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## Citizens' Involvement in European Union Politics Towards a More Participatory Democracy?

**Summary:**

This paper presents a comprehensive stock-taking of opportunity structures for citizens' participation in EU politics. In doing so, it analyses the various channels for involvement or participation such as petitioning the European Parliament, writing letters to the Commission, participating in European elections, etc. The paper will argue that a closer look at the EC institutions' work during the few years since the adoption of the Maastricht Treaty reveals that significant trends towards an increased focus on citizens' involvement are already taking place. However, as will be shown here, only indirect and non-binding, largely informal opportunity structures for citizens' participation have been implemented so far.

## 1. Introduction

So far, reform proposals with regard to the democratic deficit of the EU focussed mainly on the European Commission and the European Parliament (EP). The debate has been conducted in the framework of a representative democratic system, whereby the EP -- either alone or together with the Council of Ministers as a sort of second legislative chamber -- should be at the heart of the decision-making process with a Commission fully accountable to the legislature(s). But recently, a growing number of authors discuss the pros and cons of elements of direct democracy (e.g. Steiner 1981, Allais 1991, Bogdanor/Woodcock 1991, H. Wallace 1993, Murswiek 1993, Rupp 1993, Buchmann 1993, Svensson 1994, Bohnet and Frey 1994, Opp 1994, Christiansen 1995). Two economists, using a public choice approach to highlight the role of discussion, have argued that

"referenda and initiatives should be central institutions to guide the provision of public goods and redistribution in a future democratic Europe." (Bohnet and Frey 1994: 341)

Examining the relevance of the Swiss experience for Europe, a sociologist comes to the conclusion that

"a future European constitution should therefore grant its citizens differentiated and elaborate rights of direct-democratic participation. Extensive participatory rights will help satisfy the extraordinarily high *legitimacy demands* with which the European political union will certainly be confronted. Such rights will also be likely to support a Europe-wide *political culture* in which democratic procedures will be taken for granted. They would guarantee that citizens across Europe have a chance to participate in the political dynamics by enabling them to voice their European-wide concerns as well as their local needs, thus making them feel part of this new political structure." (Buchmann 1993: 10, emphasis in the original)

Public debate in Europe has also been influenced by the relatively high number (10!) of national referenda on European issues since 1992 (on attitudes towards Europe in general see Siune et al. 1994, Franklin et al. 1994 und 1994a). There have been popular decisions on the Maastricht Treaty reforms in three member states (Denemark 1992 and 1993, France and Ireland 1993), on the 'European Economic Area' (EEA) Agreement in Switzerland (1993) and Luxembourg (1995), and on adhesion to the Union in the four applicant countries (Austria, Finland, Sweden, and Norway 1994). Further referenda have been discussed in some countries, arguing from a constitutional as well as from a political perspective [in Germany relating to the ratification of the Maastricht Treaty (see e.g. Rupp 1993) and in Austria with a view to the EEA Agreement (e.g. Griller 1992)]. The outcome of the next intergovernmental conference (IGC) in 1996 will be again subject to additional referenda in at least some states. In that respect, W. Martens,

MEP, proposed recently a sort of Europe-wide constitutional referendum on the results of the IGC '96 which should take place the same day in all member states of the Union (Europe, 3/4. 10. 1994: 2).

Such far-reaching proposals may still sound surprising to a wider public. But, as this paper will argue, a closer look at the EC institutions' work during the few years since the adoption of the Maastricht Treaty reveals that significant trends towards an increased focus on citizens' involvement are already taking place. However, as will be shown here, only indirect and non-binding, largely informal opportunity structures for citizens participation have been implemented so far. In order to prepare the ground for a meaningful debate on these developments and further reaching proposals for inclusion of direct-democratic devices, I shall provide an overview on the actual *status quo* of citizens participation in the European Union, before putting the existing participation channels in a more analytical perspective.\*

## 2. Status Quo of Citizen Participation in the European Union

In the mid 1980s an *ad hoc* committee consisting of representatives of the governments of the member states of the EU has been set up by the European Council in order to reflect on a so-called "People's Europe" (often referred to as a "Citizens' Europe") and make proposals in order to "strengthen and promote its [the Community's] identity and its image both for its citizens and for the rest of the world" (BulleC, Suppl. 7/85: 5). The *Adonnino Committee* (named after its chairmain, the Italian Pietro Adonnino) submitted two complementary reports which dealt with various issues<sup>1</sup>. Apart from these proposals targeting at enhanced 'visibility' of the Union, the most interesting part of the report is the section on 'special rights of citizens' (Adonnino Report 1985/II: pt. 2.1). This deals not only with aspects of political participation in the member states (referring to voting rights and eligibility in local elections etc.), the

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<sup>1</sup> It dealt with "easing of rules and practices which cause irritation to Community citizens and undermine the credibility of the Community" (Adonnino Report 1985/I: pt. A), with what has been termed "community citizen's rights" (freedom of movement in working life, right of establishment and of residence etc.), with aspects of culture and communication (e.g. European audiovisual co-productions, Euro-lottery) as well as information about the EU and its specific policies, with measures in the field of youth, education, exchange, and sport (language teaching, European Union sport teams, etc.), with volunteer work in Third World development, with actions in the field of health, social security and drugs, with the twinning of towns and cities, and, finally, with symbols like the European emblem and flag, the anthem, and stamps.

consultation of citizens on transfrontier issues within the Community (e.g. in environmental issues), the relation between the citizen and the Community's legal instruments (e.g. promoting codification and simplification of EC law), and the right of consular assistance from other member states, but includes some proposals on citizens' participation in the political process of the Community as well:

"[T]he European Community will respond to the views of its citizens only if it fully reflects their wish to work together more closely and provides a *channel* for their ideals." (Adonnino Report 1985/II, pt. 1.7, emphasis added)

"It is desirable to increase the citizen's *involvement* in and understanding of the political process in the Community institutions." (Adonnino Report 1985/II, pt. 2.1, emphasis added)

"It is essential to ensure for the citizen an *active role as a participant* in a Community which he understands and which offers *real influence* to him on matters of importance for his life." (Adonnino Report 1985/I, pt. 2.(a), emphasis added)

The Committee advocated, on the one hand, a uniform electoral procedure as regards the elections for the EP and, on the other, ensuring greater transparency in administration in the Community by strengthening the citizen's right of petition, and by establishing an ombudsperson.

Although the European Council approved the Committee's report, these few (and far from being radical) measures with respect to the political process in the Community could not be agreed upon formally until the IGC 1991. In many instances, the 'European citizenship' -- now introduced by the Maastricht Treaty (see Articles B.3 TEU and 8 to 8e ECT) -- only made *de jure* what has been granted *de facto* before. However, there are a few new rights<sup>2</sup>. The introduction of the Euro-citizenship could be understood (and was meant) as a symbol of European democracy for the citizens, but it largely failed to transpose the comprehensive national concept of citizenship at the EU level. Nevertheless, citizenship seems to be the major point of reference for future expansions of opportunity structures for citizens participation.

In this section I shall outline the main existing Euro-opportunity structures for citizens participation. The constitution of the EU does not know any element of direct democracy. Nevertheless, similar to other rather representative systems, there are some points of access to the political system for the ordinary citizen. Thus, the following structures will be presented:

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<sup>2</sup> The right to participate in elections on local level in what ever part of the Union the European citizen resides, to ask for diplomatic protection by other member states, and to address the new European ombudsperson. Yet, it has to be added that the TEU also diminished political scrutiny and judicial control on matters directly affecting the rights of individuals by establishing a third intergovernmental pillar for immigration and asylum issues (Wallace 1993: 102)

- Voting (direct elections to the European Parliament, national elections)
- Contacting the European Parliament (petitioning, addressing the new Euro-Ombudsman, other forms)
- Contacting the European Commission (complaints, other letters, consultation committees)
- The information strategy of the Commission (access to documents)
- Citizen groups lobbying at european level (Symbiosis, ECAS)
- Participation of citizens in administrative acts induced by EC law
- Opinion polls (Eurobarometer)
- Proceedings before the European Court of Justice
- Protest actions

## 2.1. Voting

The European citizens participate in the European polity when voting either at national or at European level. Recently, there has been a significant change, however not very important in terms of the number of actually concerned citizens (as compared to the overall number of voters): Article 8b.1 ECT as amended by the Maastricht Treaty provides for the right to vote and to stand as a candidate in municipal elections for Union citizens residing in a member state of which they are not nationals. The Council adopted a Directive laying down detailed arrangements for the exercise of these rights and sets the deadline of 1 January 1996 for its transposition into national law<sup>3</sup>. While this opportunity for participation targets the sub-national level only and seeks to integrate foreigners of other member states into the local political life, there are two other channels of participation which are related to the European level:

### 2.1.1. Direct Elections to the European Parliament

Euro-citizens are entitled to elect their Members of European Parliament (Article 8b.2 ECT). The first direct elections took place in 1979 and elections have been scheduled every five years since then -- the present MEPs came into office in June 1994. The Council was not able to lay down uniform procedural rules for the election so far, but the 1993 Directive laid down detailed arrangements for the exercise of the right to vote and to stand as a candidate in European elections in the member state of residence.

In general, voter turnout in European election is still relatively low and it has been established that campaigns often focus on national rather than on EU matters (see Niedermayer and Schmitt 1994). Furthermore, there are no European but national parties which only form transnational factions after the elections. The significance of European elections might be due to the minor role which the EP plays in the European polity: after all, it is not -- in contrast to its national counterparts -- at the heart of the decision-making process. Although this has changed partially since the entry into force

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<sup>3</sup> Dir. 93/109/EC, OJ 93/L 329/34.

of the Maastricht Treaty (codecision procedure), the voters might still have had the impression that it is not worth voting in the recent 1994 EP elections.

Nevertheless, MEPs play a major role in linking their constituency to the European level, see below.

### *2.1.2. National Elections*

Although its primary target is the national political arena, voting in general elections of the member states might be considered as an act of participation in the European polity as well. First, the composition of the national legislature influences considerably the transposition and implementation of legislative acts of the Union. As an example, Directives -- in principle -- only lay down legislative targets which have to be achieved by member states' legislation. Secondly, national elections influence the composition of two very important Union institutions, namely the Council of Ministers and the European Council. As for the Council of Ministers, voter influence is as indirect as in the case of the composition of most national governments, because it is normally not the voters who directly elect the government but the parliament<sup>4</sup>. However, with respect to the European level we have to point out the special feature that the citizens of a member state have only influence on a small proportion of that European institution, since the majority of members are elected by nationals of other states. In the case of the European Council, the national vote may have a more direct effect on its composition, since it may be not the head of government but a directly elected head of state who represents his/her country (so far only in France<sup>5</sup>).

## **2.2. Contacting the European Parliament**

The powers of the EP have been further strengthened through the entry into force of the Maastricht Treaty in November 1993. Therefore the channels of involvement targeting the Parliament became more relevant since then. The growing number of petitions reflects the awareness of the European citizens of that fact (for a practical overview on how to approach the EP see Venables 1994: 10 ff. and 23 ff.).

### *2.2.1. Petitioning*

A basic political right in all democratic systems is the right to petition the legislature. However, only the Maastricht Treaty formally granted this right to the European citizens

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<sup>4</sup> The individual national ministers acting in their capacity as a member of the Council may also be sometimes rewarding targets for citizens trying to get involved in EU politics. The same may be true for the members of national parliaments, as in the case of Denmark and Austria where they have a formal influence on the ministers' voting behaviour in the Council. However, this paper does not elaborate on these indirect (national) channels of influence on EU politics and rather concentrates on the specific Euro-opportunity structures.

<sup>5</sup> At present, in the new member states (Austria, Finland, and Sweden) the issue is still debated.

with respect to the European Parliament (Article 8d ECT). Nevertheless, the EP had accepted and encouraged petitioning without formal legal foundation through its rules of procedure (Rule 129) on a wide scale even before the entry into force of the TEU. In fact, only the Interinstitutional Declaration from 1989<sup>6</sup> formally recognised the EP's competence to receive and examine petitions. Furthermore it obliged the other institutions and the member states to co-operate with the EP on problems posed by petitions. Nonetheless, there still remained some uncertainties about the role of the member states, which the Treaty on European Union (TEU) sorted:

"[F]irst, because petitions acquire a legal basis in the Treaties; second, because petitions are transformed from a Community custom to a right arising from the Treaties; and finally, because the role of the European Parliament is strengthened as it is less dependent on the Commission's willingness to co-operate since it can ask the national authorities for information directly." (Marias 1994: 170)

In order to cope with the growing number of petitions, the EP set up a standing Committee on Petitions in 1987<sup>7</sup>, which receives all formally admissible<sup>8</sup> submissions after they have been registered by the EP President. In a first step, the Committee examines the *substantive admissibility*.

*Ratione personae* it is not difficult to qualify since every citizen of the EU, all residents of the member states, all legal persons with their registered offices in a member state have the right to petition (Article 138d ECT). Third country nationals have no automatic right to have their petitions considered. However, the Committee considered e.g. 61 third-country petitions in 1993-94.

With respect to admissibility *ratione materiae* the Rules of Procedure and the practise of the Committee interpret the term 'matter which comes within the Community's field of activity' very widely. It might well be that the wider sphere of activity of the *European Union* (i.e. concerning external and internal policy, as opposed to matters within the scope of the EC Treaties only) will be included in the future. Around a third of the petitions received every year have been declared inadmissible (368 out of 1083 in 1993-94); they mainly concern purely internal matters of the member states (Marias 1994: 178).

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<sup>6</sup> OJ 89/C 120/90.

<sup>7</sup> Dec. of 21 January 1987, OJ 87/C 46/37.

<sup>8</sup> With respect to the *format of a petition* the requirements are not very demanding: it has to bear the name(s) of the petitioner(s) and give the nationality, occupation, and place of residence of the petitioner(s); furthermore, it must be written clearly and legibly and in one of the official languages of the Union, and it must bear a signature or signatures [see Rule 156.2 and .3]. The EP's leaflet on 'The right to petition' 1994 (published by EP Publications Department, Brussels) suggests the EP President as the appropriate addressee.

What might prove as a major obstacle to use the petition device as a channel for *political* participation are the new *locus standi* rules: Up to 1993, the rules of procedure of the Parliament distinguished between 'requests' (which call on the EP to adopt a position on a general problem) and 'complaints' (in which action is requested on behalf of the petitioner). The wording of Article 138d ECT as amended by the Maastricht Treaty restricts the right to petition to matters "which affect him, her or it directly". This means that 'requests' are not within the scope of the right to petition any more since they do not affect the petitioner directly, but are of a general political nature. As suggested by Cram and Richardson (1994: 19),

"[t]his restriction may prove easy to avoid because, if the EP wants to take a complaint on board, it could simply accept it, for example, as a demand rather than a petition."

But there is no practical evidence in that respect so far. Marias (1994: 179) argues that, contrary to the conditions set out by the ECJ with respect to Article 173.5 ECT (see below), "it is not necessary for the petitioner to prove exclusive interest". Therefore matters, e.g., related to environmental pollution still qualify because they affect many people simultaneously and directly. However, it is to be expected that the Committee will interpret generously the *locus standi* provision. Nevertheless, the effectiveness of the right of petition as a valuable opportunity structure for citizen participation depends to a great extent on the behaviour and reaction of the other institutions and the member states. If they do not accept the wide interpretation as adopted by the EP, the right to petition seems to be an additional means (apart from proceedings before the ECJ and the new European Ombudsman) to gain one's rights rather than a channel for political participation and influence for the ordinary citizen.

#### 2.2.1.1. The Practise

The Petitions' Committee delivers reports of its activities on an annual basis<sup>9</sup>, followed by parliamentary resolutions on the deliberations of the Committee. In 1988, most petitions concerned practical problems of the realisation of the Internal Market, such as social security rights in other member states, discriminations because of nationality and sex, difficulties with formalities at the borders or with taxes, the recognition of diplomas etc. This picture has somewhat changed in recent years: The annex to the reports on group or mass petitions provide some information on the use of petitions. It is noticeable that animal protection and environmental issues gained most widespread support so far. Furthermore a large number of petitions expose the failure to

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<sup>9</sup> 1988-89: Doc. A2-79/89; 1989-90: Doc. A3-107/90; 1990-91: Doc. A3-0122/91; 1991-92: Doc. A3-0229/92; 1992-93: Doc. A3-0147/93; 1993-94: Doc. A3-0158/94.



apply or the misapplication of Community law. The number of petitions is constantly rising: from some 100 in the parliamentary session 1983-84 up to over 1000 in 1993-94.

The Parliament's folders (see above, fn. 6) give some general overview to the general public and explain how to petition and what will be done about the petitions. These leaflets are distributed on demand by the MEPs, the EP's services and generally through the EP information offices in the capitals of the member states. Parliament finds itself in a somewhat tricky position: on the one hand, it is committed to strengthening its role as the (elected) mediator between the European citizens and the Union's policy processes. On the other hand, the chairman of the Petitions' Committee fears that if 370 million Europeans would be fully aware of this opportunity structure, Parliament would receive so many more petitions that it would not have the resources to handle them adequately. The number is growing anyway, as I have outlined above -- but even the figure of 415 petitions in the first quarter of 1995 does not reflect the real potential, if the right to petition was well-known throughout the Union. So far, the EP only commits itself to this fundamental democratic right, but does not promote it actively.

#### 2.2.1.2. How are Petitions Proceeded?

When considering petitions, the Petitions' Committee may organise hearings or dispatches members to ascertain the facts of the situation *in situ* and may request the Commission to submit documents, to supply information and to grant it access to its facilities. From a procedural point of view there are different ways to consider an admissible petition in substance. First, it can be forwarded to the Commission with a request for action or information (this happens in about half of all cases). If the Commission considers that a member state concerned has breached its obligations under EC law, one way of reacting to this would be to start proceedings under Article 169 ECT against that state. The EP Committee does not close consideration of the petition until the matter has been formally referred to the Court. The Committee also forwards rarely petitions, together with a recommendation, to the Council. Secondly, the petition can be forwarded to other EP committees for information or an opinion, particularly in the case of petitions which seek changes in existing law. The Committee can make the petition also the subject of a special report and submit motions for resolutions to Parliament which will be debated by the plenum. In this respect a petition can influence the substantive agenda of the Parliament or its committees. Thirdly, it can also be forwarded to EP services, such as the legal service and the DG for research, and, finally, to the national authorities for an amicable solution (ten cases in 1993-94). Sometimes the Committee advises petitioners to approach national petition committees or ombudspersons. Depending on the subject of the petition, the Petitions' Committee often forwards or advises petitioners to apply to other authorities at European (e.g.

European Commission on Human Rights) or at national level (e.g. ombudspersons, petitions' committee in national parliaments).

Rule 157.6 provides for the information of the petitioners of the actions and decisions taken and the reasons therefore.

### 2.2.1.3. Impact Assessment

As for the actual impact of petitions, not much research has been done so far. In political rhetoric it is often said that the Parliament uses petitions as a means to establish a permanent dialogue with the citizens of the Union and as an opportunity to demonstrate its willingness to listen to their problems. This suggests that the importance of the petition mechanism lays with its communicative function and serves as a democratic symbol. As E. Newman, MEP, the chairman of the Petitions' Committee, suggested in an interview for this study, one has to distinguish between what has been called above (general political) requests and (individual) complaints (concerning misadministration or *lacunes de droit*). Whereas in the latter case petitions are much more likely to have a significant impact, petitions seeking to influence the opinion of the MEPs on more general legislative acts or on broad policy conceptions only matter if they are either supported by a very big number of citizens or could serve as a supporting argument in favour of a policy conception the Parliament has already adopted.

To give some examples for the first group of petitions: there was the case of compensation schemes for victims of violent crimes in other member states. A French law which discriminated against foreigners who were not permanent residents in France has been changed after intervention of the EP. However, an EP general proposal to set up a Community-wide compensation scheme (Report Newman) failed subsequently: member states without any compensation schemes, which therefore can not discriminate, act still lawfully, whereas France had to adapt its far-reaching rules. There are many other examples of petitions which finally led to changes in national legislation<sup>10</sup>.

In a number of cases petitions have led the Commission to intervene or even to bring actions under Article 169 ECT, e.g. in the Greek museums case<sup>11</sup>. In its Eleventh Annual Report on Monitoring the Application of Community Law [1993; COM(94) 500 final] the Commission reports that 23 out of 1340 suspected infringements cases have been brought to light by petitions (forwarded to it by Parliament), and 30 by parliamentary questions. These figures are much lower than they were in previous years

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<sup>10</sup> E.g. Belgium altered its laws on the imposition of VAT on small parcels from other member states containing samples of no monetary value; again France changed its laws governing the recognition of physiotherapy qualifications obtained in another member state.

<sup>11</sup> The Greek authorities were obliged to grant non-Greek nationals admission to museums under the same conditions as their own citizens.

(105 petitions in 1989, 126 parliamentary questions in 1991), though it has to be added that the total number of suspected infringement dropped considerably over that period (from 2312 in 1989 to 1433 in 1991 and 1340 in 1993).

Only less than ten per cent of the petitions are of the second type; they mainly deal with environmental issues or animal protection. Having received numerous petitions on animal welfare, the EP's "Committee on Agriculture has undertaken to monitor very closely progress made on legislative proposals in this area" (EP Petition Leaflet, see fn. 6 above). In this field, some of the petitions have been supported Community-wide by up to three million citizens (!). Let aside the sheer number of signatures, according to the chairman of the Committee on Petitions, general petitions seeking to influence legislation rather than securing proper implementation of Community law have greater impact if they put forward new and well-documented information. Any background information and documentation is much appreciated by the Parliament and its committees, since they have only a very limited staff in order to carry out own research on any specific topic. So, MEPs rely very much on the information given through the petitions channel.

### *2.2.2. Addressing the New Euro-Ombudsperson*

Article 8d.2 ECT as amended by the TEU gives any physical or legal person (not only the European citizens!) the right to apply to the European Ombudsman. According to Article 138e ECT the Parliament appoints, after each European election, for five years a completely independent person. S/he is empowered "to receive complaints (...) concerning instances of misadministration in the activities of the Community institutions or bodies", "to conduct inquiries" and -- where s/he "establishes an instance of maladministration" -- to "refer the matter to the institution concerned". Regulations and general conditions governing the performance of the Ombudsman's duties have been laid down by Parliament after an opinion of the Commission and with the approval of the Council<sup>12</sup> (for details and further references see e.g. Fobe 1994, Pliakos 1994)

Not too much can be said about the prospective use of this new opportunity structure, since the Committee of Petitions and the plenum of the EP have not been able to reach compromise on the electoral procedure for appointing the first Ombudsperson so far<sup>13</sup>. Even though it might be easier to address the ombudsperson instead of the national or EC Courts, the efficiency of a single person may be questionable in a Europe of some 370M citizens. Furthermore, considering the Ombudsperson's rather weak powers of

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<sup>12</sup> EP Decision 94/262/ECSC, EC, Euratom of 9/3/94, OJ 94/L 113.

<sup>13</sup> The compromise reached in October 1993 (see Rule 159) has been put into question by the newly elected Parliament in 1994.

investigation, it is to be expected that its role will be limited and not too different from the one of the Committee of Petitions under the heading of 'complaints' (see above).

### 2.2.3. Other Forms of Contacting

*Direct contacts with MEPs:* Many citizens contact their MEP when they think a problem needs European-wide attention and decision. According to a British MEP, a sharp distinction has to be made between those MEPs who are elected on a local and personal basis, such as the British, and those who are elected on the basis of a member state-wide party list. While the British MEPs have a much closer relationship with their local electorate -- the 'constituency' -- most continental citizens do not even know their MEPs. In a list-based electoral system it is very unlikely that citizens get in direct contact with a MEP. They rather address the national parties or, if they know about the right to petition, the EP directly. For the British, there is also a bigger incentive to react on letters from their constituency. As E. Newman, MEP, remarked:

"If I do not answer one letter, I can be sure to find a letter to the editor of the local newspaper soon. If this happens more often, my chances of being re-elected diminish considerably." (Interview given to the author on 6 April 1994)

For an MEP with a local constituency, replying to a letter does also mean trying to solve the problem by giving the information needed or by intervening with the appropriate bodies. A continental MEP -- if s/he ever gets a personal letter at all -- normally forwards it to specialised colleagues or to his/her party in order to deal with it. In general, if the problem cannot be solved by the MEP him/herself, one way of handling it is trying to amend the EP agenda correspondingly. Furthermore, MEPs can formulate a written or oral question to the Commission or the Council. These institutions are obliged to answer, and both question and answer are published in the Official Journal of the Union.

To this extent Union citizens may influence the agenda of not only the Parliament but of the other institutions as well. However, it has to be stressed that this opportunity structure is rather weak since the MEPs in particular and the EP as a whole do in most cases not have a decisive impact on EU politics.

Furthermore, as an MEP has pointed out to me, most letters to parliamentarians do not influence their political opinions as a general rule. In most cases, they either reaffirm what s/he thinks anyway on a particular subject. Consequently the reply will usually point at the voting behaviour of the MEP. Or the content of the letter is contrary to what the MEP considers as the basis on which s/he was elected. In the latter case, the answer will state that fact in a polite manner. Therefore, the majority of letters has only a very indirect impact on Union politics: the content of these citizens' inputs only amounts to the MEPs overall perception of the opinion of the citizens of his/her constituency. As it is true for petitions, only those comparatively few letters which bring

new aspects and new information into the debate are likely to influence the personal agenda of the representative.

*Innovative opportunities:* There are some few examples of special opportunities for participation organised by EP or its political groups where 'single issue channels' have been set up in order to induce public reaction. For instance, with a view to the IGC 1996, the Socialist Group recently set up two telephone lines, a fax number and a computer mail-box (in the commercial CompuServ network, not in the free Internet). The general public is invited to express their views on the forthcoming IGC. The Socialist MEPs assured to duly take into account what comes up during this informal citizen consultation (Europe 16/2/95: 4).

By contrast to the Commission, Parliament is almost not present in the Internet. There is no home-page in the WorldWideWeb and emailing to MEPs or EP staff, though possible in principle, normally rests without any answer whatsoever. The EP's own data base on legislative procedures, reports and motions (EPOQUE), accessible through the x25 network, is not open for the general public, but only for registered users, such as European Documentation Centres (EDC).

### **2.3. Contacting the European Commission**

Contrary to the Parliament there are no formalised channels for involvement of the citizens yet, targeting at the Commission. However, the Commission has established links to the Euro-citizenry not primarily with a view to involve citizens but rather to broaden its own and the citizens' information resources. These links have been elaborated and formalised in the course of the recent debates on openness and transparency and a Citizens' Europe.

#### *2.3.1. Processing Complaints*

Every citizen may file a written complaint to the Commission if s/he believes that a member state has adopted measures or practices contrary to Community legislation. If not addressed to the appropriate unit or DG directly, these complaints are normally processed in the Secretariat General of the Commission. E.g., in the field of environmental policy DG XI has printed complaint forms to facilitate the procedure. These forms, although they do not have to be used, should be sent directly to DG XI.

According to the Annual Reports to the European Parliament on the Commission Monitoring of the Application of Community Law<sup>14</sup>, the number of complaints from European citizens is more or less constant (slightly over 1000 per year). Most citizen complaints refer to the non-implementation of existing Directives and occasionally to Regulations. If the Commission establishes that there has been a breach of Community

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<sup>14</sup> 1992: OJ 93/C 233; 1993: COM(94) 500 final, not yet published in the OJ.

law, it tries to persuade the member state to rectify this. If this is without success, it may decide to formally open infringement proceedings under Article 169 ECT.

However, it is the Commission's prerogative to decide whether to follow up a complaint or to stay inactive -- the citizen can only make suggestions. Sometimes this may bring positive results, such as in the Greek case concerning the hunting of turtle doves in spring. Greece's failure to comply with the 'conservation of wild birds' Directive has been *repeatedly* denounced through the complaints procedure to the Commission which forced the Greek government under threat of a court case to comply with Community law. In similar cases concerning Italy and France the ECJ ruled that these states had failed to apply the Directive properly.

In his study on EU water policy, J. Richardson suggested that

"[w]hatever policy networks and policy communities might now be in existence or might develop, they all have to operate in the context of rather wide and unregulated participation by individuals. In that sense, policy making discussions are always conducted with an additional but empty seat at the table -- representing the threat of individual citizens who regard water quality as of high salience." (Richardson 1994: 147)

In order to substantiate this conclusion he reported on what he called 'whistle blowing by ordinary citizens': concerning the 1993/94 revision of the Drinking Water Directive, the Commission received some 12,000 letters from Germany alone. Not all of them were about possible infringements (and therefore fall within the subsequent category of 'other' letters), however, this example illustrates quite well the potential scope of citizens' involvement if an issue proves to be of high salience for the lives of the ordinary citizens.

### 2.3.2. Processing Other Letters

As in the last example, the Commission receives not only hundreds of complaints but also thousands of letters from ordinary citizens with a more general subject. They either ask for information, give some specific information, or simply state an opinion, thus trying to influence the Commission's policies. It is not easy to assess how many letters the Commission gets, since the addressee of these letters may be a single official, one of the many directorates, or the Commission (or even the Union) as a whole. To take an example, its former president, Jacques Delors, received around 1,000 letters a year. One of his advisors had the exclusive task of examining and answering them (Interview with M. Bourges-Manoury with the author on 4 April 1995, see also Ross 1994).

A letter asking for information or for access to documents is forwarded to the appropriate administrative unit (for the Commission's information policy see below) or to the Citizens' Desk in DG X (see below). General political statements are normally answered in the same way as written questions by MEPs, this is by outlining the general

policy of the Commission in the respective field. According to Commission officials only a very limited number of letters actually results in concrete actions.

In the framework of its new transparency and openness policy, the Commission is well aware of the importance of personal contacts between the citizens and its officials. Although the Commission favours the mass-media as the principal means of communication between the Union and its citizens, it wrote recently:

"(...) the Commission has to be in a position to answer quickly and efficiently to individual inquiries of any sort. The improvement of personal contacts, both at the telephone and in writing, between citizens and the Commission, including especially contacts with the services of the Commission and its offices in the member states, is a priority." [Annex III COM(93) 258 final]

As a rule, every single letter should be replied to. This makes it quite understandable that the Commission (as well as the Parliament) does not advertise this channel, since, if used more frequently, it would require much more resources to deal with. This is also a reason why the Commission does not endeavour to ease access to its internal electronic mail system to the wider public, even though this would be easy to carry out.

### 2.3.3. *The Information Strategy of the Commission*

During the ratification process of the Maastricht Treaty, the concepts of 'openness' and 'transparency' of the Union have been widely debated. The Commission followed a twofold strategy since then: first, it developed a new information and communication strategy, and secondly, it reorganised its policy on access to the documents.

In his communication to the Commission from 30 June 1993 [SEC(93) 916], Commissioner J. Pinheiro presented a new approach to the information and communication policy of the Commission. The main principles are transparency, adaptation to the demand, co-ordination: both internal and external, and 'conviviality' (adequacy).

Two points of the new strategy should be dealt with in more detail: First, a *consultative council of users (CCU)* has been set up; its members are the main recipients of the Commission's information, i.e. representatives of the mass-media (press and television) and of the different socio-economic categories, both from the supranational and the national level. This council is presided by the responsible Commissioner and its secretariat is provided by DG X. Its task is to advise the Commission and the new 'strategic group' on the efficiency of the new strategy [see SEC(94) 114]. As mentioned above, this council is another example for a consultative body which, however, provides opportunities for participation for 'professionals' rather than the ordinary citizen.

Secondly, the new strategy also stresses the role of the *representations of the Union in the member states*. One important task of the offices will be to provide *feed-back* in order to facilitate the evaluation and the adjustment process of the information policy.

They are a sort of bridgehead for the Commission's strategy to get in touch with the citizens. However, in the communication on the new strategy it is not the citizen who will provide the feed-back directly but the office itself which serves as an information collector. In a special communication on the missions [SEC(94) 80] the Commission adds to the function of listening and communication the task of *stimulation of the debate on Europe*. This should be done by organising hearings, seminars and conferences. The Commission stresses that the aim of these activities is not only to present the point of view of the Commission but to stimulate transborder debates.

It is not the place here to discuss in detail all the different channels of information and communication which the Commission has developed over the years<sup>15</sup>. Most recently, the Commission launched also a *WorldWideWeb*-server in the internet which facilitates access to basic and to up-to-date topical information on the European Union. In DG X a special *Citizen's Desk* ('guichet du citoyen') has been set up which is responsible for answering general citizens' enquiries. It receives only 40-50 letters or calls per month<sup>16</sup>.

These activities are very diverse and constantly changing and adapting to new demands and to new technological developments. However, there are only limited attempts to go beyond the pure information strategy, i.e. to involve the citizens -- in other words: there is no 'back channel' (see below).

#### 2.3.3.1. Access to documents

As an important part of the new strategy of openness of the Union as first set out in a declaration of the Maastricht conference, the Commission made it easier to get access to its documents. In a first step, it carried out a comparative analysis on access to information in the member states and found considerable differences but as well a deficit at the EU level. Therefore, it adopted a decision on public access to Commission documents in 1994 and together with the Council a code of conduct concerning public access to Commission and Council documents<sup>17</sup>.

As a *general principle*, the public "will have the widest possible access to documents held by the Commission and the Council". However, there are some *exceptions*

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<sup>15</sup> Publication series, documentation centres (EDCs) and libraries, speaker's service, on-line databases (CELEX, RAPID, INFO92, etc.), Euro-info points, European Information Centres (located in Paris and Lisbon which are provided with the latest information technologies in order fulfil every need for information).

<sup>16</sup> A recent example: someone asked the citizens' desk in a letter where in Europe he could get married within some days without formalities. DG X did some research and answered the question (there is a small village in Scotland with similar marriage regulations as the well-known American town of Las Vegas...).

<sup>17</sup> Decision 94/90/ECSC, EC, Euratom of 8 February 1994, OJ 94/L 46/58; the Code is annexed to the Commission's Decision.



concerning the "protection of the public interest (public security, international relations, monetary stability, court proceedings, inspections and investigations)", the protection of the individual and of privacy, of commercial and industrial secrecy, of the Community's financial interests, and, finally, "the protection of confidentiality as requested by the natural or legal persons that supplied the information or as required by the legislation of the Member State that supplied the information." It is added that the institutions "may also refuse access in order to protect the institution's interest in the confidentiality of its proceedings."

As for the Commission, its decision set up a *formal procedure* in order to regularise demands for documents. The applications should be made in writing to the relevant Commission department at its headquarters, Commission offices in the member states or Commission delegations in non-member countries. It is the relevant DG or head of department, the director designated for this purpose or (in practise) an official acting on their behalf who shall inform the applicant in writing, within one month, whether the application is granted or whether s/he intends to refuse access. In the latter case, the applicant can appeal to the Secretary-General (SG) of the Commission for review of the intention to refuse access within one month. The Commission's president (in practise the president delegated this power to the SG) decides in agreement with the relevant Commissioner.

This procedure secures the rule of law concerning access to documents. However, since no relevant case under Article 175 ECT has been decided so far, it remains open, if the ECJ would overrule a negative decision of the Commission. Fobe reported three test cases concerning the documents on the Shengen Agreement where access has not been granted so far (1994a: 6). On the other hand, a parallel effort has to be made in order to improve access to and also the content of the European databases. The right to access is efficient only if the citizens are in a position to know which documents actually exist. In principle, the Commission seems to be well aware of that fact:

"In the future systems open to the wider public (such as minitel, BTX, etc.) should be used, in order to facilitate access to the information services such as the electronic catalogue of the publications of the Community held by the Office of official publications." [Annex III COM(93) 258, own translation from French]

Furthermore, the Commission decided already to qualify more documents as COM-documents rather than as the less accessible SEC-documents, and it now publishes its working and legislative programmes in the Official Journal in order to make its plans known in advance [see Annex I COM(93) 258]. However, the stimulation of a well-informed and broader debate on Europe, including not only some academics and professional Europeans, needs more effort. There are some beginnings in the Commission:

### 2.3.3.2. The Project 'Info-Terminals For a Deeper Europe'

Within DG X a project is actually under discussion which might reduce the citizen's information deficit significantly. The basic tool of this project will be the installation of an interactive info-terminal ('borne'<sup>18</sup>) in as many of the EU communes as possible (except in towns and communes where information access to the EU already exists). They should be easily accessible to all citizens who wish to use them (e.g. in the town hall) and will only be installed with the agreement and support of the local authorities.

The information provided shall be updated on-line from the DG X headquarters. The terminals could give information in four areas: general data on European integration; specific information on what the Union has brought to the region or commune; a sort of phone and address book of Union personnel which should be accessible through simple questions and keywords; local information provided by the local and regional authorities.

According to its inventor in DG X, J.-P. Malivoir, the info-terminals should contribute to the Commission's attempt to fight down the feeling of isolation and impotency felt by many citizens, especially living in small village which were not reached so far by the Commission's activities. Its performance and the public's reception should be evaluated on a regular basis. If implemented, the project stays along the lines of the traditional strategy of the Commission as analysed above, which is informing the ordinary citizens rather than involving them actively. But at some point, the info-terminals could give the citizens the opportunity to react on the information given, and to register their dis/satisfaction. This feature might develop into some sort of a 'back channel' (see below), but this is not yet part of the initial plan.

### 2.3.3.3. Beyond Pure Information?

So far, the Commission's information strategy falls still short of the needs of citizens seeking to participate in the EU's policy-making process. It is a hierarchic communication process: the citizen asks (and sometimes not even that), and the Commission answers. Even though some of the ideas floating around in the services, such as the info-terminals, have some participatory potential, there are only limited attempts to change this. However, the Commission seems to be fully aware of the need to go beyond this unilateral concept of communication. In its 1993 communication to the other institutions on 'Openness in the Community', it wrote:

"Conditions must be created in which a more informed public debate on the Community and its future can flourish. (...)

The Commission has a commendable history of an open-door policy.

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<sup>18</sup> Up to now, only a French expression has been found; translated literally 'borne' means 'landmark', 'marker'.

Traditionally it has been open to input from citizens. This stems from the belief that such a process is fundamental for the development of sound and workable policies. The Commission intends (...) to extend this policy more widely. For example by broadening participation in the working process of the Commission." [COM(93) 258 final]

In the follow-up of this communication, the Commission initiated an open and more structured dialogue between it and special interest groups (see below); furthermore, it committed itself to more transparency in its own work [SEC(92) 2274 final]. As set out in the communication's introduction, this initiative aims at involving external persons who -- because of their professional or academic interest -- follow the Community's affairs closely. This again highlights the overall strategy of the Commission to make an implicit distinction between the citizens in general and experts (in a wide sense): whereas the latter should get involved in the shaping of the Union's policies, the ordinary citizen should only get informed about the outcomes.

Nevertheless, the heading of 'transparency' is very important for our purpose here, since at least some of the considerations do not seem to be limited to specific groups:

"Special attention has to be drawn to the preparation of decisions and propositions of the Commission. A more open participation in the Commission's work attributes a public character to its activities and might increase citizen's trust." [SEC(92) 2274, own translation from French]

In order to come to 'a more open participation', the Commission wishes to involve all *interested parties* by giving them the opportunity to present their opinions. To this aim the Commission announced that it will pre-select provisionally those initiatives from its annual working programme which have large implications. These initiatives will be marked in the programme in order to initially inform the people which are interested to participate in the decision-shaping. The competent Director General, under the auspices of the responsible Commissioner, will then decide in what way the discussion should be structured. The communication suggests three possible forms:

1. *White or green papers*: The Commission intends to increase the number of comprehensive discussion papers which outline the background of a problem, the main arguments as perceived by the Commission at this early stage, and the suggested solution(s). Everyone is entitled to react on such a white paper by written statements to the Commission. The latter commits itself to take them into account and normally reports on them in the introductory statement of any submitted proposal.
2. *Conferences, hearings, or information seminars* are another tool to initiate a discussion on policy projects. Although not on a regular basis, the Commission has already organised such events frequently. However, they did only involve interest group representatives, experts, and national/regional/local delegates so far.

The ordinary citizen was not an addressee of these activities, although there are models of involvement of the citizens known in the national context, such as for example the Consensus Conferences in Denmark (and recently in the U.K.) or low-tech teledemocracy, such as phone-in programmes on television.

3. *Notification and Consultation*: The Commission revealed in this communication its intention to introduce a system of notification and consultation similar to the legislative consultation procedures as known at national level. The Commission could publish brief summaries of the proposed initiatives in the C-series of the Official Journal. This information would also indicate the way to obtain copies of the proposal, the deadline for a reply, and the Commission's official in charge to whom it should be sent.

There is not too much experience with the third procedure so far, but it seems to be an appropriate tool to catch up with some national participatory standards concerning the preparatory stages of public decision-making.

#### **2.4. Citizens' Groups Lobbying at European Level**

The Commission has a reputation of being extremely accessible to interest groups (see e.g. Peters 1994: 11 with further references) and is fully aware of this:

"Indeed, it is in the Commission's own interest to [ease access] since interest groups can provide the services with technical information and constructive advice." (OJ 93/C 63/2)

In this communication on 'An open and structured dialogue between the Commission and special interest groups' the Commission set out some guiding principles defining its future relations with lobbies. Furthermore, it announces a directory with data on non-profit making organisations and encourages the profit-making lobbying sector to draw up its own directory. However, inclusion in the directory will not confer any form of official recognition by the Commission, nor the granting of any other privileges. Finally, the Commission asks both profit and non-profit making special interest groups to draw up voluntarily codes of conduct which should include some minimum requirements set out by the Commission. The attempts to come to an agreement on a statute for a European association have not been successful so far [see COM(91) 273].

Basically, there are two forms of dialogue between the Commission and these interest groups: through advisory committees and expert groups (see above), and through contact on an unstructured, *ad hoc* basis. Especially concerning the latter, the Commission is

"committed to the equal treatment of all special interest groups, to ensure that every interested party, irrespective of size or financial backing, should not be denied the opportunity of being heard by the Commission." (OJ 93/C 63/3)

In practice, however, size and financial backing matters a lot. The strength and influence also depend on the type of interest which should be represented. There are some 10.000 lobbyists, 90% of whom represent corporate interests, and less than 2% work for non-commercial interests (Venables 1990: 22, ECAS 1994). Furthermore, although the Commission is committed to equal treatment, it admits a tendency to favour European (con)federations over representatives of individual or national organisations. But genuine citizens' interests, such as consumer protection, environmental issues, data protection, free movement, etc., by their very nature affect everyone somehow and, therefore, nobody specifically: these ('diffuse') interests are comparatively hard to organise and to integrate, especially on a supranational level.

The Commission's organisational help for the non-profit making sector may be understood as a try to counterbalance this tendency.

#### *2.4.1. Symbiosis*

In 1992, DG X (Information, Communication, Culture, and Audio-visual) set up a network aiming at disseminating information on Citizen's Europe among all types of non-profit organisations (associations) and local government institutions (regions, counties, etc.). In 1993 about 300 associations and 1200 local institutions had shown interest in receiving regular information via this network. The idea was to use those existing opinion leaders and distributors throughout Europe in order to reach the citizens more efficiently. The secretariat of the network should mail comprehensible ('pre-digested') information to its members, which, in turn, should redistribute it among their respective citizen-members.

In a first step, DG X invited representatives of these associations to Brussels and organised meetings with the local and regional entities in the member states in order to find out their needs. A questionnaire on the organisation and on the information needs was the basis for the future work. Then DG X published a newsletter, called 'Symbiosis -- A People's Europe Information Bulletin', whose only two issues came out in July and December 1993 respectively. These newsletters contained very short articles on e.g. the right of residence, the Schengen agreement, the Commission's services, etc. and were not longer than ten pages. The secretariat held contact with the member associations and tried to initiate co-operation among them as well as turning the newsletter into a 'marketplace for information and contacts' for its members. In the framework of Symbiosis also an inventory of the principle relays and networks of information of the Community has been established.

This strategy failed so far. The project has been preliminarily stopped in 1994; at present, it is under internal review and there will be an external evaluation soon. The main reason for its failure seems to be the lack of resources (there was no specific budget attributed to the project and only one person, sometimes a second, in charge of

the Symbiosis secretariat); although Symbiosis aimed at providing information at an intermediate level between the leaflets and booklets in the 'European Documentation' series on the one hand, and the rather technical information of the divers Community legislative texts on the other, the newsletter did not meet the important condition of being short *and* precise *and* comprising at the same time. This difficult task could certainly not be fulfilled by a single person, but only by a team of experts and skilled writers. D. Capone, the co-ordinator of the network in DG X, added the fact that a considerable part of the member organisations were very passive and did not respond to the inputs made by the Commission.

To sum up, Symbiosis, if re-launched, might evolve into something like an interactive network of citizens' organisations in the broad sense, where a steady flow of information in all directions could be at the heart of an opportunity structure for citizens participation. Since nothing like this existed by then, a project outside and not financed by the Community framework was launched in 1990:

#### 2.4.2. *European Citizen Actions Service (ECAS)*

ECAS is an independent international non-profit association whose members are over 300 non-governmental organisations (NGOs), which promote civil liberties, culture, health and social welfare. ECAS describes itself as a Brussels based information and advocacy service aiming at strengthening the voice of the voluntary sector associations within the EU. In a way it is the lobby for those associations which cannot afford having their own representative in Brussels. According to its self-description, ECAS' aim is to bring about a better balance between the commercial lobbyists and the non-profit making associations, and lobbying in the public interest. At its beginning stands the insight:

"[C]itizens' Europe is very much about citizens' associations, more than the individual citizen." (Venables 1990: 22)

Its activities include a monthly magazine ('The European Citizen'), published in English and French, discussing the EU's policies and activities in the field of the rights and interests of the citizen. The team advises about EU policies and funds which might affect the European strategy of its members, and helps form new European associations and coalitions. The Library and Documentation Centre of ECAS in Brussels is open to the public. ECAS also organises conferences on a regular basis, such as the one on 'EC Environmental Policy and the Role of the Citizen -- The Importance of Local Community Groups' in Brussels in November 1993, or the seminar on 'The Internal Market and the Consumer Citizen -- Europe Without Frontiers: Myth or Reality?', which will be held in September 1995. Furthermore the association receives about 250 visits per year from organisations and delegations and organises press conferences. In 1993 ECAS launched a European *telephone hotline* open to European citizens from all

countries. Multilingual experts of ECAS answer questions on the abolition of border controls, the free circulation of people and workers, on consumer protection, the recognition of qualifications, etc. The hotline was open two weeks in 1993 and 1994 respectively; in view of the great success and demand ECAS decided to maintain the hotline open on a permanent basis. The function of the hotline lies not only with the individual benefit for the help-seeking callers but also with the fact that ECAS acquires first-hand information on the practical deficits of European policies in order to shape its lobbying activities. Therefore it forwards its reports containing the results of the calls and faxes received to the Commission and the Petition's Committee of the Parliament. Although the second report complains about not having received any formal answer by the two institutions, it states that the EP has responded indirectly to the main thrust of the report and petition on border checks by introducing an action against the Commission for failure to act before the ECJ under Article 175 ECT. Furthermore ECAS introduced a complaint asking the Commission to initiate proceedings under Article 169 against two member states in a test case.

Therefore, ECAS plays three different roles: First, via the hotline and the various information services it tries to fill a gap which has been almost left untackled by the Union. Apart from the Euro-Jus network<sup>19</sup> and the petition procedure (see above) the official institutions do not provide for an open, easy accessible and quickly reacting point for information, help, and complaints. Secondly, it strengthens activities of national citizen associations at the European level by providing some basic infrastructure there. In that respect, the director of ECAS, an experienced lobbyist, and his team may help in opening doors and finding the right person to talk to. And thirdly, ECAS plays a genuine role as a lobbyist for citizens' rights and interests. This task may be illustrated by its activities in forming coalitions. ECAS acts like a catalyst in order to bring members who have similar interests together.

The most prominent of these coalitions is VOICE ('Voluntary Organisations In a Citizen's Europe') which brought together the views of citizens' associations on the key points of the Maastricht Treaty. VOICE first tried to make the opinions of the citizens' associations heard during the debates leading up to the signing of the treaty. The platform aims at giving more rights to citizens of the EU and at defining consistent policies where these rights are affected. During the run-up to the June 1994 European elections VOICE formulated a questionnaire to the European political parties concerning the elections and the demands of the coalition. VOICE is now active on two main issues: the application of the Maastricht Treaty on the one hand, the revision of the

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<sup>19</sup> Euro-Jus is a Commission sponsored service based in the twelve missions of the Community in the member states open for every citizen: a specially trained lawyer advises citizens on practical questions of the Internal Market. This is somewhat similar to the ECAS hotline project.

latter in 1996 on the other. As far as the institutional dimension of the EU is concerned, VOICE asks for

- \* a simpler and more democratic process;
- \* the recognition of associations as social partners for the implementation of EU citizenship, together with a formal reference to the right of associations on European level; and
- \* more transparency in the EU's work and access to justice for citizens.

To sum up, the existence of ECAS illustrates a deficit of the EU political system: citizens along with their voluntary and community sector associations have only limited access to the policy-making processes. Only highly professional institutions such as ECAS are able to offset this deficit at least partly. The system is not open for access of citizens' inputs (other than complaints) in itself, it rather needs to be opened by skilled experts.

#### 2.4.3. *Participation in Consultation Committees*

Although it is not the ordinary citizen who may sit in consultation committees set up by the Commission, these committees seem to be one of the more important opportunity structures for citizens' involvement in EU politics. They illustrate the overall tendency that the Union seeks to channel its contacts with the 'citizens' by involving organised interests, e.g. consumer or environmental groups.

In 1989 the Commission set up the *Consumer Consultative Council (CCC)*<sup>20</sup>, composed of representatives from European consumer organisations and similar national institutions and organisations. The CCC is consulted by the Commission on any matter considered to affect the interests of consumers.

Accordingly, the Fifth Environmental Action Programme<sup>21</sup> proposes measures to increase the involvement of citizens in EC decision-making in environmental protection matters. The Commission intends to improve consultation arrangements, especially through a *Consultative Forum on Environmental Matters* in which citizens' groups representing environmental interests at EC level will participate actively, together with representatives from trade unions, local authorities, etc.

Even though it has been admitted that these committees are more about associations than single citizens, this opportunity structure for participation falls even short of the needs of *indirect* involvement of citizens in the EU policy-making processes:

"[All] EC Consultative Committees are absolutely failing to keep pace with the speed of the decision-making process and they are all in the need of modernisation. In particular, they do not provide any real place for single issue groups although, in lobbying terms, their importance has grown considerably.

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<sup>20</sup> Dec. 90/55/EEC of 17 Dec. 1989, OJ 90/L 38/40.

<sup>21</sup> Resolution OJ 93/C 138/1.



The current arrangement for the voluntary sector is fragmentary, so there is often very little logic to which organisations are consulted on which issues or by which departments." (Venables 1990: 23)

## 2.5 Participation of Citizens in Administrative Acts Induced by EC Law

Some EC legislation forces the member states to grant the citizens at least some say in administrative decision-taking, especially in the environmental and social field. Although these structures do not provide for opportunities *vis-à-vis* the EU polity but the national authorities or transnational enterprises, they should be mentioned here, because these (political) rights are granted towards a (delegated) sub-unit of the EU polity.

To take the most prominent example, the *environmental impact assessment* (EIA) Directive<sup>22</sup> allows (individual) citizens a right to limited information, consultation, and participation in some important projects. Article 6.2 states that the member states shall ensure that the *public concerned* is given the opportunity to express an opinion before the project is initiated. Exactly who the 'public concerned' are and the way in which they are to be consulted is left up to each member state (Article 6.3). However, citizens have a right to participate in national proceedings under EC law.

Other examples are to be found in the field of social legislation (*enterprise level democracy*): e.g. the new 'European Works Councils Directive'<sup>23</sup> gives employees' representatives in (bigger) European multinationals the right of information on the undertaking's progress and prospects and on consultation on management proposals likely to have serious consequences for the interests of the employees (including mergers, closure, relocation, new production methods). Furthermore, the 'Health and Safety' Framework Directive<sup>24</sup> provides for information, consultation and participation of workers' representatives in the respective areas. Finally, the 'Collective Redundancies' Directive<sup>25</sup> and the 'Transfer of Undertakings' Directive<sup>26</sup> also grant specific information and consultation rights.

## 2.6. Eurobarometer

One may list opinion polls among the channels for citizens' involvement in a very broad sense. Like (advisory) referenda, they may give a picture of the opinions of the

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<sup>22</sup> Dir. 85/337/EEC, OJ 85/L 175/40.

<sup>23</sup> Dir. 94/45/EC, OJ 94/L 254/64, to be transposed in national law by 1997.

<sup>24</sup> Dir. 89/391/EEC, OJ 89/L 183/1.

<sup>25</sup> Dir. 75/129/EEC, OJ 75/L 48/29.

<sup>26</sup> Dir. 77/187/EEC, OJ 77/L 61/26.

European citizens on specific policy issues. Unlike referenda, surveys do not need the actual participation of the whole or the majority of the European population but only of a small fraction thereof. This is certainly much cheaper in terms of organisation, but, obviously, falls short of democratic value. However, it might be one way of including the citizens' views into the policy-making process.

In the European context, regular *Eurobarometer* surveys are carried out throughout the member states two times a year in order to find out about the European citizens' attitudes *vis-à-vis* the European Union and specific policy areas such as Economic and Monetary Union. Some of the questions asked are very general and repeated every time, others are more specific. One of the standard questions is the one on satisfaction with the state of democracy in the Union. To take an example, in Eurobarometer 41 (May 1994) only 40 per cent of the citizens are satisfied with democracy in the EU and only slightly more with democracy in their own country (43 per cent).

Since the questions asked are, as a rule, very general and do not ask for dis/approval of specific policy measures, it does not seem that Union officials and European politicians may take these surveys into account in their daily work to a considerable extent so far. However, in a 1993 communication of J. Pinheiro, the Commissioner for information, on the analysis of public opinion presented a new approach:

"The Commission needs to know current data on public opinion before it launches new initiatives because of two complementary reasons: on the one hand, because it is very important to know the type of action the citizen is expecting from it and, on the other hand, because it is equally important that it may foresee the reactions of the public to the measures it envisages. If it wants to satisfy public opinion, it is essential for the Commission to orientate its work towards the demands and expectations." [SEC(93) 1246, own translation from French]

In order to meet these requirements DG X has now increased the number and types of European opinion polls: a monthly survey asks specific questions on highly topical issues; 'Eurobarometer Flash' will also survey the attitudes of specific groups. Furthermore, the resources for analysing the data have been stocked up and reorganised -- there is now a special unit for analysing public opinion in DG X (X.A.2). The Commission has decided in May 1993 to debate on a monthly basis the situation in the member states. At these occasions it debates the state of the public opinion as well. In view of the key role of the Commission as the initiator of the decision-making process in the Union, this seems to be for the first time an important and systematic step in the direction of taking into account the views of the citizens in everyday European politics. However, as stated above, the democratic value of opinion polls has to be qualified and, therefore, they should not be seen as a genuine channel for citizens participation.

## 2.7. Proceedings Before the European Court of Justice

Proceedings before the ECJ can be interpreted as an opportunity for participation in the EU political system because the Court's function is that of a constitutional court of the Union: It ensures lawful interpretation and application of the treaty provisions. The treaties comprise a series of guiding principles concerning the scope and content of Union activities as well as rules of distributing the respective competencies between the Union and its member states and, last but not least, elaborated procedural rules. In this sense the so-called 'primary law' of the Union can be seen as the constitution of the Union setting the framework for the policy formulating processes at the Union level. Forcing the Union institutions or a member state to change their policy because the originally adopted measures have been declared unlawful under that EU constitution by the European courts could be seen as an act of political participation.

Indeed, there are a lot of examples where actions raised by ordinary citizens (not only by commercial enterprises) have had a direct impact on member states' and Community's policies. To take some examples, citizens have been able to trigger decisive rulings in their roles as air-hostess (Defrenne), student (Gravier), member of a social security scheme (Francovic), policewoman (Marshall), sportsman (Walrave and Koch), etc. etc.

There are three different types of proceedings which can be used by ordinary citizens in order to enforce ECJ decisions. First, under Article 173.5 ECT any person may challenge acts of Community institutions if they have been addressed to him/her personally or concern him/her directly and individually. Secondly, under Article 175.3 ECT citizens are entitled to complain to the Court if a legal act should have been addressed directly to them and the failure to do so has infringed their rights. Thirdly, under Article 177 ECT any party in proceedings before national courts may ask the national judge to refer a question relating to Community law to the ECJ for a so-called 'preliminary ruling'. Here, the European Court of Justice decides the disputed question on a general (Community) level and the national court has to apply the Court's answer to the case pending at the individual (national) level. By contrast, the citizens have not the right to raise an action under Article 169 or 170 ECT against a member state to criticise infringements of Community law. This can only be done indirectly through a complaint addressed to the Commission asking it to institute proceedings under Article 169 (see above).

However, Articles 173.5 and 175.3, but 177 as well, constitute considerable problems of access. Article 173, on the one hand, seems to be a powerful tool, but the conditions of active legitimation are not very workable: there are only few cases where a legislative act directly affects the individual in a sufficient manner. On the other hand, Article 175 has only a very limited area of application in political terms since, in general, citizens

trying to participate in EU politics do not wish to get a specific decision addressed to them<sup>27</sup> but, e.g. a legislative act to be adopted. As far as the preliminary ruling procedure is concerned, all depends on the goodwill of the national judge, because a court which does not decide in last instance (by contrast to supreme courts for example) is not obliged to refer a question of Community law to the ECJ. Furthermore, this process is rather expensive and time-consuming.

But there is still another important aspect to it. The citizen might well have a certain impact on the outcome of the proceedings since s/he influences the subject and can put forward arguments in his/her written or oral submissions. But s/he cannot determine the actual outcome of the intervention. This should also be seen against the background of the often unexpected and activist rulings of the ECJ. The Court acts very independently and it is often difficult to predict its decisions. On the other hand, the sometimes activist way of deciding cases may also enhance their impact in terms of policy. Activist rulings, such as the *Costa vs. ENEL* and *Van Gend en Loos* cases or the *Internationale Handelsgesellschaft* decision have had an enormous impact on the legal relationships between citizens and their home countries (i.e. direct applicability and priority of EC legislation over national law). The same is true e.g. for the *Defrenne* cases which changed a traditional pattern of non-obedience of a basic Community principle (i.e. equal pay for both sexes).

In any case, proceedings before the European courts cannot be seen as a regular means of citizens participation, neither in terms of actual frequency of access nor in political terms since they are exceptional tools aiming at enforcing *decisions already taken* by the polity.

## 2.8. Protest Actions

With a view to the rather weak opportunity structures for citizens participation at the EU level (see below), one might expect that citizens try to make their voice heard by unconventional means such as protest actions. Indeed, there have been some examples of Euro-level protest actions, performed e.g. in front of the European headquarters in Brussels. For instance, French farmers protested against the Community's strategy in the framework of the GATT Uruguay round, animal rights protesters campaigned for an amendment to the 'Life Animal Transport' Directive limiting transport time and mileage.

However, protest is a rather exceptional form of 'participating' in EU politics. The main reasons seem to be the difficulty to organise it on a European scale, and the fact that protest at the national level has only very limited and indirect influence at the EU

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<sup>27</sup> This normally only applies in the field of competition policy, the granting of financial support from the structural funds, or in agricultural exporting -- areas which are not very close to the ordinary citizen's lives and interests but rather to large companies and local authorities.

level. Furthermore, most issues dealt with at the EU level have no visible and direct impact on one's doorstep and seem rather remote. Therefore it is particularly difficult for political entrepreneurs to mobilize a substantial part of the population of a country for protest against the EC in general and against specific decisions in particular (Opp 1994: 393).

Even if the organisers are successful to some extent, protest at the EU level only really matters if a series of other conditions is fulfilled. E.g. the EU decision-making rules allow in some cases for a veto by the government of a member state. If the vast majority of the protest supporters are nationals of another or even several other member states, it seems very unlikely that a government decided to block a decision for national reasons changes its voting behaviour. Thus, under these circumstances, protest may only have some effect if a great deal of support actually comes from the vetoing country itself. This again hinders the widespread use of this rather indirect opportunity structure at the European level.

### 3. Deficits of Citizens' Involvement in EU Politics?

After having presented some empirical evidence on the actual *status quo* of citizens participation, I shall subsequently analyse the various channels in more systematic terms. I use the term 'opportunity structures for citizens participation' in a rather broad sense. Therefore 'opportunity structures' are all sorts of channels of access to the public sphere and to the policy-making and implementation processes. There are different ways to categorise these opportunities:

Firstly, one could distinguish between *active and passive* channels, i.e. if the main initiative actually comes from the citizens or, on the other hand, if they are rather a source of information or of support/rejection. A typical example for the active side would be a European-wide popular initiative process, a rather passive example voting at European elections. Being a member in a large interest group (e.g. a professional federation or Greenpeace) does not involve any active engagement apart from signing up for membership and paying fees ('credit card members'), so it is rather passive. Membership in small interest groups, on the other hand, tends to be much more on the active side<sup>28</sup>. Further examples for very passive forms of involvement are provided by opinion polls by which the politicians learn about the people's views on specific issues.

Secondly, we may ask about the *aim* of the participatory activity which can be either to set the agenda, or to control the process, or to actually decide. Filing petitions to the EP aims at setting the agenda or at controlling the process, e.g. the implementation of

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<sup>28</sup> This is, by the way, also true for the representatives of larger groups, but they count amongst the "professionals" in politics, as defined above.

EC law (the same would be true for future contacts with the EP ombudsperson), whereas a possible Union-wide referendum aimed at taking a decision.

A third way of distinguishing the channels of influence is to pose the question whether there is a *direct* link between the outcome and the actual decision-making process. If the input from the side of the citizens is processed in a qualitatively different way as other 'internal' ('professional') inputs, this channel influences the policy outcome only *indirectly*. In this sense, a conference organised by the Commission during the decision-shaping phase is rather indirect, whereas a ruling of the ECJ after a proceeding under Article 173.5 ECT influences directly the policy process.

A fourth distinction could be made between *formal* and informal opportunity structures. The first, as procedural rules, are rooted in the legal sphere with the consequence that they could be challenged in the courts if the citizens have not been consulted properly or not at all or if a specific rule has not been applied lawfully. The *informal* opportunity structures are only being practised without a legal basis and therefore not litigable. I suggest to call the latter ones secondary opportunities for involvement in order to stress that fundamental difference. To give an example: if a group of citizens was successful in gathering the necessary number of signatures for a popular initiative, it would have to be processed in the system. If the same group wrote thousands of letters to the relevant DG of the Commission they could be discarded if the Commission so decides.

Fifthly, one could also draw a line between the devices directed towards the *polity*, i.e. the composition of the institutions, and those aiming at influencing the *policy*-process itself. Polity-related opportunities are, first of all, the elections at different levels, but also participation in committees. Policy-related channels of influence are all others mentioned before.

These dimensions are presented in the annexed table. The different structures as discussed in the previous section have been filled in the boxes accordingly. Those structures which are not actually implemented at the EU level have been put in brackets.

Looking at the synoptic table and using these categories (active/passive; agenda setting/decision-making/control; direct/indirect; informal/formal; policy/polity related), we may describe the Euro-opportunity structures for citizen participation as follows:

- There are both active and passive channels present at the EU level. However, apart from ECJ proceedings under Art 173.5 ECT there are no active and direct ways to participate in the European policy process. However, Art 173.5 is in most cases not workable in practise either.
- The citizens have no opportunity to influence the actual decision-making in the narrow sense.

- The main trust of opportunities for citizens participation at the EU level is active but indirect. As far as agenda-setting is concerned, there are only indirect channels present.
- In addition we have found in the sections on the Commission that its underlying strategy seems to favour contacts with highly organised interests, i.e. with special interest groups, especially with transnational associations. Direct contacts with the 'ordinary citizen' are dominated by a hierarchic, unilateral approach. The Commission wants to inform the wider public about the Union's policies and the Commission's strategies, but this relationship lacks elements of interactivity. There are only very few beginnings of 'back channels', which, so far, serve mainly the Commission's interest to atune its information activities in order to make them more efficient.
- Furthermore, the strongest but only indirect opportunity structure, the right to petition the European Parliament, depends in its actual impact and value on the specific competencies of this institution in the relevant policy field. Thus, strenghtening representative democracy in the EU would also enhance the importance of this more participatory opportunity structure.

These findings can only be regarded as preliminary. Further empirical research has to be done. Against the presented background, however, there seems to be no reason to declare the relationship between the citizens and the Union's policy-making system untouchable. With a view to the IGC 1996 and beyond, a closer examination of the prospects of wider citizens participation including elements of direct democracy is therefore highly recommended.

## References

- Allais, M. (1991) L'Europe face à son avenir -- Que faire?, Paris: Robert Laffont/Clément Juglar.
- Bogdanor, V., and Woodcock, S. (1991) 'The European Community and Sovereignty', Parliamentary Affairs 44, 4: 481-493.
- Bohnet, I., and Frey, B. S. (1994) 'Direct-democratic Rules for a Future Europe -- the Role of Discussion', Kyklos 1994, 3: 341-354.
- Buchmann, M. C. (1994) 'The Relevance of the Swiss Experience for a European Constitution', paper presented at the COST A7-workshop on 'Democratic Rules for a Future Europe', Luzern/Switzerland, Dec. 1993.
- Chanan, G. (April 1994) 'Local Community Groups: The Essential Stepping Stones', The European Citizen April 1994, 28: 3-4.
- Christiansen, T. (1995) 'Gemeinsinn und Europäische Integration -- Strategien zur Optimierung von Demokratie- und Integrationsziel', Zeitschrift für Parlamentsfragen 1995, 1 (special issue): forthcoming.
- Cram, L., and Richardson, J. J. (1994) 'Citizenship and Local Democracy: A European Perspective', Public Money & Management 14, 4: 17-24.
- ECAS (1994) Leaflet of the European Citizen Action Service, Brussels.
- Europe, Agence Internationale pour la Presse, Brussels, various issues.
- Fobe, A. (1994) 'The Future European Ombudsman', The European Citizen January-February 1994, 26: 14-15.
- Fobe, A. (1994a) 'Communication and Openness: A Not-So-New Approach', The European Citizen 1994, May-June: 6-7.
- Franklin, M., Marsh, M., and McLaren, L. (1994) 'Unkorking the Bottle: Popular Opposition to European Unification in the Wake of Maastricht', Journal of Common Market Studies 32, 4: 455-572.
- Franklin, M., Marsh, M., and Wlezien, C. (1994a) 'Attitudes Toward Europe and Referendum Votes: A Response to Siune and Svenson', Electoral Studies 13, 2: 117-121.
- Griller, S. (1992) 'Gesamtänderung durch das EWR-Abkommen?', ecolx 3, 7: 539-544.
- Marias, E. (1994) 'The Right to Petition the European Parliament after Maastricht', European Law Review 19, 2: 160-183.
- Murswiek, D. (1993) 'Maastricht und der pouvoir constituant -- Zur Begründung der verfassungsgebenden Gewalt im Prozeß der europäischen Integration', Der Staat 11, 3: 161-190.
- Niedermayer, O., and Schmitt, H. (eds) (1994) Wahlen und europäische Einigung, Opladen: Westdeutscher Verlag.
- N.N. (1994) 'Ensuring Community Legislation is Applied', The European Citizen April 1994, 28: 8-11.
- Opp, K.-D. (1994) 'The Role of Voice in a Future Europe', Kyklos 1994, 3: 385-402.
- Peters, B. Guy (1994) 'Agenda-setting in the European Community', Journal of European Public Policy 1, 1: 9-26.
- Pliakos, A. (1994) 'Le médiateur de l'Union européenne', Cahiers de Droit Européen 30, 5-6: 563-606.
- Richardson, J. J. (1995) 'EU Water Policy: Uncertain Agendas, Shifting Networks and Complex Coalitions', Environmental Politics 1995 forthcoming: 140-168.
- Ross, G. (1994) 'Inside The Delors Cabinet', Journal of Common Market Studies 32, 4: 499-523.
- Rupp, H. H. (1993) 'Muß das Volk über den Vertrag von Maastricht entscheiden?', Neue Juristische Wochenschrift 46, 1: 38-40.
- Siune, K., Svensson, P., and Tonsgaard, O. (1994) 'The European Union: The Danes Said 'No' in 1992 but 'Yes' in 1993: How and Why?', Electoral Studies 13, 2: 107-116.
- Steiner, Mr. (1981), discussion intervention, in Ranney, A. (ed) The Referendum Device, Washington D.C.: AEI.



- Svensson, P. (1994) 'The Danish Yes to Maastricht and Edinburgh. The EC Referendum of May 1993', Scandinavian Political Studies 17, 1: 69-82.
- Venables, T. (1990) 'European Citizens Action Service' in C. McConnell 'A Citizens' Europe? Community Development in Europe Towards 1992', Report of an international conference organised by the Community Development Foundation in association with the Commission of the EC and the Council of Europe, Colchester: Community Development Foundation.
- Venables, T. (1994) Guide to the European Parliament: A User's Book for the Would-Be Lobbyist, The European Citizen, Guides & Documents (3/1994), Brussels: ECAS.
- Wallace, H. (1993) Deepening and Widening: Problems of Legitimacy for the EC, in García (ed) European Identity and Search for Legitimacy, London/New York: Pinter.