

TSEP Workshop

The third sector and the European multi-level process

Berlin/Germany, 1st – 2nd April 2005

This workshop was locally facilitated and supported by Maecenata Institute; and otherwise organised by the TSEP co-ordinators, based at the London School of Economics. The foci of the workshop were:

- The nature of the ‘third sector horizontal policy community’ or ‘network’¹ in Brussels, and in relation to the EU institutions: its language, architecture, agenda etc
- The character of linkages between Brussels and the national and sub-national levels – that is, the extent to which the third sector policy process in Europe is a multi-level one
- The durability versus the transience of those public policy issues which are the concerns of this ‘community’ or ‘network’

The perspectives presented for debate were those of:

Dirk Jarre, recently been appointed special advisor to the President of the European Economic and Social Committee of the European Union, responsible for the political coordination of the cooperation with European platforms and networks of civil society, and also former head of international department of the "Deutscher Verein für öffentliche und private Fürsorge" (German Association for Public and Private Welfare) (1979-2002) and Vice-President and member of the Management Committee of the Platform of European Social NGOs, Brussels, Chair of the Social Platform’s permanent working group “Social Policy” (2000-2005)

and

Patrick Du Bucquois, Vice-President and Secretary General of the “Comité Européen Des Associations d’Intérêt Général” (European Council for Non-Profit Organisations) and Secretary General of “Caritas catholica en Belgique francophone” (Caritas Belgium).

This summary was compiled by Jeremy Kendall, London School of Economics. Both presentations are first summarised in some detail, followed by notes from the discussion.

¹ For more information on this terminology, please refer to the TSEP glossary, available on the website www.lse.ac.uk/collections/TSEP.

Dirk Jarre

Prefatory remarks

Of course, the (analytic construct of) ‘third sector’ per se is not the ‘insider’ language in EESC and related policy circles: most currency is with ‘organised civil society at the European level’ and ‘NGO networks and platforms’. But these terms are often used with different meanings – as with the controversy as whether or not for-profit business is part of ‘civil society’. (EESC says ‘yes’, while the European Foundation for the Improvement of Social and working Conditions says ‘no’). How can those who are deaf to each others’ formulations talk to each other?

However, this vagueness is a characteristic of the process more generally: so, there are also different meanings associated with ‘democracy’, with ‘European society’ and with, the ‘European Social Model’. Not having settled meanings does not mean debate and discourse cannot proceed, or that the terms can be dismissed as empty shells. Rather, those involved seem to feel that, even if no clear cut formulation is the subject of consensus, there is a shared, albeit not scientifically legitimated, conviction that there is substantive content at stake.

The issue has been dramatised by the debate in relation to the Constitutional Treaty. Consider ‘the principle of participatory democracy’, referred to under Article I-47 invoking ‘citizens and representative associations’. Is that civil society? Is this meant to signify citizens’ *associations* and representative associations? How is this tied to the EU? There is the suggestion that the Unions’ institutions shall give these associations ‘the opportunity to make known and publicly exchange their views over all areas of Union action’. Later there is reference to the need for the Union to maintain ‘an open, transparent and regular dialogue with representative associations and civil society’; and then, ‘the Commission shall ‘carry out broad prior consultation with parties concerned in order to ensure that the Union’s actions are coherent and transparent.’ (Note that ‘consultation’ is not ‘participation’)

Can we speak of a ‘third sector’ policy community Brussels? Why, or why not?

We can, with dynamics at EU level, and with extended areas of influence. The story is one of growth. We have ‘strong lobby structures’. Lobbies from outside, have generated European Parliament reactions, setting up of advisory structures. Important to settle issues before legislative process – in an attempt to avoid contradictions.

4 waves:

- Initially, these had been common market oriented, so the business sector dominated;
- Overseas NGOs
- Environmental action
- With the arrival of CEDAG (see next speaker), and the cross cutting Statute of Association – potentially relevant across fields.

In the language of TSEP, we have seen first business dominance, then third sector action within vertical fields, and then more horizontal activity, in relation to which the formation of CEDAG, and associated Statute Lobbying, was a sign of change (with a further sub-wave overlaying this more recently: see discussion of Social NGO Platform and CSCG below). Some of these structures have become more stable.

There has been a separate trajectory for the European Economic and Social Committee (EESC). This was not a reaction to the legal-Parliamentary design process, but goes back to the 1957 Treaty itself, modelled on the French ESC². The EESC has a problem of composition. Under the new Treaty – which retained it – it has ‘up to 300’ members from the EU25. But the ‘representatives’ are nominated by Member States, and then approved by the council. Significant NGOs have questioned the appropriateness of this procedure. Appointees on the EESC do not represent the organisations from whence they come, but are there ‘to express expertise, not backed by source organisations’ orders’.

The internal Groups comprise Group 1, business, Group 2, trade unions and Group 3 ‘other interests in society’ (including organisations which many would recognise as third sector – see below).³ The EESC process is in ‘clear competition’ with the separately developed social dialogue, whereby EU level business and trade unions – UNICE and ETUC, the traditional ‘social partners’ – have developed legislation (on a relatively small scale, in respect of parental leave, atypical work, and a handful of other spheres).⁴

The EESC has a particular pattern of activity. It mainly reacts to Commission proposals – it has to be consulted. (The current President, Anne Marie Sigmund, wants EESC to be ‘less EU driven, go more to the long term issues’). The EESC can work on ‘own initiative opinion’. But only 15% of the 150 Opinions expressed per year are ‘own initiative’ or exploratory.

What are the EESC’s strengths?

- It does have the advantage of capitalising on the huge professional experience of its members.

² This is the third most powerful element of the French State, and part of the foundational constitutional settlement in that country. Contrast this with, for example, Germany, where the domestic structures are politically weak and unimportant. The domestic structures also vary in the degree to which they formally find room for non-traditional social partners. Some countries have something like the EU level ‘group 3’ (see text), but some, like Luxembourg, only represent business employers and trade unions. See also Du Bucquois’s remarks.

³ There is a problem of ‘representativeness’ in all cases. Regarding the leading traditional social partners, UNICE can only claim to cover 10% of employees; and in relation to the ETUC, there is also a lack of inclusiveness. The ‘other’ category is considered further below.

⁴ The fact that these processes are not so well understood was reflected in the design for representation of the traditional social partners in the constitutional convention process. EESC had 3 observers, but the traditional social partners also had representatives too – this seems not to have been deliberate!

- It has to be consulted – this compulsion should not be under-estimated: the relevant politicians and civil servants have to review what it concludes.
- It has many more resources than independent civil society organisations themselves: its budget is significant.

In fact, the EESC does not have a positive image from a number of perspectives – because of the appointment system, and its perceived impact on actual policy outcomes. However, the response of the organisation to these criticisms is that it is not able to alter the system itself: it can only do what Member States allow, according to the Treaties/constitutional settlement.

The Nice Treaty had given the EESC ‘responsibility for consulting, representing, informing and expressing the views of representative organisations of civil society at European institution level’. This was expressed in November 2002 as the Dublin declaration.

In one sense, the EESC is ‘the institutional body for representing civil society organisations’. The definition here, including the 3 groups, involves employers, trade unions – and voluntary organisations. Should they claim to ‘represent’ the latter? By themselves, they can’t – it is simply impossible. But there has been a change over the past 5 years, with a significant adjustment in the expansiveness of the claims-making. Around 2002/03, the language was of EESC as ‘the bridge’ to civil society. But this could be taken to imply a monopolistic role – which generated a good deal of resentment – and even a ‘storm’ from Brussels-based third sector groups. Latterly, the language has been deliberately softened: the preferred metaphor is that of ‘the house’ with its softer imagery of accommodation and pluralism (“come and enjoy the dialogue inside the house”). The EESC relatedly now expresses its mission as acting as a ‘facilitator’ and forum within which ‘civil dialogue’ can take place. Latterly, the EESC has also developed its external relations as part of this process, with a ‘liaison group with European civil society platforms and networks’ formed in 2004.

The new President of the EESC – Anne-Marie Sigmund – has her origins in Group 3. She links this functioning with the issues of

- The promotion of participatory democracy
- European culture; and
- The European Social Model

Within organised civil society, in relation to social policy and the social welfare domain, the Platform of European Social NGOs has been an increasingly prominent actor. Its origins go back to the 1993 Green Paper on social policy, which was the proximate cause for an intensified interest at the Commission (then DGV) in ‘dialogue with social NGOs’. However, this needs to be seen in the broader context of shifting interpretations of competence between the Member States and the Commission, There is a direct link with the anti-poverty programmes of the early 1990s: There had been adverse opinion about the legality of these programmes, articulated by the UK and Germany in claiming this was not in the Commission’s competence – and the European Court of Justice had found in those countries’ favour. With this arena for Commission social policy activism blocked, the search was on for

alternative ways of moving forward. It was ‘thought that the backing of NGOs was needed to pursue the conviction that the EU had a role in social policy’.

A key moment in mobilisation was the period between 1993 and 1995 – when the Platform was formally established. Fora convened during this period - to discuss the Green Paper - witnessed a significant growth in activity: in 1994, there were twice as many social policy NGOs evident at the EU level as had been in the case a year earlier. Leaders of what was becoming the Platform argued ‘unity makes us a bit stronger’. There was a belief that there was not the capacity to pursue the agenda individually – and NGOs were able to secure funding from the Commission by presenting themselves as a single Platform.

From 1995 onwards, further events were supported, and Commission financial support has continued to flow to the Platform. However ‘the Commission never interfered in the Platform’s programming...it was very prudent’. The Commission’s initial approach was to ask ‘what is the budget you need?’ to which the response was ‘half a million [what would now be euros?]’. This has been the case ever since: 90% of the Platform’s budget comes from the social policy Directorate Generale (DGV before 1999, now DG Employment, Social Affairs and Equal Opportunities).

‘It must be underlined that the independence of the Platform is very high: the Commission does not interfere with content, procedure or internal controls. The main constraint are the financial rules’. Associated with this independence is a critical attitude taken towards the Commission on some issues. This is presented as appropriate by the Platform on the grounds that ‘that’s the best result we can give you. It helps you to avoid errors’. Finally, it is worth noting that the main ‘weapon’ in the playing out of European Social Policy are its 6-monthly ‘tests for the Presidency’, directed at the Member State whose turn for control of the Council agenda is approaching. These tests are sent to each country, and then at the end of the period, they are judged – in the public domain – against these tests. This is a way of holding Presidencies to account and ‘is of increasing relevance of over time.’⁵

The Civil Society Contact Group, formed in 2002 in response to the Convention on the European Constitution is in turn a broader body (meaning that like the liaison group, formed more recently in the context of the EESC – see above - it is not confined to the social welfare domain). Leadership has come from the Platform, but it also includes other NGO families, some already close to social policy – such as the powerful women’s lobby – but others from previously quite balkanised sub-fields. These include the contact group for human rights, and CONCORD (for overseas development NGOs); the Green 9 (for the environmental third sector); and the European Forum for the Arts & Heritage (for the cultural third sector).

One important way in which the CSCG/Platform have sought to shape the European social policy agenda has been via the ‘Act for Europe’. This has been ‘quite

⁵ At the time of this presentation, the Platform had grown to have 40 European networks and federations in membership. In the terminology of TSEP, these Platform members are usually vertically organised – European associations for particular sub-fields of the social welfare domain, or specific client/user groups, whose own members in turn represent the sub-field or client groups at the national level. This contrasts with the membership of CEDAG, whose members are themselves national horizontal bodies.

influential, raising awareness, and making those handling social policy aspects of the Constitution conscious that people are looking’.

Durable versus transient issues

It is possible to specify three classes of issue which persist over time:

1. ‘General’ includes good governance, an enabling environment, participation, partnership, transparency, financing, fundamental rights and sustainability
2. ‘Democracy debate issues’ also includes transparency – but in addition responsibility, legitimacy, accountability, representativity, and involvement of members/participation
3. There is also a persistent role for NGOs in bringing new issues to the fore – ‘newly discovered aspects, shaping the agenda...kicking off processes for the future, and not reactionary’. This often links to minority issues (‘minority’ in terms of groups, issues, numerical, political and economic)

2 other cuts can be taken:

Approaching the *roles of NGOs at the Brussels ‘court’*, we can point to two:

- ‘role of the fool’. Digging up issues not recognised as important, otherwise not foregrounded.
- ‘role of the philosopher’. Broader concerns, otherwise lost.

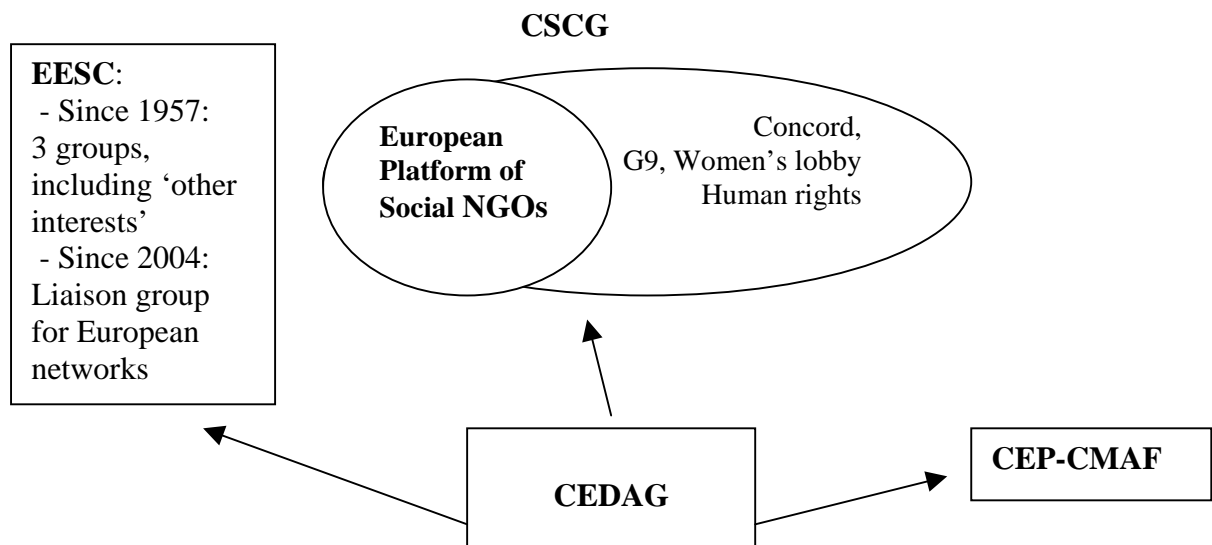
Approaching the *problems of NGOs in Brussels* means referring to:

- financing – the ‘eternal’ problem!
- Representativeness
- Indicators of participation/dialogue
- Who has the say for
 - definition of rules and procedures
 - content/issues to be dealt with
- Relationship between levels: how do top down and bottom up pressures play out? This relates to subsidiarity, as is as much a concern within NGOs and their structures, as it is a problem for relating to the external world.

Patrick du Bucquois

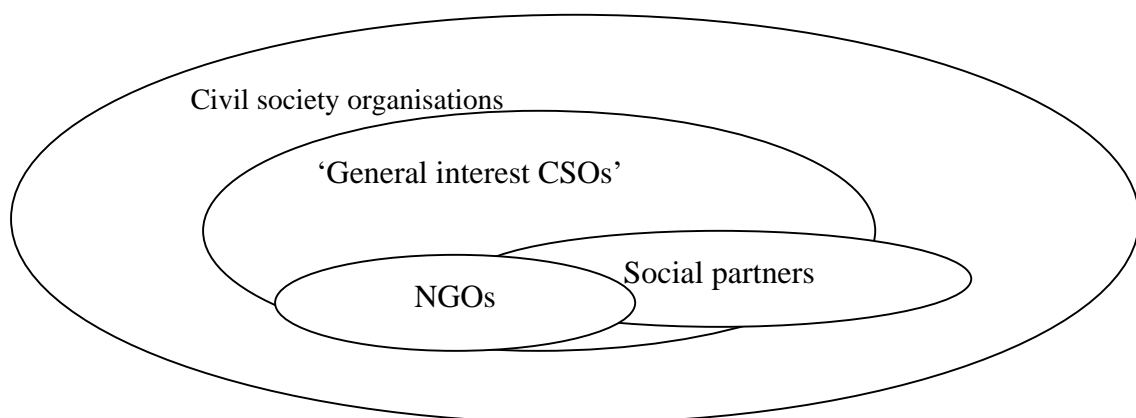
CEDAG is a small organisation: only one permanent employee, and with 30 members from across European countries. If it can specify its ‘core business’, it is ‘European citizenship’.

The analytic notion of ‘third sector’, as Dirk Jarre suggested, is not part of the actual terminology used in Brussels, but the landscape to which CEDAG relates can be mapped out as follows:



CEP-CMAF = European standing conference on co-operatives, mutuals, associations and foundations.⁶

We can also try to show the relationship between components of (using the currently favoured Brussels terminology) ‘civil society organisations’



⁶ For other acronyms, see Dirk Jarre’s comments and the relevant websites listed at <http://www.lse.ac.uk/collections/TSEP/usefulLinks.htm>

The representation brings into the picture explicitly the ‘social economy’ element – suggesting common ground between associations, mutuals and co-operatives under the CEP-CMAF umbrella. (CEDAG represents associations within this structure.) Membership of this ‘family’ is essentially ‘statute based’ – following organisational form rather than behaviour. For example, if you are a co-operative which has some of the attributes of business – in terms of size, scale, market presence, and market-like behaviour – you are viewed as belonging.

Comparing the European level architecture and national architecture

One should emphasise the significance of the construct ‘sector non marchand’ in francophone countries, which is a collective noun used to group organisations which are ‘non-profit’ and autonomous. Although the relevant institutions are primarily not publicly owned and controlled, it can include publicly owned organisations too, provided they have sufficient autonomy and control over their own affairs.

However, there are also differences in concepts’ meaning and interpretation between countries with the same linguistic tradition. Witness the difference between France and francophone Belgium with regard to ‘social partnership and dialogue’ and ‘civil dialogue’. In Belgium - like the EU level - these two concepts tend not to be seen as mutually exclusive. In this case, trade unions can be both ‘social partners’ *and* seen as part of civil society (with a legitimate stake in the civil dialogue above and beyond the social dialogue). However, in France, actors tend to be positioned either as ‘social partners’ (to the extent they are active in the paid labour market) - or not.⁷

At the European level, the women’s lobby is particularly prominent, perhaps more so than at most national levels – and has a controversial position, because it is both represented within the Platform and separately with the CSCG.

The absence of a strong Party Political structure at the EU level, compared to national level organisation, is an important distinction with regard to the environment of politics and policy that third sector organisations inhabit.

The stronger linkages between the national level and European level third sector are confederal and (in TSEP language) vertical.

Key durable issues

It is important that the ‘European social models’ is sensitive to the different national approaches. The shared key issues across levels include social rights; social security; social [welfare] services; and social economy.

There is a massive challenge: **avoiding Gulliver** (referring to Jonathan Swift’s classic allegorical tale, ‘Gulliver’s travels’). The Brussels level institutions discussed don’t really know what is happening at ‘grass roots’ level – and there can even be awareness and knowledge sharing problems on the Brussels stage!

⁷ Other cases where the language of ‘social partners’ is used differently include Sweden, where it is understood to mean trade unions, employers’ associations and public authorities; and Ireland, where national associations are prominently included.

An important step forward should have been with the 2000 Lisbon agreement's emphasis on connecting national and European social policies, as championed by the Portuguese 'mother of the Open Method of Co-ordination', Maria João Rodrigues. . However this is extremely difficult, as specialisation of knowledge and expertise tends to take place separately at European and national levels – 'there are few who can articulate both'. The 'failure' of the Lisbon agreement has been associated with these problems.

Key issues of enduring importance are therefore:

- The Open Method of Co-ordination

But also following from earlier discussion:

- Article 47 and the extent to which this is meaningfully linked to 'participatory democracy
- The draft European statute of association (championed by CEDAG since its birth). This is important, since 'the right to associate is part of European citizenship'

A further item shared on the European civil society agenda is:

- Corporate social responsibility. This is important, because NGOs' pursuit of this links them in to mainstream debates – it is important to look for such linkages to avoid the 'Indian reserve' syndrome, meaning separation from core social topics.

Issues raised by TSEP network Partners

Round 1

What can be done about the missing link between EU and national levels?

The Platform has grown significantly: is it now positioned to somehow represent European civil society in the social welfare domain?

This is a very complex and elaborate architecture. Can it/should it be simplified?

Patrick du Bucquois

On the missing link, we come back to Rodriguez' vision. But the OMC is but one of the 'policy modes' [TSEP formulation] - there is also the traditional community method, and purer inter-governmentalism. These co-exist and *necessarily* make for a highly variegated and complex environment. Under these conditions, third sector organisations with limited resources tend to focus on pursuing their aims by becoming involved in one of the modes, and there are few who have the resources and capacity to be involved in more than one policy mode, with the associated multiple-level activities.

Dirk Jarre

The 2 worlds – national and EU level – involve a very clear separation. The processing of policy naturally tends to be disjointed – and even when the same individuals are involved at multiple levels, they may be inconsistent in their positioning and arguments (compare the politicians, who 'blame Brussels' when operating nationally, and 'blame domestic politics' when operating at the EU level to justify inaction or failure).

There is 'no mechanism to meld issues...no real effort to communicate'. The problem of complexity aggravates – debates can be rarefied and abstract, so hard to relate to daily life, driving a wedge between higher levels and the grass roots.

This does not mean steps cannot be taken to make progress. There must be a project to create a more European consciousness, which now can be crowded out by atavistic nationalism at lower levels. We still have no such thing as European public opinion – indeed, this was stronger immediately after World War II in Europe. This project demands multiple strategies designed to offer very simple messages to stand any chance of success.

With regard to the Platform's strengthening, its role is justified in terms of its 'statement of values'. It explicitly can and must 'bring added value to members' – and in turn, the members see the Platform as an opportunity to reinforce their own goals through partnership with other members, not just lobbying. There is an orientation towards subsidiarity in the Platform, which means most issues are

processed at lower levels, but ‘some issues do come up through the structure’. Key words are ‘analysing, comparing, coalition formation, dialoguing’.

Complexity is a *huge* problem - but we can help by using simple organising concepts. Such concepts can include such notions as ‘the social market’ and ‘services of general interest’. And the idea of corporate social responsibility. We cannot expect the profit oriented market to spontaneously act in these ways – it will try to avoid or evade costly activities – so this is where the third sector as a carrier of simple ideas, against which corporations can be held to account, has a key role.

Round 2

The EESC seems to be very obscure in many countries, and the arrangements for nominating members are opaque... and it does not have a good reputation in some senses?

What is the relative importance of informal lobbying and formal structures with regard to affecting change in the European agenda on public service delivery, where the third sector has a role (cf. Services of General Interest and ‘Bolkenstein’ Directive debate) ?

Dirk Jarre

Regarding the EESC, must emphasise that its current structure is settled by the European Treaties – including Member State’s responsibility for nominating their members. If the draft constitution is passed, this will continue to be the case – it was not proposed to modify this aspect. So the EESC can only act within these legal parameters, for which it cannot be blamed.

A further point worth noting is that the process is actually often more transparent in new Member States. There have been public hearings, and large scale consultations to try to secure appropriate representation – Hungary is a good example of this.

Regarding public services, of course informal pressures and well as formally mediated lobbying is key. But it is hard to evaluate their relative importance. He would also stress, despite the apparent dysfunctionality of heavy lobbying pressures from many quarters (which intensify moving with Enlargement) , having this process take place - especially at European Parliamentarians - at an early stage, ultimately makes legislation better later.

Patrick du Bucquois

Stresses that reacting to ‘Bolkenstein’ etc is ‘just too big an issue for any single lobby’. There is a need for both vertical and horizontal efforts – ‘transversal’ – and formal and informal, capitalising on all relevant stakeholders’ expertise.