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## WORKSHOP

# PERSPECTIVES OF DEVELOPING THE CIVIL DIALOGUE UNDER THE TREATY OF LISBON

Tuesday 3 June 2008  
3.00 pm - 6.30 pm  
Brussels, Room ASP 3E2

**Civil Dialogue : Making it work better  
by Elodie Fazi**

Study commissioned by the Civil Society Contact Group, researched  
and written by Elodie Fazi and Jeremy Smith

## EXECUTIVE SUMMARY

### 1. Why this study?

The role and contribution of civil society organisations (and in particular NGOs) to the EU policy process has grown hugely over the last decades. Its value is increasingly recognised by the EU Institutions, both in terms of the specific expertise introduced into the policy process and as a contribution to tackling the so-called 'EU democratic deficit' through the development of more participatory forms of governance. During this time, structured practices of dialogue between European institutions and NGOs have emerged, which are commonly referred to as civil dialogue – a development which is recognised by the draft Constitutional Treaty.

The inclusion of Article 47 in the Constitutional Treaty, followed by the French and Dutch 'no' to the text in May and June 2005, were only some of the challenges that led to this study. After several decades of engaging with EU institutions, members of the Civil Society Contact Group have indeed experienced a number of trends which led them to acknowledge the necessity of a common reflection: strong fragmentation of dialogue throughout policy areas, difficulty to actively involve their membership in the European debate, inequality of access with private sector actors, challenges raised by enlargement, but also a necessity to share good practices.

The objective of this study is thus to review existing practices of civil dialogue on EU-related issues, in order to:

- ◆ provide an overview of existing practices;
- ◆ identify good and bad practices;
- ◆ provide common input into the current debate on civil dialogue.

### 2. Methodology

The study examines the practices of civil dialogue by looking at five case studies – each one in a major EU policy area. Evidence was collected through interviews, questionnaires and desk research between July 2005 and May 2006. In total, 42 people were interviewed in Brussels and 59 in the six focus countries. The vast majority of these interviews were conducted in person, by two researchers in charge of specific parts of the study. While the first three chapters are based on an important level of desk research and a questionnaire that served as a basis for interviews with EU level actors, chapter 4 and 5 are dedicated to case studies and build upon specific questionnaires and interviews with both national and EU level actors.

### 3. Main findings

#### 3.1 The 'patchy' picture of civil dialogue

**A 'soft' framework at EU level** – The report begins with an initial review of the history and concept of civil dialogue between the EU and NGOs, plotting how this interaction has evolved in the light of both the EU's own 'democratic deficit' and lack of strong accountability mechanisms and NGOs' growing engagement within the EU and national policy arena. If the development of civil dialogue in the EU found an inspiration in practices at national and international level, it was marked by a much 'softer' approach, characterized by the following elements: strong role of one particular institution (the European Commission), non-binding character, open approach (absence of binding representativity criteria and no accreditation of specific organisations), 'wide' and potentially ambiguous definition of civil society (comprising economic actors).

**Absence of clear-cut definition: a continuum from informal lobbying to structured relations** – Chapter 2 stresses the difficulty to provide a comprehensive view of the actual forms taken by civil dialogue in the EU, which turn out to be complex and fragmented. A review of interactions between EU institutions and NGOs reveals that civil dialogue is rather based on a continuum between informal lobbying and structured relations and that its degree of openness to the wider public varies strongly from one channel to the other. Civil dialogue is thus marked by a permanent tension between expertise, effectiveness and

participation.

**Imbalance between institutions and throughout policy areas** – The actual practices of dialogue vary importantly from one institution to the other and across policy areas. Driven by a strong willingness to increase accountability but also the quality of decisions, the European Commission appears as the main driver for structured forms of interactions, followed by the European Economic and Social Committee which increasingly sees itself as a ‘dialogue champion’ (which is not without raising a number of controversies even among NGOs themselves). Despite its high level of openness to NGOs’ concerns and input, the European Parliament has so far opted for more informal ways of interactions, while the Council is marked by a strong degree of closedness to NGOs and the wider public (especially in pillar 1 covering community policies). Civil dialogue also appears to be unevenly developed throughout policy areas, which can be explained by factors such as legal basis, historical path, but also degree and mode of organisation of civil society itself.

### 3.2 Challenges to take up

Chapter 3 identifies some of the key challenges met by NGOs interacting with EU institutions. It is completed by a more in-depth survey of five particular examples of processes of dialogue in chapter 4: Constitutional process, DG Trade dialogue with civil society, Corporate Social Responsibility Multi-Stakeholder Forum, Service Directive, Open Method of Coordination on Social Inclusion. The challenges raised by the involvement of national organisations is highlighted in particular in chapter 5, which reviews the situation in six focus countries: Czech Republic, Italy, Latvia, Netherlands, Poland, United Kingdom.

The four following points arise as key challenges for the development of civil dialogue in the future:

**Providing an enabling structure leading to concrete outcomes** – Rather than a quantitative lack of participation opportunities, a key challenge is to provide an efficient and effective structure that enables dialogue to really make a difference, whilst at the same time not ‘capturing’ the fluid nature of civil society. Consultation with NGOs thus needs to be enshrined in a timely and focused process, where the objectives and the follow-up of the consultation are clearly stressed out. This is all the more important as NGOs are often equipped with limited human and financial resources to get engaged in advocacy activities, as illustrated in particular by the case study of the Multi-Stakeholder Forum on Corporate Social Responsibility (chapter 4). This specific example also stresses that, even if civil dialogue has a strong added value per se (in particular in reinforcing trust among NGOs and between them and institutions), a key incentive for NGOs to get engaged is its potential impact in the policy process. In particular, the impression that their voice is only listened to as a formal exercise might lead a number of NGOs to increasingly focus their energy on less formalised participation channels. Improving the quality of feedback to consultations should thus be a priority to avoid such consultation fatigue and disproportionate expectations.

**The need for better horizontal coordination and equal access** – Providing the right structure also involves strengthening the degree of coordination between different actors, so as to make sure that a coherent approach is adopted. The report stresses that the frequent perception that NGOs’ voices do not count, in particular in relation to that of business, can be partly explained by the lack of a horizontal approach to dialogue. In the specific case of the European Commission, dialogue appears to be well developed with a number of Directorates General (DGs) that fall directly within NGOs’ remit (e.g. DG Employment and Social Affairs, Environment, Development) but much less with other segments which tend to involve other types of stakeholders (e.g. DG Internal Market and Services). The lack of horizontal approach also results in a strong imbalance between different types of stakeholders, business being the prime interlocutor of the most influential DGs. Better coordination between the different DGs of the European Commission appears as a priority, as well as the need to avoid consultation with business interests only, which should be tackled amongst others by increased transparency over the relation between EC officials and stakeholders.

**Strengthening trust and mutual understanding between NGOs and EU institutions** – The lack of horizontality results in a lower level of trust and mutual understanding between NGOs and EU institutions in these specific fields. Yet the need to reinforce this trust appears more as a challenge for the institutions in their entirety. A low level of understanding of how NGOs work often results in disproportionate expectations. Besides, strengthening mutual knowledge should also contribute to lift unfounded suspicions and attacks which NGOs have been facing over the last years, pointing at their supposed lack of accountability and transparency. While attacks linked to financial transparency can be easily discarded, it is crucial for NGOs to take a leadership role in the debate over transparency and accountability, where business appears to have

taken a more visible (though sometimes rather weak) approach.

**The need for an inclusive approach** – Originally driven by the need to tackle the shortcomings of representative democracy, civil dialogue appears as a mean to bring back in the policy decision the citizens whose voice is not always sufficiently heard. Yet inclusiveness and participation are regularly confronted with requests for more efficiency. Three main challenges arise: ensuring access to a plurality of organisations, involving the hard to reach in particular through increased awareness of participation opportunities, and efficiently involving national NGOs (in particular from the New Member States) in the decision-making process. The division of labour between the European Secretariats and their national members appears as one key challenge to ensure a real participation, whilst at the same respecting a form of subsidiarity and efficiency. The key is the extent to which NGOs have systems and structures in place to test on an ongoing basis how much European NGOs are representing the views and interests of their (national) members and how much (national) members are able to fully hold them to account. The role of national governments and of the European Commission's representation in the Member States is also crucial to ensure that participation of national NGOs reaches its full potential.

## 4. Recommendations

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Taken together, the information presented in this report offers a rich and broad analysis of the state of current practice of dialogue between the EU and NGOs. At the end of the report, Steps to Improving Civil Society Participation in EU policy-making are offered. They detail actions that the EU needs to take in the areas of:

- ◆ Reviewing and strengthening civil dialogue
- ◆ Putting in place an efficient and effective dialogue structure
- ◆ Making participation matter
- ◆ Increasing transparency and stakeholder balance
- ◆ Opening up the Council
- ◆ Ensuring a real consultation on horizontal issues
- ◆ Ensuring an enabling environment for national NGOs to participate in European debates.