

8

The participation of Civil Society

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One of the favourite terms in the public language of the Constitutional Convention was 'civil society'. References abound to the need to listen to citizens' views (CONV 14/02, 25 March 2002), to the importance of establishing 'a genuine dialogue . . . with civil society' (CONV 7/02, 11 March 2002), and to the intention of using civil society's contributions 'as input into the debate' (Laeken Declaration). The aim of this chapter is to explore the extent to which these promising claims were put into practice in the deliberative process of the Convention in order to assess whether there was a substantive shift on the part of the Union towards the creation of a more democratic and pluralistic European public sphere.

The concept of civil society employed in the EU context commonly refers to civil society organisations, i.e. NGOs and advocacy groups. This is a more limited concept than that used by scholars, which includes a wider and more articulated social space where issues are raised and debated and political demands are addressed to decision-makers (Cohen and Arato, 1992, 1995; Dryzeck, 2000; Habermas, 1992b; Walzer, 1995; Young, 2000). This chapter refers to the notion of civil society as it is employed in the EU, by focusing in particular on the role of social NGOs in the Convention, while the place of economic interests is discussed in Chapter 9.

The Convention's discourse on civil society is analysed in relation to the substantive issues on Social Europe that were of particular concern to the participants in the Forum, which was the place assigned for the 'voice' of civil society to be heard, something made clear at Laeken:

In order for the debate to be broadly based and involve all citizens, a Forum will be opened for organisations representing civil society (the social partners, the business world, non-governmental organisations, academia, etc.). It will take the form of a structured network of organisations receiving regular information on the Convention's proceedings. Their contributions will serve as input into the debate. Such organisations may

154 *The Convention as a Mirror of European Society*

be heard or consulted on specific topics in accordance with arrangements to be established by the Presidium.

(Laeken Declaration)

The extent to which dominant frames¹ in the Convention's discourse operate to include or to marginalise civil society's perspectives, issues and actors will enable us to observe the distance existing between words and deeds on the part of the Convention. An analysis of the proceedings of consultation with civil society, the main demands of civil society, and the outcome of Convention deliberations may help to verify how successful the Convention was in reaching civil society, engaging in a real dialogue with it, and giving proper representation to its demands.

The chapter is divided in two parts. The first reflects on the Convention's discourse concerning civil society and the second explores the experience of the Forum. The argument developed is that the Convention's emphasis on civil society was a rhetorical device to gain legitimacy rather than a genuine move towards a more pluralistic EU democracy capable of complementing representative democracy through mechanisms of active participation of citizens and social actors in the policy-making process.

The discourse on civil society: dominant attitudes and frames

The first stage of Convention's workings, that is the listening phase, placed from its beginnings a special emphasis on the need to *hear the voices* of civil society. The president, Giscard d'Estaing, opened the first substantive debate of the Convention claiming that 'the citizens of Europe felt that their voice was not being heard on the future of Europe and that the first phase of the Convention should therefore be a listening phase' (CONV 14/02: 1).² Convention members stressed not only the aspect of listening but also the need 'to take account of citizens' expectations and give citizens a greater say in and fuller scrutiny of European decision-making' (CONV 14/02: 4). In other introductory debates the members of the Convention welcomed it as a 'unique opportunity to bring European construction closer to the citizen' by establishing 'a genuine dialogue' with civil society, and leaving the listening activities of the Forum open throughout the whole of the Convention's proceedings (CONV 7/02: 3).³

Although it is often referred to as a 'dialogue', the relationship with civil society can better be described as a process of 'hearing' and 'consultation' (Laeken Declaration; CONV 14/02; CONV 167/02). This is because in none of the Convention documents is there any mention of feedback activity from the Convention to civil society organisations and any reference to how far contributions have affected specific issues, general orientation of the Convention, not to mention the Constitutional Treaty. Moreover, there is a risk that this consultation may be a one-way process from civil society to the Convention and the EU at large and not vice-versa. Convention documents

make clear that, in order to have people's support, the Convention must benefit from civil society's contributions (CONV 8/02: 4). The Convention's expectations of benefiting from the consultation of civil society, was asserted during the plenary session devoted to civil society, in which Mr Dehaene, vice-chairman, stated that the 'dialogue with civil society' had been 'highly enriching, above all for the Convention' (CONV 167/02: 14).

One can raise a question about the extent to which this 'dialogue' has been enriching for actors from civil society as well. In so far as there is no mention of the type of impact that such contributions have had on the Convention and the feedback that organisations will receive from it, doubts may be expressed concerning the genuine character of the Convention's interest for civil society. To a question concerning the type of interaction maintained with the Convention, a member of civil society who participated in the Forum significantly answered that: 'Interaction with the Convention is proof positive of the existence of black holes. You send something but nothing ever comes out. No answer to any letters. No acknowledgement of receipt. Nothing.'⁴

Thus, a first general attitude of the Convention towards civil society that can be detected is that of 'listening without committing to an answer'. What was described as an attempt at 'genuine dialogue' was instead a rather 'banal exercise of freedom of expression', as De Schutter defined a similar experience in the process of the Charter (De Schutter, 2001: 169). There was not a clear commitment on the part of the Convention to stating how and to what extent contributions from civil society groups would be taken into account in the deliberations and in the Constitutional text.

With respect to dominant frames, the neo-liberal mindset of the EU operated as a tacitly accepted broad setting for discourses taking place in the Convention, by supporting a general assumption about what was 'natural' and 'important' to be discussed in the Convention. This means that issues and perspectives that accepted the existing neo-liberal trend were prioritised, while social issues that challenged this model were marginalised and actors defending them were constrained to adopt 'realistic' (that is within the dominant neoliberal paradigm) standpoints to participate in the debate.

Furthermore, the fact that Convention discourse was more institutionally driven limited wider debates about the nature of the EU project and marginalised actors willing to discuss more substantive questions about the type of polity that is being aimed at. In a speech for the opening of the academic year at the College of Europe, in Bruges (2 October 2002), Giscard said that institutional matters would be discussed at the end, as 'institutional arguments must not drive our debate on the basic questions: rather our answers to these basic questions about competences and means of action of the Union will dictate our eventual institutional prescriptions' (Giscard d'Estaing, 2002b: 17). This claim was contradicted on several occasions in which the president of the Convention steered the discussion towards more institutional questions. The debate on social policy is exemplary.

156 *The Convention as a Mirror of European Society*

The discussion on Social Europe represented an opportunity to raise fundamental issues concerning the nature of the European project that is planned for the future and the unquestioned neo-liberal focus that has characterised the EU integration process in the past few decades. The opening of a debate on Social Europe, proposed by a number of members of the Convention⁵ and the Social Platform of European NGOs, was justified as follows:

The numerous statements and contributions of *members of the Convention* within the plenary meetings of the Convention, the various statements of representatives of *civil society*, the conclusions of the *Youth convention*, and the results of the *Eurobarometer* reflecting the expectations of the European citizens (the fight against unemployment, poverty and social exclusion has highest priority) show *the need and the necessity to establish a social Europe*.
(CONV 300/02: 3)

The plenary meeting on Social Europe took place on 7–8 November 2002 (CONV 400/02: 6).⁶ On several occasions the president of the Convention acted to steer the debate towards more institutional and less contentious issues and away from substantive discussions on the nature of the EU project that aimed at revitalising the European social model and at questioning the existing neo-liberal approach. The questions prepared by the Presidium for members of the Convention to structure the debate on social issues were entirely focused on possible institutional amendments to EU social and economic policy and left little space for a more general discussion on the need for a European social model, that, although highly controversial, had been the main reason for requiring a plenary.⁷

A merely institutional focus on social issues would marginalise or exclude discussions on issues such as the current challenges posed by economic globalisation to social policies, the dismantlement of European welfare states, increasing (long- and short-term) unemployment, the changing nature of work with fixed jobs disappearing together with social protection, flexibility, precarious and temporary jobs, ageing population, inequality, poverty, social exclusion, and so on. These and similar issues were raised by representatives of civil society in the June 2002 hearing and in the European Social Forum in Florence in November 2002 that coincided with the Convention debate on Social Europe on 7–8 November.

The establishment of a working group on social issues also encountered some resistance on the part of the Presidium, particularly from the president. Although Giscard noted at the end of the debate on Social Europe that there was a considerable support for the creation of such a group, he 'was distinctly less enthusiastic about the idea'. After campaigns by Ms Anne Van Lancker, Ms Sylvia-Yvonne Kaufmann, Mr Johannes Voggenhuber and the other members who had proposed the debate on Social Europe, support in favour of a working group on social policy from a considerable number of

delegates, and with backing from the EPP, the largest political family, Presidium members Klaus Hänsch and Giuliano Amato acknowledged the calls for the setting up of a new group. 'We've got the message,' said Mr Hänsch while Mr Amato admitted that the 'demand seems to be widely supported' (EUobserver, 8 November 2002).

The Working Group on Social Policy of the Convention was finally created, indeed representing a victory of civil society and of those *conventionnels* subscribing to a more proactive view of Social Europe, though the period of time to discuss and deliberate on many contentious social issues was far more limited than for the rest of the working groups (only five meetings to discuss a seven-point mandate). The dispute over the creation of a working group on social policy significantly highlighted the Presidium's and its president's attitude towards social issues as one of attempting to silence or marginalise contentious issues that would question the tacitly assumed neo-liberal mindset of the EU. This attempt revealed a certain lack of concern not only for the will of members of the Convention, but also for representatives of civil society and European citizens who attached a great significance to social issues. A member of the ILGA (International Lesbian and Gay Association), one of the NGOs that participated in the Forum, claimed: 'Initially none of the Working Groups dealt with social issues explicitly. This was very disappointing from our perspective, but indicative of the position of social issues in the EU in general.'⁸

In effect, the largest group of civil society organisations, classified in the Forum website as 'other, civil society, NGOs and schools of thought (O)', attached great importance to the working group on Social Europe. Although the latter did not have sufficient time to take direct advice from civil society, due to its late creation, individual members seemed to have listened to and taken into account civil society's contributions (Shaw, 2003b). This emerges from the Final Report that the working group produced (CONV 516/1/03). The working group treated the question of Social Europe as a fundamental piece in the EU constitutional framework, and not just a question of policy content (Shaw, 2003b) by reaffirming the role of 'social objectives as equivalent, not subordinate to, economic objectives', as 'forming an integral part of the spirit in which the European Union was conceived and of the direction in which it develops' (CONV 516/1/03: 8). This statement, and the whole report, expresses a project of Social Europe that is understandable by, and in line with, most civil society and in general citizens' concerns, giving a direction and a name to the Union whose future is being discussed.

In spite of the wide support that welcomed the report in the plenary session of 7 February, the draft of the first sixteen articles of the Constitutional Treaty issued by the Presidium at the end of January explicitly admits that results of the discussions of the working group on Social Europe had not been taken into account in writing the preliminary document. The precedent set by the draft sixteen articles is not irrelevant, as Shaw points out, considering that 'even though these draft articles are only 'suggestions', as

158 *The Convention as a Mirror of European Society*

Giscard has reminded us, they still represent an unfortunate reference point' (Shaw, 2003b: 3). This is effectively confirmed by the amendments to the Draft which did not include a large number of points covered in the Social Report and ignored by the Presidium's preliminary Treaty. Beside the fact that the Convention was missing an opportunity to construct a 'strong Europe' by aiming for a 'social Europe' (Shaw, 2003b), it also missed the opportunity to give representation to civil society's main concerns, concerns shared by the working group on Social Europe. As one participant to the Forum claimed: 'We were very disappointed to see that the Social Europe report was to a very limited extent taken into account.'⁹ The Convention's emphasis on the relevance of civil society appears to be a rhetorical device to gain legitimacy rather than a genuine attempt to abandon the EU elitist attitude towards the citizen.

Civil society in action: a structured dialogue?

As we have seen, the Laeken Declaration sets the basis for the establishment of a forum consisting of a network of civil society organisations whose contributions are explicitly described as providing 'input' into the Convention's debate and whose character is consultative. Consultation through the Forum was characterised by a distinctive openness in the process of participation. A user-friendly website was created for the Forum, in which contributions were attached and updated, hearings with civil society organisations were organised in June 2002, culminating in a public debate on the plenary session of the Convention on 24–25 June; national debates with civil society were run in the member states; and regular contacts were kept between civil society and Mr Dehaene, the Presidium vice-president in charge of relations between the Convention and civil society groups.

No further requirement was asked for participating in the Forum than to send a written contribution to the Convention, to be submitted in a pre-defined format, which would then be posted on the Forum's website. This gave rise to a multiplication of inputs and meant that the number of participants to the Forum grew constantly from around 200 groups in September 2002 to over 500 organisations in March 2003. This certainly contributed to the publicity of the Convention process, at least among the organised civil society, and enabled a great number of actors to express their views on the future of Europe. However, it also implied a number of problems which had already emerged in the previous consultation that accompanied the drafting of the Charter. Moreover, the formal openness of the process did not necessarily mean that no substantive selection was actually made. In fact, a number of more or less invisible obstacles were apparent in the selection of participants to the Forum and, in particular, to the hearings of 24–25 June 2002.¹⁰

The Forum repeated some of the mistakes of the Charter consultation, revealing once more that a wide open consultation process does not necessarily equal effective participation. It has been suggested in fact that other requirements

are necessary to achieve the latter. As one commentator observed, 'the more open the consultation process, the less the right to be "heard" may in fact impose on the institution addressed an obligation to answer' (De Schutter, 2001: 169). The Forum has been described by one participant as 'a black hole' from where no response ever came back.

De Schutter (2001) questioned whether the EU institutions should actively structure existing organisations (at the same time encouraging the emergence of new groups) or whether they should not intervene in the process at all. With respect to the latter, he warned of the risk that leaving civil society as it exists, without any structuring of the network, may favour the better-organised better-informed and better-situated and resourceful groups and exclude organisations that do not enjoy the same benefits despite their representativeness or their competence on the matter. De Schutter's proposal is therefore to structure civil society's network according to a number of criteria of representation defined by ECOSOC, (ECOSOC, 2001: point 3.4.1., p. 6) and to organise the consultation process by identifying the questions of general interest on which organisations of civil society could contribute (e.g. gender equality, environment). For each area of concern, fora with the most representative organisations should be established and consulted both at an early stage of the legislative proposals and in the process of policy evaluation.

A structured organisation of civil society participating in the EU policy-making process would ensure what the Commission has defined as a right 'to receive appropriate feedback on how their contributions and opinions have affected the eventual policy-decision, thereby making the relationship a real dialogue' (Commission, 2000b: n.5, p. 10). It is argued that this dialogue would only be manageable with a selection of participant organisations. The merit of this procedure is that it would force the EU institutions to commit to a more genuine dialogue with civil society and would control the more informal lobbying that might benefit more powerful groups. After the experience of the two Conventions which saw considerable participation but without any feedback on how civil society had affected the process, suggestions similar to the ones recommended by De Schutter have multiplied among civil society organisations.

Treaty Articles on participatory democracy

The preliminary Draft Treaty included in Title VI: 'The Democratic Life of the Union' an explicit reference to participatory democracy, particularly in its Article 34 but also in Article 36 (CONV 369/02).¹¹ A later version of the Treaty mentions the 'Principle of participatory democracy' in its Article I-46 (CONV 724/03), while Article I-45 deals with representative democracy. Article I-46 also adds a third paragraph on the Commission's task to maintain 'broad consultations with parties concerned' (as proposed in the *White Paper on Governance*). The final version of the Constitutional Treaty renumbers the

160 *The Convention as a Mirror of European Society*

Article on the principle of representative democracy as Article I-46 and the Article on the principle of participatory democracy as I-47 and adds to the latter a fourth paragraph, which states that 'Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing this Constitution' (IGC 87/2/04 REV 2). Although the feasibility of this Europe-wide collection of signatures is yet to be seen, this provision introduces the right for citizens to propose legislation to the Commission. Moreover, it could have positive developments toward the promotion of a European public sphere as it could favour the creation of broad alliances among civil society organisations, giving at the same time more relevance to national grass-root groups rather than European ones. However, as Schmitter points out, the provision still grants citizens limited possibilities of influence, as it does not even include the possibility of proposing a referendum.¹²

The first paragraph of Article I-47, 'The Institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action' (IGC 87/2/04 REV 2), raises several doubts among civil society organisations. The first concern refers to the means that will be used: a Forum only based on the internet may create social disparities due to the unequal distribution of internet access both within the EU members and between old and new members.¹³ Doubts are also raised with regard to the criteria for defining a 'representative' organisation and the extent to which it will be possible to participate in the process of decision-making in the preliminary stages of initiatives when the term used is the Union 'action'.

The second paragraph of Article I-47 is positive in that it recognises the role of civil dialogue in the Treaty. However, it was criticised by civil society organisations for not including any reference to a 'structured' civil dialogue nor to any feedback from the EU to input from civil society. The text states that 'the Union institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society' (IGC 87/2/04 REV 2). The issue of participatory democracy, and Article I-47, was discussed by the Convention during the plenary of 24–25 April 2003, but no consistent changes were made to the existing text, in spite of civil society criticisms. The Civil Society Contact Group¹⁴ declared its dissatisfaction with the treatment of participatory democracy in the Draft Treaty for the restriction of appropriate means for consultation to the internet, the absence of a reference to a structured dialogue, and the emphasis on the social partners as representative associations, together with regions and local authorities, while civil society is added without specifying what is meant by this broad concept.¹⁵

A recognition and promotion of the role of the social partners at the EU level is included in Article I-47 DCT (I-48 TCE), specifying a respect for their

autonomy and a consideration of the diversity of national systems. NGOs fear that their role does not enjoy an equal recognition to that of the social partners and feel that the Convention has made meagre efforts to promote their participation in the decision-making process. During the April plenary that discussed the Articles on participatory democracy, NGOs' suggestions to Convention members were unanimous in demanding that the Treaty should include a reference to structured civil dialogue. However, while some Convention members defended this point, the Presidium did not take on board these demands by including them in the text.

In spite of its popularity among NGOs, a more structured consultation process raises at least four types of problems. The first is the 'domestication' of civil society through its inclusion in the institutional process (Armstrong, 2002). By reinforcing institutional ties with state authorities, civil society organisations run the risk of losing their independence and the challenge they represent for institutional actors.

The second is the dominance of private over public interests, a problem that concerns participatory versus representative democracy in general, as NGOs represent particular interests and they are not accountable to the people as elected representatives are.

The third problem has to do with possible criticisms of the EU institutions for selecting among civil society organisations those which are supposedly the most representative ones, but whose selection criteria have not been open to public deliberation, a decision that could be easily judged as undemocratic.

The fourth is that the Convention seeks to fit the 'fluid' and articulated nature of civil society into a structured network of organisations, the Forum, which has the privilege to be informed about Convention proceedings. Scholars argue that this 'instrumental' character affected the relationship of the Convention with civil society in a way that was not respectful of the 'fluid nature of the latter' (Closa, 2003: 16). Both the filter of civil society's contributions through a Forum and the 'highly structured' public hearing in the plenary of June 2002 are described as 'inimical' to the 'chaotic premise' of an 'open-ended initiation' that would be most advisable during the listening phase of the Convention (Shaw, 2002: 11). There seems to be a trade-off between the achievement of an extremely structured and well-organised public hearing and the generation of a genuine exchange of views between *conventionnels* and civil society participants. As the words of a participant from the academic contact group make clear, there was 'no excitement and no real interplay between the Convention and the civil society representatives'.¹⁶

That said, given that a considerable number of NGOs and the ECOSOC (1999, 2000, 2001) supported a more structured dialogue, the Convention should have taken their views on how to establish a more participatory democracy into more serious account, if it intended to turn the rhetoric of listening to civil society into reality. Besides, most NGOs are aware of the risks of institutionalisation and attach relevance to how the civil dialogue

162 *The Convention as a Mirror of European Society*

should be institutionalised. They deem it important not to consider interest representation to be solely in the hands of the Economic and Social Committee, but rather in 'the broader realm of civil society as represented by NGOs, as well as trade unions and employers' representation'.¹⁷ They have different views on whether the process should be open to all civil society groups or whether there should be a selection of organisations (representation via umbrella organisations as in the case of contact groups or the Social Platform), but they do warn about the risk of including only Brussels-based groups.¹⁸ They are in favour of a regular consultation of civil society and through clearly structured channels rather than occasional meetings with the EU institutions, and they propose several modes of selecting representative organisations.¹⁹ Above all, they want to see the results of this dialogue with EU institutions, that should not just be an 'alibi, as the current [Convention] consultation is'.²⁰

The Forum's representativeness

Whatever the future development of the consultation process and its selection procedures, even openness of participation does not guarantee that any supposedly 'undemocratic' selection does not *de facto* occur. A number of hidden obstacles operated to select participants to the Forum and above all to the hearings of the plenary session of the Convention in June 2002. The most evident obstacle was that the Forum was open only to those with internet access, thus excluding a rather high number of 'web-illiterate' European citizens.

Problems of representativeness emerge from the analysis of the organisations that contributed to the Forum. The more than 500 organisations of civil society which participated in the debate on the future of Europe were divided in the Forum website into four thematic categories: political or public authority (P); socio-economic (S); academic and think-tank (A); other, civil society, NGOs and schools of thought (O). The great majority of associations were of a European level. This was a second obstacle, as there was a 'natural' selection that favoured organisations based in Brussels which were thus better-informed, better-situated and more acquainted with the EU institutional arena.

Some nationalities were better represented than others, with German and French in the lead, while other nationalities were practically non-existent, as in the case of Portuguese groups. There were very few associations from Greece, the Netherlands and the former applicant countries. A possible explanation for the very limited number of associations from the former candidate countries could be the fact that the Forum was available to those who speak an official language of the EU, which may have discouraged the participation of people from candidate countries (internet questionnaire: Krzczunowicz).²¹ Moreover, although in the category described as 'other' there was a high number of social NGOs, some social concerns such as those of immigrants and asylum seekers were not explicitly represented. This raises the question of whether the

weakest groups of European civil society received a proper representation in the Convention that drafted the intended future European Constitution.

As for organisations grouped under the academic and think-tank category, they appear to represent a rather conventional and institutional sector of the European cultural world. The more alternative and radical cultural, artistic and political voices were missing from the Forum. Thus, the dominant frame traced in the discourse of the Convention, described as a tendency that privilege a traditional institutional perspective, is a fifth hidden obstacle that can exclude from the debate a great number of actors, discourses and issues which are more unconventional and not institutionally focused, operating a selection among existing organisations of civil society.

A sixth hidden obstacle can be identified in the selection of the contact groups. The Convention left this process to the organisational capability of the participants, thus biasing the process to the advantage of the better-organised groups and promoting informal networking that presupposes a prior knowledge of the EU institutional environment. On 24–25 June 2002 a plenary session of the Convention was ‘devoted to civil society’ (CONV 48/02). Previous meetings of the different groups took place between 10 and 18 June 2002 (CONV 120/2, 19 June 2002; CONV 79/2, 31 May 2002; CONV 85/02). These were aimed at: discussing preliminary issues; establishing contact groups (umbrella organisations grouping similar associations) in charge of making contact with *conventionnels* and which, according to the Convention, had to represent ‘major sectors of interest’; and selecting representatives of civil society who had to speak during the plenary. The Presidium left the success of contacts to the ability of civil society to organise itself into contact groups. This procedure had the effect of favouring the most active groups, rather than those with a higher profile, and of promoting informal consultation with members of the Convention (Closa, 2003: 16), that greatly depended on the previously existing network of a given organisation and on its familiarity with the Brussels institutional world (which inevitably favoured European-based associations over national ones).

The system to decide who was to speak at the hearings consisted of a process of ‘self-selection among participants of the working group meetings’. Ms Claire Godin from *Equilibres et Populations*, and spokesperson for the Development sector, expressed some satisfaction about the consultation of civil society during the June plenary, although she also added: ‘mais j’aurais préféré qu’un membre de la convention dirige un peu plus le choix des représentants du groupe de contact. A l’inverse, les gens se sont plus ou moins *auto-désignés*’.²² Mr Krzeczunowicz, from the Polish NGO Office in Brussels, described the consultation process as

a farce from an organisational point of view. Just a few weeks to prepare position papers, consult these with members, and then a rather strange system to decide on who is to speak. I spoke at the session on 24 June, but that

164 *The Convention as a Mirror of European Society*

was not because the Polish NGO Office in Brussels is an especially important NGO, but rather because there was a sense that there had to be someone from the candidate countries and I happen to be based in Brussels. So it was being at the right place at the right time, not the importance of the message or of the organisations.

(Internet questionnaire: Krzeczunowicz)

Participants from civil society have complained about a number of issues concerning the way in which hearings occurred. Physical space was insufficient to house all the groups present in the debates. Presentation time was reduced to five minutes for speakers of the seven groups and three minutes for the academia and think-tank sector, due to the higher number of speakers designated to take the floor on the days of the plenary. Each group of representatives of civil society had in fact been assigned a total of twenty-five to thirty minutes to be divided among the various speakers during the plenary session. Time for the contact groups to discuss their topics was also highly limited (for example, the contact group 'Culture' had one day to discuss art, heritage, church and religions, education and minority languages), with the further restriction of having to limit their comments to institutional aspects. These problems limited the potential exchange of ideas that could have taken place between civil society groups and members of the Convention, leading some commentators to argue that hearings of civil society served merely as an 'alibi' for the Convention, having a window-dressing rather than a substantive function (Cassen, 2002).

'Radical' issues from a 'domesticated' civil society

In spite of criticisms about the limits of time, space and representativeness of civil society that characterised the hearing procedures, during the Convention's plenary session of 24–25 June 2002 speakers of each sector designated during previous meetings were able to make their voices heard on different topics. Issues discussed in the course of this meeting reflect a selection of some of the concerns of European citizens. Most of them have little to do both with institutional questions and with the neo-liberal focus adopted by the EU in the last decades. Though very few representatives may be considered as expressing radical approaches, as they generally represent middle-class moderate views, their demands are closer to some kind of social-democratic project of European society. Their concerns focus on substantive issues such as participatory democracy, gender equality and non-discrimination, social rights and services of general interest, respect for the environment and human rights, education and cultural values, 'true subsidiarity', dialogue with civil society, and eradication of poverty. Their discursive frames are based on the language of human rights, citizenship and democracy.

The plenary session of 24–25 June included reports by the Economic and Social Committee, the Committee of the Regions and Social Partners, reports from representatives of civil society whose organisations were divided into contact groups, and reports on the national debates taking place in the different member states and to which one member of the Convention from each country represented was invited to refer (CONV 48/02). The eight contact groups created to represent the views of civil society organisations that participated in the Forum included the following sectors: social, environment, academia and think tanks, citizens and institutions, regional and local authorities, human rights, development, and cultural (CONV 167/02). Two demands were common to all contact groups: the first refers to the introduction in the Treaty of a legal basis for a regular dialogue with civil society (including a right to be consulted at an early stage in the framing of EU legislation); the second concerns an extension of the scope of the Charter and the incorporation of the latter in the Treaty, as well as the EU accession to the European Convention on Human Rights. As for the remaining issues, each group concentrated on a different range, according to the specific matters that most affected them.

As Jo Shaw points out, ‘there appears to be considerable dissonance between the immediate concerns of the majority of civil society groups concerned especially with the interests of vulnerable or minority groups, or with environmental protection, and the rather institutionally-oriented and legal category focused manner in which the Convention’s work has been structured’ (Shaw, 2002: 24–5). The institutional frame of the Convention’s discourse derives, according to Shaw, more from the Convention’s own internal interests than from a receptive listening to civil society’s concerns. The only institutional references that occur more frequently in the words of civil society representatives have to do with provisions that could ensure a better empowerment for the citizen, such as extending qualified majority voting and the Parliament co-decision powers, incorporating the Charter and extending its scope, institutionalising civil dialogue, recognising the role of local, regional authorities and social partners, electing the president of the Commission through the European Parliament, and giving more powers to the Commission rather than to the Council as the latter is considered as not democratically answerable to any elected European assembly.

It has been argued that the voices that were heard in the June plenary were those of a domesticated civil society whose speakers were selected from among Commission-funded organisations that some commentators described as ‘the usual suspects’ saying the usual things (Closa, 2003: 16; Scott, 2002). It was a clean and refined civil society that the Convention was prepared to listen to for the few minutes that were accorded to them. Indeed it was an extremely different congregation of people from the one that met in Florence at the European Social Forum in the first week of November 2002 to debate alternative solutions for the complex questions posed by our globalised world.

166 *The Convention as a Mirror of European Society*

Rather than sending a delegation to Florence to listen to the concerns and perspectives of the more 'fluid' and 'less sanitised' civil society, *conventionnels* felt more comfortable interacting with a pre-packaged civil society that would pose less problems for the European project, whatever that is, that the Convention was drawing up. One participant to the Forum argued that the Convention should have been a little more daring and should have invited some speakers from important organisations who may have been more controversial. The result of the 'cowardly' attitude demonstrated by the Convention, was, instead, that the 24–25 June meeting was, according to one participant 'very polite, very proper, very boring'. To which he added, 'There is nothing wrong with the first two (although journalists were unhappy about it, with their stilted view of NGOs), but the boring bit was a shame. In effect, as some Eurosceptic Convention members rightly pointed out, it was Brussels talking to Brussels' (internet questionnaire: Krzeczunowicz).

In spite of the moderate character of the 'domesticated' civil society that spoke at the plenary, the 'dissonance' of their voices from the Convention's agenda is noticeable. Civil society sent a clear message to the Convention by drawing a vision of Europe which was more citizenship-oriented than market-oriented, more open to listening to people's concerns and more willing to maintain the European social model. In this respect, civil society was more in agreement with the conclusions of the working group on Social Europe, the 'Cinderella' of all working groups of the Convention, as Shaw described it (2003b).²³ The story of the 'affinity' between civil society and the working group on Social Europe might be said to have ended with two Cinderellas, because, as participants feared, the results of the consultation were not really taken on board by the Convention.²⁴

Conclusion: a one-way dialogue?

The process of consultation of civil society in the Convention's debate on the future of Europe has had its undeniable positive elements. The openness of the procedure has ensured a great participation of organisations that have sent their inputs via the Forum. Despite the numerous criticisms about the excessive or insufficient structuring of the Forum and hearings, the more or less domesticated character of the civil society consulted, and the various hidden obstacles that limited groups' representativeness and steered the debate towards more institutional issues, civil society has put forward its own project for Europe. This goes in the direction of revitalising the European social model, defending the interests of vulnerable or minority groups, protecting the environment and promoting a more participatory democracy. In this respect, civil society could have taught a lesson to a Convention which was in effect closed within its internal institutionally oriented debates and unable to propose a clear and coherent project of a political Europe that went beyond the tacit acceptance of the EU neo-liberal frame.

There were interactions and exchanges of ideas with members of the Convention at a personal level (internet questionnaire: Sophia Spiliotopoulos), depending on whether there were active Convention members who were happy to meet citizens (Godin), or where there was a culture of consultation at a national level (internet questionnaire: Krzeczunowicz). However, there was no official feedback from the Convention as such. It seems that, unless there was action by individual members of the Convention, there was no contact between the Convention and NGOs outside the Brussels ring road (internet questionnaire: Krzeczunowicz; Hardt). Civil society at large was not successfully reached by the Convention, as shown by the fact that the overwhelming majority of civil society at a national and regional level knew very little about the activities of the Convention and was involved in a very limited way (internet questionnaire: Hardt). Something did not work in the involvement of the wider civil society, with the result that the most successful aspect of the 'participation' of civil society was the fact that debates and meetings were held in public. Organised civil society acted as an audience to the discussions with a few representatives occasionally playing as extras on the stage of the Convention.

An analysis of the consultation process confirms the impression expressed by many of the participants that in the Forum civil society groups were accorded what Carlos Closa defines as a 'passive' role. Such a passive role frames civil society groups as 'receivers of information' and as an 'audience' for the Convention, securing publicity, and supposedly more legitimacy, for the Convention's proceedings, but denies them the capacity to influence either the process or the outcome of the Convention itself (Closa, 2003: 15–16). According a more 'active' role would have meant treating civil society groups as real actors in a dialogue through which their input was taken seriously. In no document of the Convention does one find a mention of how civil society's contributions were used, nor is there any reference to the eventual feedback that contributors would receive on the part of the Convention. The passive role for civil society is another consequence of the attitude identified in the discourse of the Convention as 'listening without committing to an answer'. This attitude reveals, as Jo Shaw states, that 'there remains a gap between the types of moves that the Convention has made towards receptiveness, including the Forum, the Hearing of civil society, and the Youth Convention of July 2002, and the creation of a genuine public sphere' (Shaw, 2002: 25).

Notes

1. Frame analysis is a method developed by social movement theory (Snow and Benford, 1992, 1988) which enables us to identify dominant frames operating both explicitly and implicitly in the discourse of the Convention and that are driving it to select and focus attention on certain discourses and actors while at the same time ignoring or marginalising others (see also Triandafyllidou and Fotiou, 1998). A policy frame is 'an organising principle that transforms fragmentary

168 *The Convention as a Mirror of European Society*

- or incidental information into a structured and meaningful policy problem, in which a solution is implicitly or explicitly enclosed' (Verloo, 2005: 20).
2. 25 March 2002. Note on the Plenary meeting 21 and 22 March 2002.
 3. 11 March 2002. Note on the inaugural meeting 28 February 2002.
 4. Pawel Krzeczunowicz, Polish NGO Office in Brussels, internet questionnaire, April 2003.
 5. Ms Anne Van Lancker, Mr Johannes Voggenhuber, Ms Sylvia-Yvonne Kaufmann and other members of the Convention demanded that a debate on the issue of a Social Europe be put on the agenda of the Convention.
 6. 13 November 2002. 'Summary report of the plenary session 7–8 November'.
 7. 'From Presidium to Convention: Questionnaire for the debate on Social issues. The working group on economic governance has agreed that the issue whether to introduce additional economic and social objectives and competences should be the subject of a plenary debate of the Convention. The following questions refer to this recommendation: they might be addressed in the debate on Social Europe on 7 November which has been arranged at the request of certain members of the Convention.
 - (1) what extent should social policy be considered to be part of the Union's overall objectives? How should this be reflected in the constitutional treaty?
 - (2) How, if at all, should the current Treaty provisions on social issues be amended? Should the existing areas of competence be extended? If so, to which new areas? Should other provisions, such as those on the internal market or competition be amended in order to enhance social policies?
 - (3) Should the current provisions for the involvement of the social partners be amended?' (CONV 374/02: 2. 29 October 2002).
 8. Birgit Hardt, internet questionnaire, April 2003.
 9. Sophia Spiliotopoulos, vice-president of AFEM (Association des Femmes de l'Europe Méridionale), president of EWLA (European Women Lawyers' Association). Internet questionnaire, June 2003.
 10. The obstacles are discussed below.
 11. The focus of Article 36 is on the 'Transparency of the proceedings of the Union's institutions'. It affirms that 'In order to promote good governance and ensure participation of civil society, the Union institutions shall conduct their work as openly as possible', that the Parliament shall meet in public and the Council too, but only when it is discussing a legislative proposal, and finally it guarantees access to EU documents for all Union citizens (CONV 650/03).
 12. Philippe Schmitter, Keynote Address, ECPR Second Pan-European Conference on EU Politics, Bologna, 24–26 June 2004.
 13. According to Eurostat May 2003, the level of internet access in the households of the fifteen EU members was 40.4 per cent in 2002 (36.1 per cent in 2001), with the highest levels in the Netherlands (65.5 per cent), Sweden (64.2 per cent) and Denmark (64.5 per cent) and the lowest levels in Greece (9.2 per cent), Spain (29.5 per cent), Portugal (30.8 per cent), Italy (35.4 per cent) and France (35.5 per cent). The remaining EU members are slightly over the EU average, while the new members are below it: Czech Republic, 11 per cent in 2001; Estonia, 9.8 per cent in 2001; Hungary, 2.6 per cent in 2000; Lithuania, 3.2 per cent in 2001; Latvia, 2.3 per cent in 2001; Poland, 7.7 per cent in 2001; Slovenia, 24 per cent in 2001; Cyprus, 20 per cent in 2001; Malta, 11.2 per cent in 2000; while no data exist on Slovakia.
 14. Members of the Civil Society Contact Group are the platforms/sector groups of the four large NGO families – environmental (Green 8), social (Social Platform), developmental (Concorde) and human rights – plus the ETUC.

The Participation of Civil Society 169

15. Nicolas J. Beger, act4europe campaign co-ordinator, Secretariat of the Civil Society Contact Group (internet questionnaire, May 2003, and 'Act4Europe Fax campaign on Participatory Democracy' www.act4europe.org).
16. Crossick (2002).
17. Birgit Hardt, ILGA (International Lesbian and Gay Association) Europe, internet questionnaire, April 2003.
18. Claire Godin, Chargée de mission Politique, Equilibres et Populations, 205, boulevard Saint Germain, 75007 Paris, internet questionnaire, April 2003.
19. See Forum website at http://europa.eu.int/futurum/Forum_convention/organlist_en.htm#list
20. Sophia Spiliotopoulos, vice-president of AFEM (Association des Femmes de l'Europe Méridionale) president of EWLA (European Women Lawyers' Association), internet questionnaire, June 2003.
21. See Chapter 6 for further discussion of this issue.
22. '... but I would have preferred a member of the Convention to direct the choice of contact group representatives a little more. However, these people more or less selected themselves.' Claire Godin, Chargée de mission Politique, Equilibres et Populations, 205, boulevard Saint Germain, 75007 Paris, internet questionnaire, April 2003.
23. This reference to 'Cinderella' was due to its later creation, the obstacles posed to it, the short time it had to meet and deliberate, and the fact that, as the Convention explicitly admitted, its deliberations were not taken into account in the preparation of the draft Articles 1-16 of the constitutional text that was presented at the end of January (CONV 528/03).
24. Nicolas J. Beger, act4europe campaign co-ordinator, Secretariat of the Civil Society Contact Group, internet questionnaire, May 2003.