The compulsory consultations of the social partners are also provided for in the Chapter on Employment introduced by the Amsterdam Treaty and reaffirmed at the 1997 Extraordinary Luxembourg European Council on Employment. Following the agreement at the Amsterdam Summit to make certain provisions of the new Treaty regarding employment immediately effective, the Council adopted in 1997 the first Employment Policy Guidelines for 1998, which urges the social partners to conclude as soon as possible agreements likely to promote employability. The Council Resolution attached to these guidelines 'affirms that the social partners at all levels will be involved in all stages of this approach and will make an important contribution to the implementation of these guidelines and the promotion of a high level of employment.' The subsequent Council Employment Guidelines for 1999 and its relating resolution confirms this position. Moreover, the Council will organize regular contacts with the social partners to allow for proper preparation of their six-monthly meetings with a troika of

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110 See Article 126(2) of the European Community Treaty as amended by the Amsterdam Treaty.


113 Ibidem, point 9.

Heads of State or Government and the Commission. In addition, the Council emphasized in its Report to the Vienna European Council on economic policy coordination that the European social partners were invited by the Ecofin Council for a regular exchange of view. A similar sort of meeting is provided between the Council’s Employment and Labour Market Committee Steering Group and the social partners. Consequently, the Commission Communication on implementation of the 1998 Employment Guidelines, known as the National Action Plans, presented to the Cardiff European Council of 15 to 16 June 1998 calls upon social partners ‘to shoulder their own responsibility for supporting the employment guidelines’. Their input needs to be reinforced, in the view of this document, at both national and European levels, and its impact on employment duly evaluated. The document further stresses the great responsibility of the social partners in the process of the implementation of the Union employment strategy and calls for an independent and proactive contribution of the social partners in this field. In May 1998 the Commission proposed to reform the Standing Committee on Employment, asking that the delegations to the meetings of the Standing Committee on Employment should include representatives from the European employers’ and the trade unions’ side. Consequently, the social partners are clearly positioned in the procedures for the implementation of European growth and employment. This represents a challenge for the social partners to establish a coherent and comprehensive framework for action instead of reacting positively or negatively to piecemeal legislative initiatives.

The social partners are vehemently interested in contributing to decision-making in the Union and prepared to shoulder responsibilities. In the Joint opinion issued on 3 July 1992, they expressed their willingness to contribute to the development of a strategy to promote a non-inflatory, lasting and employment-creating growth in the framework of a comprehensive cooperative dialogue. Furthermore, the idea of a pact for employment was also discussed at

115 Ibidem, point 10.
120 This body was established by the Council Decision of 14 December 1970 (OJ L273 of 17.12.1970).
121 Commission explicitly proposed that the composition of each delegation should cover the whole economy, including European organisations which represent either general interests or more specific interests of supervisory and professional staff and small and medium-sized businesses. The participants to the social partner delegations are UNICE, CEEP, UEAPME, EUROCOMMERCE and COPA on the employers’ side and ETUC and CEC on the employees’ side. The delegations should be organised through liaison structure (Commission of European Communities (1998) Commission communication ‘Adapting and promoting the social dialogue at Community level’, COM(98) 322, Brussels, 20.5.1998, p. 11).
122 Commission of the European Communities (1992) ‘A renewed cooperative growth strategy for more employment: an initiative by the European social partners’, European Economy, Suplement A, 7: 1-5. The social partners for the first time supported the Community cooperative growth strategy for more employment by their Joint opinion of 6 November 1986
the annual summit of the Social dialogue, held on 28 September 1993 in Brussels, which brought together ETUC, UNICE and CEEP. This gathering was dedicated to the search for a common employers/workers platform on ‘Growth-Competitiveness-Employment’. On the eve of the 1994 Corfu Summit, the Economic and Social Committee sent to the Heads of Government, on behalf of the social partners, a message calling for a Europe wide social pact which could set out the basic conditions for an equitable, job creating upturn in growth. In 1995 ETUC, UNICE and CEEP adopted the Joint opinion laying down the guidelines for turning recovery into a sustained and job-creating growth process. In October of the same year the representatives of European employers and workers, meeting at a European level social dialogue summit in Florence, adopted for the first time ever a joint declaration on employment. In this declaration intended for the Madrid European Council, the social partners stated their readiness to assume their responsibilities in the structural reform of the labour market. The Commission's Confidence pact initiative also received great attention from the social partners at a Round Table on Employment in April 1996 and, along with national governments, at a Tripartite Conference in Rome in June 1996. As the response to Santer's Confidence Pact the social partners ETUC, UNICE and CEEP issued a joint contribution to the 1996 European Dublin Council announcing their willingness to involve themselves in the promotion of employment. In their submission to the 1997 Luxembourg Employment Summit of 13 November 1997 the social partners welcome the pursuit of an integrated and coordinated European employment strategy and declare their intention to fully engage in the implementation of the Guidelines for employment at the national and the European level. This undertaking was restated in their common position on the 1999 Employment Guidelines.


125 ETUC, UNICE and CEEP (1995) ‘The social partners guidelines of 16 May 1995 for Turning recovery into a sustained and job-creating growth process' in European Commissin, 1995 Broad guidelines of the Economic policies of the member states and the Community drawn up in conformity with Article 103(2) ofthe Treat establishing the European Community, European Economy, no. 60.
127 Presidency Conclusions of the Round Table on Employment on 28 and 29 April 1996, Europe Documents, No 1985, 8 May 1996.
129 S/13.1.3./de6nv97e.doc, p. 8. Although both the European trade unions and employers' association are wiling to take a part in the Union strategy to fight unemployment, their strating positions are quite different. While UNICE isists that higher employment can only result from the creation of new enterprises and the expansion of enterprises already established and consequently calls for the reduction in tax in order to allow enterprises to take on more personnel (UNICE message to the European employment summit, 18 November 1997, s/11.3.15/not59/e.doc., point 3), ETUC emphasizes the maintainace of a high level of social protection in Europe (Agence Europe, 20 November 1997, p. 14).
130 Agence Europe, 14 & 15 December 1998, p. 16.
The role of the voluntary organisations in the European employment initiative

Similarly to the social partners, European voluntary organisation are more that willing to participate in the implementation of the Union employment strategy. For example, the Permanent Forum of the Civil Society, which groups about a hundred non governmental organisations, called for the Extraordinary Luxembourg Job Summit to take in consideration its position on a strategy to fight against unemployment. But demand expressed by voluntary organisations to be fully involved in the process of realisation of European employment initiative is not endorsed by the Union institutions. Although the voluntary organisations are also considered by the Commission to be important partners in fighting unemployment in Europe, since they have become a powerful creator of jobs, particularly among vulnerable social groups, they occupy a far less significant role in the Union employment (Essen) strategy than the social partners.

In spite of the fact that the White Paper on Growth, Competitiveness and Employment, the Santer Employment Pact, the Commission's Interim report on the implementation of the territorial pacts for employment, the Luxembourg Employment Summit and the Commission's Communication on voluntary organisations suggest that the voluntary organisations should be encouraged to play a bigger part in the quest for job creation, they are not identified in the Treaty Chapter on Employment or in the 1998 Employment Guidelines and the subsequent evaluation by the Commission of the implementation of these guidelines by the member states as actors which should be consulted or 'should shoulder' responsibilities in

131 Agence Europe, 20 November 1997, p. 15.
135 Commission of the European Communities (1997) Interim report on the implementation of the territorial pacts for employment, Bull. EU 6-1997, point 1.3.2. In the report, the Commission presents 90 projects planned in different regions of the Union which have been submitted for its approval. It selects as territorial pacts only those projects based on genuine partnership in which the private sector and non-governmental organisations play the leading role and which represent real progress towards job creation.
relation to the Union employment strategy. The 1998 and 1999 Employment Guidelines only vaguely refer to the need to explore the possibilities offered by the ‘social economy’ in increasing employment, but they do not recognize voluntary associations as agents capable of engaging in the process of the implementation thereof.

Further, the Amsterdam Resolution on Growth and Employment calls upon ‘all the social and economic agents ... to face fully their responsibilities within their respective spheres of activity’, but it expressly recommends only the ‘social dialogue and the full use of present Community law concerning the consultation of social partners’ to combat unemployment. Moreover, in its recent social policy communications on modernizing and improving social protection in the European Union and on modernizing the organisation of work, the Commission invites only the social partners, in addition to the European Union institutions and member states, to give further views on this issue and take leadership of the change process; it fails to recognize the non-governmental organisations as independent players in the field of social policy and working relations. Finally, Commissioner Flynn, addressing the 1998 Social Policy Forum, emphasized that the responsibility for implementation of the Union employment initiative lies with member states and social partners, failing to mention voluntary organizations in this context.

The Commission takes on board the experience in the member states which has demonstrated the importance of involving all relevant socio-economic agents in the development of employment strategies at different levels. It recognizes that new ideas, based on the experiences for example of social action groups, women's organisations, youth organisations, as well as result of dialogue between producers and consumers, industry and environmental organisations, could be fed into the process of defining relevant initiatives and measures in the field of employment. However, the Commission accords far less significance to those groups than to the social partners in the process of the coordination of employment policy in Europe.

The privileged access to the Union policy process for the social partners as the crucial economic and social players

One should ask why the desirability of a greater involvement of voluntary organisations in the process of the implementation of the European employment strategy and social policy has been declared in a range of Union documents, but very little has been done towards the operationalisation and putting into practice of these pronounced commitments. The reason for

316, Brussels, 13.5.1998.


this is the wide recognition on the European Union level that only strategic actors such as management and labour representatives should be given a permanent and critical role in policymaking. The social power of strategic interests is formally recognized in the Union, and this recognition entails the institutionalization of such interests as permanent public clients who may claim a share of power as a function of their economic role. The social partners gain public access to the field of Union social policy because they occupy vital locations in a complex economy as the major producer groups. In return for tangible benefits, key actors accept the obligation to cooperate with each other and with the Commission in order to reach a consensus that embodies the greatest benefits at the least cost.

As has been shown in the foregoing discussion, the main reason that the European institutions support the excessive involvement of the social partners in the Union policy process is that they are considered to be resourceful partners in the Union strategy for fighting unemployment. The European level business and labour organisations are recognized within the Union structure as players who can contribute to the solution of the problem of unemployment to a greater extent than the voluntary organisations.

Why is that so? Entering into the final, third stage of the Economic and Monetary Union (EMU), the European member states recognize that the achievement of Economic and Monetary Union requires the establishment of a stable, investment-enhancing, short and medium term policy mix, characterised by a stability-oriented monetary policy, sustained efforts to consolidate public finances, and wage trends consistent with the price stability objective, as well as with maintaining and strengthening investment profitability. The crucial importance of strict budgetary discipline and elimination of excessive general government deficits for the successful completion of Monetary Union has been underscored at the European level. This budgetary discipline should contribute towards the strengthening of the conditions for price stability and non-inflationary economic growth as the prime aims of the establishment of the economic and monetary union. The restriction of considerable increases in wages is an essential element of any economic strategy aimed at pursuing price stability and low inflation. Although the regulation of wages does not fall under Union competence, the requirement for close coordination of the member states' economic policies in order to ensure that national budgetary policies support stability oriented monetary strategy is provided for within the Treaty framework, particularly in Articles 102a and 103, and referred to in Article 3a of the Maastricht Treaty. However, the conclusions of the Essen European Council, the Commission's initiative for 'Action on employment: a confidence pact,' the Dublin declaration on Employment, the Amsterdam Resolutions on the Stability and Growth Pact and on Growth and Employment, the Conclusions of the Luxembourg Employment Council, and the 1998 and 1999 Employment Guidelines emphasize that the growth intended to be

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144 See Article 109e (4) of the Maastricht Treaty. See also the Resolution of the European Council on the stability and growth pact, Bull. EU 6-1997, point 1.27.
145 See Article 2(6) of the Agreement on Social Policy attached to the Maastricht Treaty.
146 See note 104.
147 See note 106.
148 See note 107.
150 See note 108.
151 See note 111.
152 See note 139.
achieved as a result of the establishment of Economic and Monetary Union should be conducive to employment creation. As proclaimed at the Luxembourg Employment Summit 'the continuation and development of a coordinated macroeconomic policy, underpinned by an efficient internal market, which will lay the foundations for sustainable growth, new dynamism and a climate of confidence conducive to boosting employment' is one of the Union's prime goals. The most significant message is that the coordinated European Union policies concerning the internal market and the economic and monetary union need to be complemented by a coordinated strategy for employment. Hence, monetary policy should not only focus on price stability as requested in Article 105 of the Treaty, but should also support the general economic objectives of the Community as defined in Article 2, including 'sustainable and non-inflationary growth ... a high level of employment and of social protection'. This means that the introduction of the EMU has to reconcile the quest for an effective and competitive economy with the quest for the preservation of social peace embodied in the maintenance of relatively high employment. Consequently, the coordinated employment strategy that emerged from the future Article 128 of the Amsterdam Treaty stays high on the Union agenda.

The collaboration with representatives of both sides of the production chain, employers and labour, is considered in the aforementioned Union documents to be of the greatest importance for securing the national budgetary discipline deemed to be a necessary requirement for participation in the third stage of the Monetary Union and ensuring that a reduction in the general government deficit does not contribute to a sharp increase in unemployment. As put by the Commission 'the EMU process and economic convergence have progressively made visible the importance of the role of social partners, not only in influencing the local competitiveness and employment conditions, but also as a mayor player in the achievement of growth and an employment-friendly overall policy mix in the Euro zone and in the Community.' The Economic and Social Committee also recognized that the social partners will form one of the cornerstones of EMU because of the fact that they traditionally play a critical role in employment and labour market policies, including wages policy on which appropriate use depends the success of monetary union. The wage policy is widely considered as the most important tool for relieving inflationary pressure and consequently enabling monetary union to fulfil its objectives.

Similarly, the Amsterdam Council acknowledged efforts made by the social partners on wage moderation and concluded that these efforts should be further pursued. Although the Union

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154 Both European management and labour tend to be supportive of the moves towards European Monetary Union. However, as would be expected, trade unions tend to emphasize the effect of EMU on employment levels, while employers underline financial stability as their primary concern (European Industrial Relations Review, February 1997, no 277, p. 19).
156 Economic ans Social Committee (1998) `Own initiative opinion on employment policy and the role of socio-economic organisations in the third phase of economic and monetary union', CES 144/98 F/SD/P/vh, Brussels, 2 December 1998, points 1.3.3.1 and 1.3.3.2.
authorities have to seek the widest possible support, including that of the European level voluntary organisations, for the achievement of those policy objectives, only the management and labour representatives, as the most significant economic actors, are considered to be capable of substantially contributing towards the fulfilment of these Union goals. The success of the EMU and of building up a coordinated European macroeconomic policy is deemed to depend largely on cooperation of the social partners as the important economic agents. The three key variables of macroeconomic policy: monetary policy, fiscal policy and wage developments are thus determined by three different groups of actors: central banks, national governments and social partners, respectively. An important objective of discussions at the European level on the Commission's Confidence pact is to build bridges between them and the authorities responsible for budgetary and monetary policies. This should help to avoid a risk of conflict between the three major macroeconomic variables, and to facilitate implementation of the European Monetary Union. This is why the May 1998 EcoFin Council decided to discuss Economic and Monetary Union only with the social partners and not with other interest groups.  

Since the development of wages is one of the most crucial factors for a stable monetary and macroeconomic policy and since wages are predominantly determined at the decentralized level through collective agreements between employers' and workers' organisations that encompass broader issues, the commitment of these partners to common objectives and their contribution to macroeconomic policies is of utmost importance. This has been recognized and emphasized in the Amsterdam Resolution on Growth and Employment. In several member states recent national pacts demonstrate the commitment of organized employers and workers to contribute towards solving the problem of unemployment. Thus, the social partners could be considered powerful economic actors responsible for a sound wage development. Their leading role in the process of production empowered them to gain privileged access to policy formation in the Union, while the other interest groups not involved in economic activity are considered to be helpful but not essential and not the most capable partners in pursuing the abovementioned policy preferences. This is why these two sets of interest groups are positioned differently in relation to the accessibility to the Union policy process. The capacity of management and labour to conclude collective agreements on particular topics distinguishes them substantially from other interest groups of a diffuse nature. The Commission itself recognizes this unique feature of the social partners, emphasizing that `the social partners are different in nature from other organisations, like pressure or interest groups, because of their ability to take part in collective bargaining.' Even the White paper on social policy, while seeking to stimulate a new cooperative partnership with civic organisations, underscores only the role of the social partners as the crucial players in social policy: `From now on, it is possible for European social regulation to rest on both the legislative

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159 See note 108.  
160 Such pacts are considered to be sucessfull in Italy, Ireland, Netherlands, Portugal, Finland and Denmark. For more details see Arnaud, Jean-Luis (1998) `National social pacts: assesment and fututre prospects', Paris: Research and Policy Unit `Notre Europe'.  
initiative of the Union institutions and collective bargaining between the social partners.\textsuperscript{163} This attributes specific weight to their actions at the Union level. Their ability to commit themselves to agreements with a far reaching impact on employment gives them significant advantages in relation to other interest groups incapable of undertaking such commitments. In that context the Amsterdam Summit called upon the social partners to use their capacity to conclude collective agreements to play their role at the European level.\textsuperscript{164} As a payoff for being granted such a privilege access to the European policy process, the social partners have declared their support for the Monetary Union project.\textsuperscript{165} The European social partners have emphasised in their join opinions the need to get and to maintain inflation under control and to reabsorb high budget deficits, not only in view of EMU, but because this is necessary in order to achieve a long-lasting, job-creating growth process.\textsuperscript{166} While the social partners support the objective of EMU, they simultaneously stress the importance of avoiding EMU becoming associated with unemployment. This requires a macroeconomic environment capable of linking stability policy with a policy of support for economic activity and employment. They point out that there is no necessary contradiction between restoring public finances situations of member states on a sound basis and the fight against unemployment, provided that meeting the conditions for budgetary sustainability does result in lower interest rates.\textsuperscript{167}

\textsuperscript{163} Ibidem, p. 42.
\textsuperscript{164} See note 108.
\textsuperscript{167} Ibidem. Although both UNICE (European employers asociation) and ETUC (European trade union federation) adopted affirmative attitude towards EMU, each of them emphasises different aspects of this project. While the ETUC supports the moves towards EMU, it stresses the need 'to make economic recovery and the fight to bring down unemployment ... the real priorities. ETUC criticism of EMU has been aimed at the emphasis placed on monetary union and the convergence of inflation and deficit, rather than on economic union and the convergence of employment and growth levels. Essentially, ETUC has been trying to ensure that economic and monetary union is not at the expense of employment and welfare. Hence, the ETUC is demanding that a real social union should be constructed and that the European Union should build up an economic and fiscal policy and a strategy for full employment to restore the balance to Economic and Monetary Union (ETUC (1995) For a strong, democratic and open union built on solidarity, Brussels: ETUC). On the other hand UNICE places emphasis on EMU's contribution to the development of a stable macroeconomic climate conducive to bussiness investment and growth. The organisation's main concern is the long-term stability of the single currency and budgetary discipline after 1999. UNICE urges that the existence of a stability pact after 1999 should not be the pretext for a relaxation of budgetary discipline ahead of the creation of the 'eurozone' (UNICE (1995) Preliminary UNICE contribution to preparation of the 1996 Intergovernmental Conference (IGC), Brussels: UNICE).
The social dialogue vs the civil dialogue: policy formation vs deliberation

The most significant distinctions between the social and the civil dialogue concern their objectives and functions. While the social dialogue is envisaged to be an efficient mechanism for day-to-day policy formation, the civil dialogue is seen as a forum in which the strategic problems of European society could be debated. The Commission does not think that the deliberation of strategic issues of European social policy is a role appropriate for the social dialogue, given its purpose of nourishing the process of collective agreements between the two sides of industry. The second difference between the social and the civil dialogue is that while the former is designed to replace Union legislation by collective bargaining, the latter has never been intended to exceed consultative, advisory function. The Commission emphasized in its 1994 White paper on social policy that `a clear distinction has to be drawn between the negotiating process (...) established under the Agreement on social policy and the consultations which the European Union must undertake to deal with social problems which cannot be dealt with by collective bargaining'. This means that the primary function of the civil dialogue is an advisory and consultative one, while decision-taking is reserved solely for management and labour. In the Commission's view the main aims of the emerging civil dialogue are not policy formulation functions, as in the case of the social dialogue, but (a) to ensure that the views of voluntary organisations can be taken into account by policy makers, and (b) to disseminate information from the European level down to the local level. Obviously, the Commission has not provided for any prospect of giving the voluntary associations real decision-making powers, enabling them as it was to take the place of the Union legislator.

The civil dialogue initiative and the weakness of transnational structure of European voluntary organisations

The low degree of organizational development of voluntary organization at the European level

More formalized and institutionalized involvement of voluntary organisations in European decision-making, though restricted to a deliberative, discussion forum, requires the existence of an appropriate infrastructure of these associations which would enable them to engage in Union policy formation as actors capable of articulating their common positions. However, the degree of organizational development of transnational voluntary organizations at the European level is relatively low. Different forms of cross-national integration generally have emerged at the European level. In

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169 Ibidem.
171 Ibidem.
1992 more than 100 networks of voluntary organisations were identified in Europe, many of which have Brussels offices and are partly or fully funded by the Commission: for example, the associations which form the Platform of Social NGOs listed earlier, the Red Cross Liaison Committee, the European Foundation Centre or CEDAG (the European Council for Voluntary Organisations), Caritas, Diakonie, Parity Association, Workers' Welfare Associations, Jewish Welfare Association, etc. According to the survey conducted by the Commission, nearly a quarter of the investigated voluntary organisations claim to be involved in some form of cross-border activities, while 46 percent of respondents said that they envisaged entering into cross-border partnership at some time in the future. However, voluntary associations organized at the European level do not go beyond weak organisations with low capacities for entering into the structured interface with the Commission.

Not only are the European associations of national voluntary organisations very loosely organized, but these interest groups often do not have effective national affiliations. For example, as administrators setting up the European Forum for Disabled People as part of the European Union HELIOS II Programme discovered when seeking to represent the twelve national councils for disabled people on this forum, only Denmark had a truly representative national council incorporating all aspects of disability.

The heterogeneous nature of associations in the European Union

The other problem is the heterogeneous nature and the differing structures of associations in the European Union member states which actually prevent them from forming compact and well structured organisations operable at the European level. Thus, there is no doubt that one of the major difficulties when talking about voluntary organisations and foundations is the enormous number of different forms which they take.

The lack of the right of association in the European Union

The lack of the legal framework for action at the European level is perceived in the literature as one of the most tangible limitations preventing voluntary associations from operating with greater ease transnationally.

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177 See e.g. Curtin, Deirdre (1996) "Civil society" and the European Union: opening
The right of association is not recognized within the European Union legal system, though the question of the recognition of the legal personality of international associations has been dealt within under the auspices of the Council of Europe. The right of association is guaranteed under Article 11 of the European Convention on Human Rights (ECHR). Generally speaking, it is possible for nationals of any member state to establish a voluntary organization or foundation anywhere in the Union, although some member states stipulate that there should be a minimum number of their own citizens or residents involved. In 1986 the European Convention on the recognition of the legal personality of international non-governmental organisations was concluded. But it is of fairly limited application due to the fact that it has not been signed/ratified by all European Union member states and that no harmonization of the national legislation of the participating states takes place. Moreover, the limited solution followed in the Convention is that those ‘international associations’ to which it applies still come within the legislation of the country in which they have their head office. It does not establish a proper legal framework facilitating the setting up of associations as such at the European level. The freedom to establish or join, or indeed to leave, a voluntary organization is a right recognized in all member states of the Union.

However, the right of association is not recognized within the European Union, due to its inability to codify the legal framework enabling the establishment of genuinely Union-level associations. Two legislative proposals in this field which have been submitted over the years by the Commission were abandoned when under consideration by the Council. These were the proposal for a Statute for a European association and the proposal for a multiannual programme of work for cooperatives, mutual societies, associations and foundations.

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178 Article 16 of the ECHR permits derogations to the right of associations in the context of political activity of non-national citizens.


Establishing a legal base for regulations concerning associations at the European level through Union legislations was discussed in the framework of the 1996 Intergovernmental Conference but no decision on this matter was taken.

The representativity problem

The Commission did not raise the question of representativity within its civil dialogue initiative as it did within the social dialogue, since the partnership with the European voluntary organisations is not meant to be a basis for Union legislation, as is the case with the formalization of management and labour input in Union policy formation. However, this question has been posed by voluntary organisations themselves. The Platform of Social NGOs suggests that the Commission should take into consideration the NGOs' representative capacity when it decides which voluntary association to consult on a particular matter. While insisting on the representativity principle as the criterion for the inclusion of a voluntary organisation in the civil dialogue, the Platform of Social NGOs does not identify the requirements for the assessment of the voluntary organisation's representativity. This opinion of the Platform of Social NGOs has been taken on board by the European Parliament. It also believes that the voluntary organisations must clearly identify their representatives as the discussion partners responsible for the various issues, in order to avoid overlap or arbitrary exclusions.

Critical accounts by the Commission and the voluntary organisations

Both the Commission and the voluntary organisations themselves are aware of these shortcomings. The Commission in its documents has clearly pointed out that while it for its part will look for new ways to work together with civil society, voluntary organisations for their part must reexamine their role, structures, objectives and capacities in order to engage fully in new ways of working together. The ability of voluntary organisations to make their full contribution in transnational activities has been limited, in the view of the Commission, not only by their inappropriate organizational structure at the European level, but also by difficulties in finding like minded organisations in other countries in order to develop joint projects, lack of funding etc.

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The voluntary associations organized at the European level recognize themselves the inappropriateness of their transnational infrastructure for the engagement in formalized consultation with the Union institutions. They admit that voluntary organisations operating at the European level are loose structure organised into federations or networks of NGOs. Some are federations of national organisations, other are grouping of individuals, community groups, local, regional, national or international associations. All are faced with the problem of communication between the grassroots and the European level, and their capacity for an efficient action is quite limited. The voluntary associations, therefore, suggest that the Commission should give general thought as to how it intends to carry out regular, coherent, overall consultations with NGOs without losing sight of the fact that NGOs are neither omnicompetent nor capable of satisfying all demands.

**The Commission's motives for launching the civil dialogue initiative**

If we have established that the Commission was fully aware of the inappropriateness of the organisational structure of voluntary organisations at the European level and of the numerous difficulties that these associations face when they attempt to conduct any kind of transnational collective action, it is necessary to assess the Commission's reasons for proposing such a hardly feasible initiative. Namely, the question is why the Commission insists upon the development and consolidation of the civil dialogue project when it has no doubts about its limited effectiveness.

The Commission gives two reasons for launching the civil dialogue initiative. The first concerns the role which these organisations play in the process of job creation in the Union and their consequent contribution to the implementation of the Union employment strategy. The second reason relates to the Commission's Citizens' Europe initiative aimed at strengthening democracy at the European level through wider participation of its citizens in Union decision-making. The Commission claims that voluntary organisations foster a sense of solidarity and of citizenship and provide the essential underpinnings of democracy, i.e. make a profound and indispensable contribution to democratic life in Europe. However, scholars writing in this field identify very different reasons. Cram suggests that the Commission actually believes that the participation of voluntary organisations operating at the European level in the variety of collective forums which have emerged may actually encourage and consolidate the transfer of powers to the European Union, and thus have an important

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impact on the integration process, regardless of their `effectiveness'. Consequently, Cram claims, the involvement of Euro-interests in the Union policy process helps the Commission to push for an expansion of its competences. The same line of argument is used by Wendon, who states that both the social and the civil dialogue are best understood in terms of the Commission's intention to create an alternative institutional venue capable of making legislation and in that manner effectively reduces member government influence. It is argued that the Commission is constantly engaged in a strategy of `purposeful opportunism' in its attempts to expand the scope of its competence and to get its preferred issues onto the policy agenda. Thus, the social dialogue initiative could be regarded as an attempt of the Commission to expand the scope of its competences gradually and without alienating national governments or powerful sectoral interests.

Mazey and Richardson argue that the collaborative activities encouraged by the Commission are predominantly concerned with creating a consultative partner, establishing a constituency of support with a piecemeal expansion of competences. In the absence of Euro-level parties and the absence of a Euro level media, interest groups seem, according to Mazey and Richardson, to be a key channel in mobilizing support for the Union. These authors further claim that the Union institutions use such initiatives to distribute side payments to interest groups as the price for maintaining the momentum of European integration and as a means of mobilizing public support for the European project.

Inclusion of voluntary organisations, therefore, is regarded by a number of scholars as one of the techniques employed by the Commission in order to extend its scope of action, particularly in the field of social policy. In their opinion the Directorate General responsible for social policy matters, DGV, has learned how to make use of particular small-scale programmes to create a precedent for action and to establish its competence in a wide range of policy areas which would not have gained member states' approval for a more substantial policy initiative. For that purpose the Commission has offered a range of powerful selective incentives aimed at encouraging the participation of Euro-interests at the European Union level and the development of transnational cooperation in the social field.

Much of the work of DGV has been aimed at undermining the opposition of powerful governments and industries, by creating a constituency of support for Union action, and enticing groups to cooperate, where there is little evidence that cooperation would have emerged of its own volition. Since the actual capacity of these interest groups to conduct effective collective action at the European level is extremely limited, the steps taken by the Commission in order to encourage such cooperation might seem small, and Union participation may be dismissed as ineffectual and purely symbolic. However, the importance of symbolism and rhetoric in the

The motives of voluntary organisations for participation in the social dialogue

Although voluntary associations organized at the European level claim that their sole motive for participation in the social dialogue is the strengthening of Union citizens in European social policy formation, a number of scholars indicate financial gains as the prime motive for the non-governmental organisations' collaboration with the Commission. For example, Cram considers the Commission's intention to provide financial incentives for the collective action of voluntary organisations at the European level to be the most important motivating factor for Euro-interests to act collectively. In support of her statement she points out that two examples of surveys by quite different organisations show that the primary interest of their members was in obtaining European Union funding. Indeed, continues Cram, some European level collaborative projects, such as the European Associations for Creativity by Disabled People, (EUCREA), are already noticing the diminishing willingness of their members to cooperate at EU level. As Union funding is reduced, and as funding criteria become more stringent, many organisations are finding it more cost-effective to seek funding at the national level. Cram finally concludes that there is only limited evidence of the spontaneous development of Euro-voluntary organisations and of Euro-interest activity in EU social policy, without funding or support from the EU institutions. It is true, she adds, that this not to say that there have been no examples of a collaboration of interested parties from different member states in response to changing Union powers in the area of European social policy. Likewise, the main aim of many actors joining Euro voluntary associations may be to influence Union social policy. The argument is simply, she emphasizes, that this is not always, nor even perhaps predominantly, the case.

A similar opinion is expressed by Kendall and Anheier. They sages that the first reason of voluntary organisations for seeking partnership with the Union `is obviously financial'. These authors note that the `mushrooming' of lobbying activities by voluntary associations for a wide range of purposes and issues in the social policy arena, such as equal opportunities, women's rights, anti-poverty measures and so on, has been initially facilitated by DGV through its policy (at least from the mid 1970s) of making available European funds to support an elaborate web of issue-specific and client-group networks (under clause of the Article 235 EC).

In addition, the Commission itself admits that over the past ten years the amount of transnational work done by voluntary organisations and foundations has increased dramatically due to a growing number of European funding programmes being opened up to them which

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198 See above, the section on 'The voluntary organisations' response to the civil dialogue initiative'.
199 See above, the section on 'The new civil dialogue budget line'.
201 Ibidem, p. 128.
encourage transnational collaboration. Furthermore, the Commission claims that the ability of voluntary organisations to make their full contribution in transnational activities in the social and employment field has been limited by the suspension of a number of European budget lines for projects involving voluntary organisations following a May 1998 Court of Justice ruling. Commissioner Flynn expressed deep concern over the implications of this ruling. `It is particularly frustrating that this cloud of a threat to funding should be hanging over the civil dialogue at European level just now' claims Flynn.

Conclusions

By proposing an initiative for institutionalization of the civil dialogue, the specific consultative mechanism for involving European diffuse or public interest groups, so called voluntary organisations, in the Union policy process, the Commission has attempted to introduce another Treaty codified layer of interest groups collective action in the Union decision-making structure. The social dialogue, a Treaty based legal framework for erecting the decision-making powers of management and labour in the field of European social policy, is the first mode of interest intermediation to be formalized within the Union lawmaking system. The civil dialogue is intended by the Commission to complement the social dialogue, i.e. to contribute to the reconciliation of the social and economic objectives of the Union. Both represent the result of a long standing intention of the Commission to strengthen the participation of interest groups in European integration.

However, the civil dialogue is still an embryonic and ad hoc mode of interface of voluntary organisations with the Commission, compared with its already well established and institutionalised discourse with management and labour, i.e. the social partners. The Commission's failure to formalize the civil dialogue as the standard operating procedure for the consultation of European voluntary organisations by including specific provisions in the Amsterdam Treaty remains in sharp contrast with the, in the Commission's view, flourishing social dialogue. While the Amsterdam summit substantially increased the role of the social partners in the European context through the incorporation of the social dialogue stipulations encompassed by the Social policy agreement into the main body of the Treaty, the enshrinement of the civil dialogue provisions in the Treaty framework was rejected by this very same forum. Whereas the Union gives considerable powers and responsibilities to the social partners as important partners in the process of the implementation of the European employment strategy, the relevant recent Union documents on the coordination of employment assigned no concrete role to voluntary organisations, the civil dialogue protagonists, in this area. While the Treaty embedded the role of the social partners as the decisive actors in the Union social policy definition, the voluntary organisations are considered by the Commission only as possible participants in the discussions and deliberations on social matters. The social dialogue gives

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205 Case C-106/96, United Kingdom v Commission, Judgment of 12 May 1998, not yet reported.
unions and management at European level the opportunity to negotiate agreements in place of Union legislation, but the prospect of granting the voluntary organisations real decision-making competence and enabling them to take the place of the Union legislator has been expressly ruled out in the context of the civil dialogue. Although it can be credibly argued that the institutional structure of the voluntary organisations operating at the European level is inappropriate for the systematic engagement of these associations in the Union policy process, the weakness of their transnational structure cannot be regarded as a reason for explaining the inferior position of the civil dialogue in the relation to the social dialogue. The institutional structure of the social dialogue participants, the European labour and business confederations, is also consider to be inadequate for their firm involvement in Union lawmaking.\footnote{See Obradovic, Daniela (1995) Prospects for corporatist decision-making in the European Union: the social policy agreement’, Journal of European Public Policy, 2(2): 261-283.} The Commission itself warns that the European social partners ‘have to develop internal structures permitting them to react to developments at European level. This presupposes a real commitment from their members, giving them a mandate to negotiate agreements at European level (at present the European social partners have only a case-by-case mandate, which is to be granted for every single negotiation procedure on a particular issue - D.O.) and providing them with adequate resources and structures.’\footnote{European Commission (1998) Status Report on the Social Dialogue 1997, European Social Dialogue: Newsletter from the European Commission - DGV/D, June 1998, p. 8.} The problems which the European voluntary organisations experience in respect of their poor organisational structure at transnational level, such as the looseness of their infrastructure, the heterogeneous nature of their members, the lack of the right of association in the Union, the problem of representativity, the inability to implement mutual agreements etc., are equally applicable to the social partners.\footnote{Ibidem.}

The main factor which contribute towards the distinction of the roles of the social dialogue and the civil dialogue in the Union policy process is the social power of labour and management. The employers’ and employees’ associations represent strategic interests which occupy vital locations in a complex economy as the major producer groups. This social power entitles the institutionalization of such interests as permanent public clients who may claim a share of policy formation powers in the Union as a function of their economic role. Thus, their leading role in the process of production empowered them to gain privileged access to policy formation in the Union. That is why businesses and trade unions obtained such different positions in relation to other interests represented by voluntary organisations. The capacity of management and labour to conclude collective agreements on particular topics distinguishes them substantially from other interest groups of a diffuse nature. Being socially less significant and of lower salience than the social partners and lacking the capacity to enter into commitments of a binding character, the European voluntary organisations which are not involved in economic activity cannot expect to be granted the same status as employers and employees. Although the Commission considers both the social partners and the European voluntary organisations to be helpful partners in pursuing its employment strategy, only the representatives of management and labour organized at the European level are perceived to be sufficiently resourceful, due to the role they play in the process of production, to contribute significantly towards resolving the problem of employment in Europe.

However, the thesis about the relative insignificance of the civil dialogue in Union
decision-making does not imply that this mode of interest intermediation has no impact on the social dialogue process. On the contrary, it has affected the social dialogue in a profound manner. Taken together with the persistent quest for the inclusion of a greater number of European management and labour associations in the social dialogue, which was first posited by excluded European federations and later adopted by the Commission itself, the voluntary organisations' demand to be included in the European social policy process significantly undermines the monopoly position of the recognized social partners in Union lawmaking. Although the Court of First Instance dismissed the first complaint regarding the exclusion of the European Association of Craft, Small and Medium-Sized Enterprises (UEAPME) from the negotiation of the parental leave agreement, the intense pressure mounting on the part of numerous pretenders to the social partner status and the Commission's recently adopted approach towards easier access of interested parties to the social dialogue process combined with the request of voluntary organisations for more systematic participation in Union policy formation, will certainly endanger the prevailing position of the traditional social partners (UNICE, ETUC, CEEP) in Union decision-making. Eventually, this `mushrooming' of players seeking to assume roles in European social policy decision-taking will have a particular impact on the UNICE reluctance to engage in negotiations on proposals from which it cannot benefit.

Facing the emergence of numerous interest groups acting within the social dialogue ready to take part in the negotiations, and also facing pressure from the civil dialogue participants to gain mandatory consultative rights, UNICE will probably reconsider its well known opposition towards engaging in comprehensive collective bargaining with ETUC. Recent actions of the UNICE supports this thesis. When in March 1998 UNICE announced its refusal to negotiate an agreement on information and consultation of workers at national level, it made sure to stress that this refusal `in no way challenges the willingness of employers to occupy the European contractual area created by the Maastricht social protocol. Later, in order to prove that the social partners are capable of contributing to European construction despite the deadlock in negotiation on worker information/consultation at national level, UNICE agreed on a proposal relating to the system for workers with a fixed term contract. George Jacobs, the President of UNICE, stressed that the approval of this agreement by UNICE demonstrates its `capacity of working as social partner'.

Moreover, since the Commission in its 1993 Green paper on social policy already provided for the broadening of the social dialogue through possible partnership with voluntary associations

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on some issues, it is obvious that the further development of the civil dialogue and the call of its actors to assume greater responsibilities in Union social policy definition will in the long run erode the currently unquestioned rights of consultation and negotiation held by the recognized social partners.

Now that the Commission has raised the European voluntary associations' aspirations for more systematic involvement in Union social policy determination by launching the civil dialogue initiative, they will in future express more and more openly their demands for recognition as fully empowered decision-making partners in the Union. The Platform of Social NGOs already argues "that the biennial Social policy forum is not a forum for "structured civil dialogue". It is," claims this association, "an open forum for meetings between NGOs and social partners, experts and government representatives. It cannot be a substitute for the procedure of consultation and dialogue, which the Commission needs to anchor its thinking and action in the experience of NGOs. This requirement should be studied in the context of the earlier mentioned proposal of the Platform made to the Commission to compile a list of NGOs with which it would consult on a regular basis. A similar list has been drawn up by the Commission to determine the European level social partners eligible for participation in the consultation procedure which is a part of the social dialogue. This is a clear indication of the voluntary organisations' ambition to make the most of the civil dialogue initiative and to assume a similar if not identical role to that of management and labour in the Union policy process.

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219 Ibidem.