

II Part - European Civil Society

Introduction

The previous chapter discussed in detail the “democratic deficits” of the European Union (EU), i.e. problems with democratic legitimacy of the EU’s institutions and policies. The conclusion offered was that the European Union represents a political system *sui generis*, which can be measured by standards of democratic legitimacy, but which however suffers, on the one hand, from a lack of institutional prerequisites for securing “informed consent” of European citizens in political decision-making, and, on the other hand, from the absence of an integrated European society – with a Europeanized party system, communication and media system, and a more robust EU civil society.

Establishing the EU political community “from above” has reached certain – although not complete - consolidation and institutionalization, but the process of Europeanization “from below” is necessary for the sake of accomplishing complete democratic legitimacy of the EU.

Institutional reforms of the EU are not possible or sufficient without creating a European critical public (a Europe-interested public), without creating “from the inside” Europeans who do not identify themselves either as members of a “Nation Europe” or as representatives of their nation-state of origin, but as belonging to a new-forming political community where a “higher” public interest of the individual is aimed at improving the democratic legitimacy of the European Union.

European civil society plays (and is supposed to play more and more) an essential role in the process of Europeanization “from below”, in building “an integrated European society”, in generating a democratic political culture, in developing a European public and genuine European media, as well as in generating a genuine European democratic polity.

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In order to understand what the concept of European civil society means in its full complexity, the first chapter will outline the theoretical-political framework for understanding the place and role which civil society has in contemporary political discourse. In the second chapter the concept of civil society in its basic meaning and its contemporary theoretical and empirical contextualization (globalization of the discourse and practice of civil society) will be offered. The concept of European civil society and its empirical manifestations will be presented in the third chapter.

1. Theoretical-Political Framework of the Analysis

The theory and practice of civil society belong to political modernity. Modernity represents the epoch of civilization, which has been initiated from the Renaissance onward and articulated during the last few centuries with the essential feature that human beings have committed themselves to determine their own lives, their relations to others and their manner of being in the world. Political modernity refers to a collective self-determination, to the autonomous decision making of individuals about their life in common and the rules of common life. The liberal-democratic political order has been a paradigmatic expression of political modernity. Political modernity is equated by the institutional model of representative democracy based on universal human rights and on the collective self-determination of autonomous individuals.

There is a direct link between the idea of democracy conceived as self-determination and free polity, on the one hand, and civil society as defined by public discourse, by logic of communication and autonomous handling the relations with others (i. e. by the autonomy of society and fight against any attempts of the state power to overextend its dominance over people), on the other. The link of the concept of civil society to the idea of modern democracy is politics conceived as the institutionalized self-determination of the people. Civil society activism means politics in the wider sense, which has been essentially interlinked with institutionalized democratic politics (that is, politics in a narrower sense).

The republican idea of political activism of the people has been embodied into the process of establishing and consolidating a political order of representative democracy and constitutionalism. A republican interrogation of the individual and collective activism which is necessary for establishing and maintaining a free government has been the framework for situating civil society into political modernity. Political activism of the people inside a civil society conceived as politics in the wider sense represents one of the important republican ingredients of liberal-democratic polity. The aims of civil society activism, which are the building and rebuilding of free democratic polity, point to a normative dimension of civil society discourse.

The concept of civil society emerged with the development of political modernity, and experienced ups and downs inside the history of political modernity. It could be said that the discourse of civil society gained importance in phases before establishing and during the consolidating process of the liberal-democratic order (a period before and after the democratic revolutions of the first part of the eighteenth and the first part of the nineteenth century), thereafter it lost importance during a period of consolidated legitimacy and institutionalization of political modernity, which took place during the second part of the nineteenth century and the twentieth century until the 1970s and 1980s, and it again became important and popular with the loss of democratic legitimacy of political modernity (the “crisis of organized democracy”).¹

The history of the concept of civil society can be measured upon the changes in the status of democratic polity during the last few centuries, in the sense that before and soon after the democratic revolutions there were obvious republican colours in defining civil society as an important factor in building democratic polity; then during the period of consolidation and institutionalization of liberal democracy, a narrowing of the concept of civil society happened, i.e. its reducing to the paradigm “legal state²-civil society”, by supposing that civil society is a part of a well-ordered set of relations between the various spheres of action in a complex society, or, at best, as the element of societal self-organization inside the liberal-constitutional state.

Most definitions of civil society refer to a liberal principle of limitation of state power (the paradigm “legal state-civil society”), and they originate from the post-revolutionary phases of a gradual consolidation of liberalism, during which republicanism declined from its key positions in European political thought and individualist liberalism attained priority and received its current status of the pivotal theory of political modernity. However, there are obvious influences of republicanism for the development of a liberal-democratic state (the gradual process of interconnecting liberalism and democracy, and liberalism and republicanism).³

The concept and practice of civil society are parts of republican traits in the liberal-democratic tradition of modern political theory. The increase of visible republican impacts

¹ Jan Terrier and Peter Wagner say: “The concept was first proposed to explore the possibility and limits of collective self-determination on the eve of ‘democratic revolutions’; it declines with the gradual normative acceptance and institutional consolidation of democracy; and it re-emerged at a moment of quest for renewal of the democratic impetus, which was seen as threatened or emptied of substance in the face of the domination of political agency by bureaucratic or market-economic imperatives, variously underpinned by strong political doctrines.” (See: Terrier, J. and Wagner, P. *Civil Society and Political Modernity*, in: Wagner, P. ed. *The Languages of Civil Society*, New York-Oxford: Berghahn Books 2006, p. 10.

² This notion is synonymous with “law state“, “constitutional state“, and “rule of law“.

³ Concerning gradual interconnection between liberalism and democracy, and impacts of republicanism in that process, see: Held, D. *Models of Democracy*, Cambridge: Polity Press, 1987. (Croatian ed. *Modeli demokracije*, Zagreb 1990); Held, D. *Models of Democracy*, rev. ed. Cambridge: Polity Press, 1996 (again published in 2007); Held, D. *Demokratija i globalni poredak (Democracy and Global Order)*, Beograd: Filip Višnjić, Libertas, 1997. See also about the genuine convergence of liberalism and republicanism in constitutional democracy: J. Habermas, *Constitutional Democracy – A Paradoxical Union of Contradictory Principles?*, *Political Theory* 29, 6/2001b, pp. 766-781.

through the rebirth of civil society discourse has been connected with the legitimacy crisis of political modernity during the last few decades of twentieth century until today.

The actual rebirth of the theory and practice of civil society from the 1970s and the 1980s bears, either intentionally or not, the republican implications of understanding a constitutive character of civil society in building/reviving a democratic polity in contemporary circumstances. However, the “legal state-civil society” relationship has persistently been used as a paradigm for understanding the place and role of civil society, although the “old” paradigm attains – either consciously or unreflectively – a “new” meaning.

Especially, civil society’s demands for limitations and checks on state power have been legitimate and productive but have not been able to fully respond to the contemporary quests for different world governance, different European governance, and even different nation-state governance. The theoretical paradigm of “legal state-civil society” has to be widened and become open for catching a constitutive role of civil society – defined from the point of its deliberative, communicative and associative character – for the democratic polity. Civil society activism of contemporary times has to be understood as a great tool for overcoming the contemporary “democratic deficit”. It has to be viewed upon as an important constitutive factor of building and reviving a democratic polity today.

Generally, the modern state, understood either as being originally liberal, liberal-democratic, social-democratic, or neo-liberal, presupposes a limitation of state power, having the aim of protecting human rights. Each version of modern political theories acknowledges representative democracy, universal human rights, political pluralism, and political participation of citizens in elections. However, the liberal tradition – as the main designatum of political modernity – has never, either in its past development or today, unambiguously opted for a discourse of civil society, i.e. for the formative character of civil society inside democratic polity and the participatory dimension of a liberal-democratic order. Communitarian and neo-liberal versions of political modernity do not count on civil society activism and full implementation of civil, political, social, and economic rights. Those versions of liberal-democratic theory and practice which insist on “constitutional patriotism” and recognize a republican element in liberalism, i.e. and the importance of an individual’s commitment to the public good in a liberal context, also emphasize civil society discourse and the role of civil society in reviving democratic polity and democratic legitimacy in a contemporary world.

Jean Terrier and Peter Wagner place the phenomenon of the current rebirth of the theory and practice of civil society into the framework of three different and largely incompatible responses to the actual “crisis of organized democracy”.⁴ In the era after the Second World War, there had been a consolidated liberal-democratic political order in the West and different forms of formal or substantial democracies, as well as authoritarian and dictatorial regimes in Latin America, Asia, Africa “lived along” in a relatively high degree of consolidated arrangement during the Cold War.⁵ However, hardly any of these societies

⁴ See: Terrier, J. and Wagner, P. *The Return of Civil Society*, in: Wagner, P. ed. pp. 223-233.

⁵ Terrier and Wagner describe the post-war political balance: “[T]he relatively consolidated arrangement of the post-war era eroded in the 1980s. The apparent failure of the traditional, Keynesian techniques of economic steering, the difficulties encountered by the countries of the Soviet block, the development of what Ulrich Beck calls *risk* (unpredictable events to which no immediate solution can be found, if at all, such as pandemic or natural disasters) triggered a general reflection on the shortcomings of the myth of a scientifically administered society. For Western Europe, we have characterized these arrangements as a largely technocratic management of the lines of socio-political cleavage, broadly set into the framework of a compromise between individualist-liberal, cultural-communitarian and social-solidaristic political commitments. Similar elements were in use in other societies, even though the balance of justification was often highly different. In the U.S., the individualist-liberal component was certainly much stronger than anywhere else, whereas in the ‘peoples’ democracies’ the commitment to solidarity based on a strong notion of class community was implemented in a decidedly non-liberal way. In Latin America, the degree of merely formal or substantial democracy varies over time and across countries; and in Eastern Asia, the

escaped the reopening of the specifically modern question of the establishment of legitimate institutions. It is in this context of reopening the question of political legitimacy of institutional forms that three different responses emerged in the 1980s and 1990s, among which the new debate on civil society has begun.

The first response to the “crisis of organized democracy” was that economic liberalism, which had originally arose in the political economy of the eighteenth century, and in the twentieth century appeared in the form of neo-liberalism. This response was enormously successful in the 1990s, insisting on free market mechanisms of self-regulation not only in economic spheres, but also social ones. It gave birth to a whole tendency of downsizing state institutions and dismantling welfare mechanisms in order to give way to market-driven self-regulation.

The second response is connected to communitarianism, which owes a great deal to the nineteenth-century idea of *social homogeneity* that then arose as a critique of classical liberalism and imperialism because of its threatening stance to the coherence of cultural-political collectivities (and therein provoked the early twentieth century’s rise of collectivist ideologies – aggressive nationalism and fascism, as well as communism). The point of this approach is that the successful establishment of legitimate institutions can be found in shared identities, and cultural-political collectivities. Many recent debates on “European identity”, “clashes of civilization”, and collectivistic self-determinism emerge in the framework of this second response, together with the revival of nationalist rhetoric, and the appearance of Islamic⁶ and all other forms of contemporary fundamentalism. Communitarian responses to neo-liberalism and (neo-liberal) globalization, having a reaffirmation of cultural-political collective identities, appear in life to a great extent as new forms of ethno-nationalism and religious fundamentalism.

A common feature of these two responses to the crisis of organized modernity is the abdication from commitment to collective self-determination based on the deliberation among the free members of a political collectivity. Founding a collective political identity in the free will and autonomous intention of individual citizens has been left aside. In the neo-liberal context, the idea of collective political identity as such is put aside, i.e. “individual self-determination is considered to be a sufficient basis for a peaceful and efficient organization of the social life.” In the second response, however, the need for collective self-determination is fully acknowledged, but based not on individual autonomy but on “an assumption of the existence of fully constituted cultural-political collectivities, to which human beings clearly identifiably belong”.⁷

Neo-liberalism neglects any collective self-determination inside liberalism, and communitarianism neglects the liberal form of collective self-determination.

The return of the theory and practice of civil society belongs to the third version of “the response”, i.e. the third political-theoretical trend. This third response is connected by attempts to overcome the “crisis of organized democracy” by widening institutional and other mechanisms of deliberation inside the liberal-democratic political order. It tries to preserve the project of collective self-determination based on the individual autonomy, of a political community founded in deliberation among the free members of a collectivity.

degree of cultural commonality has only recently been newly debated after the grip of both authoritarian regimes that flourished with U.S. support and the socialist regimes has been loosened so that other modes of societal integration became more clearly visible. Despite this variety of social configurations and political forms, what all these socio-political settings had in common was a relatively high degree of consolidation, stabilized not least also by the ‘frozen’ world political context of the Cold war. And even though the precise reasons and forms of recent change also vary considerably, hardly any of these societies has escaped the reopening of the specifically modern question of the establishment of legitimate institutions.” (*Ibid.*, p. 224)

⁶ “Islamism, for instance, seems to be best understood as an alternative such collectivist thinking after the failure of both secular nationalism and communism in the Islamic-Arab world.” (*Ibid.*, p. 225)

⁷*Ibid.*

The restoration of the *problematique* of deliberation, lively debating on republicanism, on deliberative democracy came together to belong to the same trend in the 1990s; the rebirth of discourse and practice of civil society has been a constitutive part of this trend. Deliberative and republican inspiration stand in the background of the civil society debate and practice.⁸

The concept and practice of civil society belong in an essential way to an effective addressing the political *problematique* of contemporary modernity, i.e. to fighting the crisis of democratic legitimacy through improving the mechanisms of democratic legitimacy of a liberal-democratic order, instead of abandoning it and replacing it with both collectivist or neo-liberal responses.

The rebirth of civil society belongs to the trend of the liberal-democratic tradition which interprets constitutional democracy in the most deliberative, participatory, republican way, and connects deliberative, communicative and republican inspirations with citizens' civil society activism.

There is an essential interconnection of constitutional democracy and civil society. Democratic political order demands control and stimulus for the improvement of its democratic legitimacy through democratic public and civil society activism. Communicative and deliberative inspirations of autonomous individuals gathering together in voluntarily and spontaneously formed associations, non-governmental organizations (NGOs), initiatives and movements – is what civil society activism is all about.

Civil society activism (or citizens' activism through civil society), is characterized as politics (or polity) "in a wider sense". Politics in a wider sense is necessary for improving democratic decision-making, for overcoming democratic deficits and improving constitutional democracy.

However, the globalization process imposes new approaches and articulations on both democratic polity and civil society discourse.

The process of globalization, together with the crisis of organized democracy, imposes as necessary the reconstituting of a contemporary democratic polity: these phenomena impose quests for expanding the normative horizons of democracy beyond traditional forms of an organized democracy, i.e. beyond nation-states and beyond a traditional concept of the political governance.⁹

On the one hand, the contemporary legitimacy crisis of liberal-democratic political order is linked to the crisis of democratic participation caused by the empowerment of political elite and the dominance of executive power over a legislative one, but, on the other, is linked to the weakening of a state's sovereignty in the context of globalization. Furthermore, globalization imposes ideas and practices of multiple, polyarchal global or transnational governance, system of committees, networked agencies and corporations within certain globally or regionally interlinked infrastructures (for example, electricity and telecommunication infrastructure), and "federated regulations", in all possible spheres of economic, social, and political governance.¹⁰

The crossing of horizontal and vertical dimensions of institutional decision-making in the globalizing context of polyarchal governance has been followed by the processes of civil society globalization, i.e. by cross-bordered and multi-levelled (in the horizontal as well as vertical dimension) action and impact of a globalized civil society.

⁸ "[T]he new, globalization-oriented social movements, which have formed from the late 1990s onwards, can indeed be interpreted as the contemporary bearers of the deliberative inspiration that stands in the background of the civil society debate." (*Ibid*, p. 226)

⁹ *Ibid*, p. 233.

¹⁰ See: Allegri, G. New Social Movements and the Deconstruction of New Governance: Fragments of Post-Modern Theories in Europe, *European Journal of Legal Studies* 1, 3/ 2008.

The project of democratic governance at the global level has been ideal-typically envisioned as the global deliberative polyarchy (viewed, for example, as power of a Multitude opposed to Empire¹¹, as "cosmopolitan democracy"¹², "Global Legal Community"¹³, deliberative democracy or deliberative polyarchy¹⁴, etc.).

Globalization processes in political matters during the last decades interlink these deliberate inspirations of a cross-bordered civil society with the project of a global deliberative polyarchy.

In the situation of appearing the globalized and multiple governances, civil society has been lodged into a pluralistic, or better to say, polyarchical perspective.¹⁵ This means that the above mentioned theoretical paradigm "legal state-civil society", in which the definition of civil society has been usually settled, should be additionally reconsidered, since civil society cannot be anymore related primarily to the nation-state and government as unity.

Creating a multiple or multi-level democratic governance in local, regional, or global context, is the new normative task and a new reality in its formation. Civil society, acting at the local, regional, global level, plays an essential role in establishing this multi-levelled, deliberative democratic governance.

Discourse on European civil society has to be put into the framework of the "crisis of organized democracies" on a global level, as viewed upon from all above mentioned dimensions (the weakening of the nation-state's sovereignty, misbalance between legislative and executive power, the transformation of a state government into diffused, polyarchical governance, globalized civil society). There are, however, dimensions and issues of "democratic deficit" which are particularly linked to the European Union¹⁶, and which open space and impose the need for considering European civil society as such, and for its specific relationship to EU polity.

2. The Concept of Civil Society

2.1. Historical Genesis – Conceptual Transformations

The concept of civil society appeared in the mid eighteenth century in modern political theory. It appeared precisely in relation to issues of the limitation of power and protection of individual freedom (negative concept of freedom), whereas the contemporary concept affirms the positive meaning of freedom and individual rights also.

As already mentioned, the concept of civil society is a part of the dichotomous theoretical paradigm "legal state – civil society", initially formed in European and Anglo-Saxon political philosophy between the mid-eighteenth and mid-nineteenth century, and was fully developed in the second part of the twentieth century. The concept of civil society was the keyword in the European political thought from the years of 1750 to 1850, and the first public use of the word "civil society" as a substance different from the "state" occurred in 1776 in Tomas Paine's *Common Sense*.¹⁷

The backbone of all definitions is the relative autonomy of civil society in regard to the state and political power. At the same time, this *differentia specifica* of civil society has been, ever since the beginning of the historical genesis of the concept, the hottest point of

¹¹ See: Hardt, M. and Negri, A. *Empire*, Cambridge, Massachusetts: Harvard University Press, 2000.

¹² See: Held, D. 1995; Habermas, J. 1998.

¹³ Brunkhorst, H. *Solidarität. Von der Bürgerfreundschaft zur globalen Rechtsgenossenschaft*, Frankfurt an Main: Suhrkamp, 2002.

¹⁴ See: Frankenberg, G. National, Supranational, and Global: Ambivalence in the Practice of Civil Society?, *European Journal of Legal Studies* 1, 3/2008; See also: Cohen, J. and Sabel, C. Directly Deliberative Polyarchy, *European Law Journal* 3, 4/1977, p. 313. (<http://www.ejls.eu/index.php?id=3>)

¹⁵ See: Frankenberg, G. *op.cit.*

¹⁶ The first section of this book considers the "democratic deficit" of the EU in detail.

¹⁷ See: Keane, J. *Civil Society – Old Images, New Visions*, Polity Press, London 1998, p. 33, p. 67.

contestation. Various interpretations have been provided as to the scope, extent, meaning, and content of its relative autonomy.

Its differences range from the idea of necessary control of the state over civil society (Hegel), to a concept of regulation of the areas of social autonomy by the means of limited power (Locke), an emphasis on the self-regulating function of civil society as a repository of individual human rights and liberties (Tocqueville, Mill), the concept of opposition between civil society and state power (Paine, also Gramsci). This backbone relation has been held onto in certain contemporary interpretations, ending with the concept of partnership between the state and civil society, and it has also been significantly transformed inside the already mentioned interpretation, which considers civil society as a formative factor of the democratic polity.

The concept of civil society according to early modern theorists (Hobbes, Locke, Paine, Hegel, Mill and Tocqueville) was centred on the concept of ownership (over private property, one's own life and liberty). For the classical perception of civil society, the starting point was the individual citizen as an owner of property (negative freedom, irreducibility of the social field to the state field). The development of the liberal state, based on the idea of limited power and a minimal state that protects the individual as an owner (negative freedom) was the first link with the theory and practice of civil society.

Hobbes and Locke were representatives of initial liberal attempts to consider society-state relations, and to identify civil society with political community, as opposed to the state of nature. Locke takes a step forward in differentiating the sovereignty of people and state power and also by envisaging a division of power, whereas, in the case of Hobbes, it would be even impossible to speak about civil society because he did not separate society and political community from sovereign state power.

Hegel's conception of separation between civil society and the state has been adopted as a common starting point for understanding civil society and accepting a liberal theoretical paradigm of legal state-civil society, although Hegel essentially in his concept of an objective spirit (in his *Elements of the Philosophy of Right* – 1821), absorbed civil society into the state, and he insofar went even below the level of the above mentioned (and to him a bit wrongly entitled) liberal paradigm. Contrary to this dominant (Hegelian) liberal interpretation, there were at that time certain interpretations which accentuated civic activism and the role of civil society in creating a democratic polity. Differently from Hegel, Adam Ferguson, in a time before the democratic revolution (in his *Essay on the History of Civil Society* - 1767) and later on Alexis de Tocqueville, in a time after the revolution (in his *Democracy in America* – 1835-40), did consider civil society from the point of the individuals' commitment to collective self-determination.

Adam Ferguson refers – by following Aristotle – to the “social disposition of man”, to an individual's natural tendency to cohere in broad human associations. He differentiates the two modes of relating which are among individuals: the communicative and commercial. Communicative relations are crucial for the existence of a free society, whereas the situation in which members of a polity relate to each other predominantly by trade tends to undermine the possibility of collective freedom. According to him, free collectivity requires a set of democratic institutions, but institutions have not been sufficient themselves for the preservation of liberty. Additionally, there is also commitment needed by the people to obey those laws which are the output of free deliberation (people express “respect to the laws” which are arrived at in common

deliberation). Deliberation among individuals, civil communication is the basis of “public-spiritedness”, which he also calls “the national spirit”, and “love of the public”.¹⁸

Tocqueville¹⁹, like Ferguson, opens the question of tensions between participation (citizens' involvement in decision-making, commitment to public matters) and institutionalized representation. He refused the individualistic liberal assumption that procedures established in a social contract provided a sufficient answer to the tension between participation and representation. His reflections on representation are extremely informative of the logic of civil society; he envisages a direct link between democracy and civil society in the decision making process, in a sense that the passing of a law by a representative body represents the institutional response to publicly formulated demands.²⁰

Early nineteenth century liberals started proposing a concept of representation which downplayed participation, i.e. giving a dominant role to parliamentary institution and minimizing/eliminating the role of civil society, thereby the tension between participation and representation was “eliminated” by reducing decision-making only to institutional procedures.

However, there were liberal thinkers during the first two thirds of the nineteenth century, such as John Stuart Mill, who tried to also take into consideration the principle of citizens' participation and to reconcile it with the principle of representation. Mill discussed (in his *Considerations on Representative Government* – 1861) the issue of translating from a diversity of opinions in society to decision-making on behalf of the common interest through parliament. He insisted on the direction of the process of representation from society towards institutions, and insofar introduced non-liberal elements into solutions of the problem of representation. To some extent, he anticipated and prefigured the profound crisis of the classical liberal framework of thought which happened towards the end of the nineteenth century.

The late nineteenth century crisis of liberal polity legitimacy led to a transformation of the philosophical concept of representation, based on the political philosophy of the Enlightenment, into a sociological one based on the gradually emerging sociology of industrial and mass society, and accompanied by the withering away of political philosophy, decreasing the use of the concept of “civil society” (its replacement with the concept of “society” as a whole), the rise of positivism and organic theories of society. The crises of representation stopped being discussed from the point of deliberation between a multitude of diverse human beings, and shifted into ideas about some pre-existing structures of society as a coherent whole, inside which existed either manageable differences or, even, unanimity.²¹ There also emerged collectivist, anti-liberal responses to the crisis of liberal-democratic legitimacy, represented for example, by the ideas of Carl Schmitt²² in political theory, and by authoritarian and totalitarian ideologies of fascism, nationalism, and Stalinism in reality.

¹⁸ See: Ferguson, A. *Esej o istoriji građanskog društva*, Službeni glasnik, Beograd 2007. See also: Terrier, J. and Wagner, P. Civil Society and Political Modernity, in: Wagner, P. ed. pp. 11-17.

¹⁹ See: Tocqueville, A. *Democracy in America*, New York and Toronto 1994. See also: Terrier, J. and Wagner, P. Civil Society and Political Modernity, in: Wagner, P. ed. pp. 21-23.

²⁰ Tocqueville assumes the limits of representative as well as of deliberative bodies, when taken separately from each other. A representative body is necessary since no deliberative assembly could be put in place beyond the local, communal level. However, parliament cannot be completely independent, it is under the constant influence of the popular will: no physical gathering of citizens in deliberative assemblies is thinkable at the general level of the state. However, their virtual gathering remains possible under the form of the public sphere. In short, the idea of communicative exchange between institutional framework and public opinion is taken up as a necessary type of social relation for the realization of a free polity. (See: Terrier, J. and Wagner, P. Civil Society and Political Modernity, in: Wagner, P. ed.)

²¹ *Ibid.*

²² Carl Schmitt proposed the identity of the rulers and the ruled in modern political arrangement, which was guaranteed without any deliberative mediation. The legitimation of power occurred at best through direct acclamation, through which people made their unitary will known. (See: Terrier, J. and Wagner, P. Declining Deliberation: Civil Society, Community, Organized Modernity, in: Wagner, P. ed. pp. 92-95.

Among others, modern thought which clearly recognizes and further develops these republican inspirations of classic civil society discourse is to be related with Hannah Arendt²³ and Jurgen Habermas²⁴.

Arendt – in a continuation of Ferguson and Tocqueville – understood liberty as a collective achievement, which needed to be defended against the wordlessness which originates from the development of commercial relations. Communicative relations – contrary to commercial ones – provide recognition to individuals and carve individual identities. Public space – different than that from Ferguson, Tocqueville and Habermas – is not only a formal space of deliberation where individual relations are marked by the obligation of conformity to an argumentative model, but also an ontological space in which communicative action essentially forms individual identity and citizen's responsibility.

Habermas links ideas of active citizenship with civil society, and emphasizes communicative action, development of a public sphere and so-called “constitutional patriotism”. He assumes that there is no real tension between the principle of participation and the principle of representation inside a constitutional democracy. He discusses the “co-originality” of the liberal principle of human rights (rule of law) and the democratic principle of popular sovereignty (democratic will-formation, collective self-determination), as well as the essential relationship between the autonomy of the citizen and the autonomy of the private individual, i.e. the dual form of private and public autonomy.²⁵

Compared to the classical paradigm, in which civil society was analyzed only (or predominantly) in respect to the political state, the modern concept of civil society involves a complex model in which civil society is determined also in relation to those areas essential to social life, like economy, culture, social policy, family life. The positive meaning of freedom is related to all spheres of universal human rights, social, economic, cultural, etc.

With the development of the contemporary liberal-democratic state and the universalization of human rights, a modified concept of civil society emerges, emphasizing the association and formation of a democratic public, i.e. the expansion of the field of self-determination of citizens and their self-organization into various kinds of associations and social movements. The current understanding of civil society stresses positive freedom, and the participative character of social action. However, as already mentioned, the “old” paradigm has been still rather much in use, but with new contents and modified meanings, at the core of which is a formative role of civil society for democratic polity.

The rebirth of the theory and practice of civil society in the 1970s and 1980s – in the regions of the Soviet Union, Latin America and East Asia - had different inspirations, but a common main outcome, i.e. attempts towards consolidating (or establishing) democracy and expressing/preserving autonomous individual activism against all versions of instrumentalization of the individual both in real-socialist authoritarian regimes and capitalist ones – concerned either with an overextended paternalistic welfare state or with neo-liberal overall marketization and neoliberal globalisation.²⁶

²³ Arendt, H. *The Human Condition*, Chicago: University of Chicago Press, 1958; Arendt, H. *On Revolution*, New York: Viking, 1963; (See also: Terrier, J. and Wagner, P. *The Critique of Organized Modernity*, in: Wagner, P. ed. pp. 211-215).

²⁴ Habermas, J. *Strukturwandel der Öffentlichkeit*, Suhrkamp, Frankfurt 1962; Habermas, J. *Between Facts and Norms – Contributions to a Discourse Theory of Law and Democracy*, Cambridge: Polity Press, 1996. (See also: Terrier, J. and Wagner, P. *The Critique of Organized Modernity*, in: Wagner, P. ed. pp. 207-211).

²⁵ See: Habermas, J. 2001b, pp. 766-781.

²⁶ Peter Wagner states: “In as far as the concept of civil society suggested that society could organize itself, and do so in a civil manner, the concept represented an optimistic idea about what was seen as a dire need, in particular in the East Central European contexts of overpowering states that had always tried to drain social life from every self-organizing momentum. Similar hopes were attached to the concept in Latin America and East Asia, the main

The rebirth of civil society discourse and practice in Central and Eastern Europe, as well as in authoritarian regimes in different world regions have played a role in fighting against those regimes, whereas in Western Europe it played, in this or that way, a role of fighting against democratic deficits and being in favor of protection and realization of constitutionally guaranteed universal rights and freedoms.

The revival of this concept from the 1980s has to be put into the context of globalised civil society discourse, i.e. in both the geographical and substantial sense.

2.2. Contemporary Appearances of Civil Society in Global Context

The concept of civil society discourse was initially re-actualized in the 1970s and 1980s in Central and Eastern Europe, within the efforts of dissident intellectuals to oppose the totalitarian communist regimes and the Soviet Empire. It had also been used in the 1970s and the 1980s in Latin America, as well as in Spain, in the struggle against authoritarian military regimes. In addition, it was realized later that the term had already been used in the 1960s in Japan, where the “Civil Society School of Japanese Marxism” interpreted the quick rise of capitalism in that country as the result of an underdeveloped civil society and of weak social resistance due to the existence of a strong patriarchal tradition and a culture of individual obedience to the government.²⁷

However, the main course of revival of the political theory and practice of civil society went from the aforementioned dissident thinkers and activists in communist regimes to critically oriented intellectuals in developed liberal democracies in the West. These western theorists “re-remembered” the concept discovering at the same time that “we have been living it without noticing” as “part of the unnoticed fabric of society itself”.²⁸

In the former “real-socialist” countries, which were part of modern society in a perverted way, the eminently modern bond “legal state – civil society” did not function. More precisely, there was neither a liberal-democratic state and rule of law nor a developed civil society. Unlike liberal-democratic western countries, where the legal state and civil society act (more or less successfully) so as to complement each other, in the states of former “real-socialism”, elements of civil society had been established before the rule of law, albeit in a reduced and embryonic form. In a way, they were precursors of and encouragement for (as a social base formed despite and against repressive regimes) the transition of these states to a liberal-democratic order. This applies, first of all, to some Eastern Bloc countries – Poland, Hungary and Czechoslovakia – where “real-socialism” had been overcome due to – among other things – a well-formed liberal movement representing the initial elements of civil society, i.e. where “real-socialism” did not just implode due to the concrete-historical constellation marked by the fall of the Berlin Wall and the lack of readiness on the part of the Soviet leadership to use military means to prevent either the “implosion” or the “overcoming” of real-socialism.²⁹

The specificity of the revival of civil society in the countries of former “real-socialism” attempts to reconstruct society “from below” through (dissident) social movements that had preceded political pluralisation. However, soon after the change of political regimes political parties pushed these social movements completely away from the political scene, while the non-governmental sector underwent significant development.

The concept and practice of civil society are increasingly used by the intellectual and political elite in countries throughout the world, including the underdeveloped countries of the

difference being that the authoritarian states of those regions were often, though not always, aligned with business interests, thus making a struggle of ‘society’ against both ‘states’ and ‘markets’ necessary, in particular in Latin America.” (Wagner, P. Introduction, in: Wagner, P. ed. p. 2).

²⁷ Keane, J. 1998, p. 13.

²⁸ Comaroff, J. L. and Comaroff, J. *Civil Society and the Political Imagination in Africa: Critical Perspectives*, Chicago: University of Chicago Press, 1993, p. 5.

²⁹ See: Vujadinović, D. Obstacles and Perspectives of Civil Society Development in FRY, in: *(R)evolution and Order – On Dynamics of Changes in Serbia*, Institut za filozofiju, Beograd 2002, p. 335.

Third World. Lewis³⁰ analyzed in detail a set of questions related to the civil society in Africa. He has observed that the growing obsession with civil society may be dated back to the mid-eighties, but that the content of these debates have had a far longer history: certain nineteenth-century “humanitarian imperialists” used the discourse of civility, which implied universal human rights and norms of citizenry, whilst national resistance had long been led in terms of jeopardized civil rights, thus resulting in numerous social movements and voluntary organizations. In the colonial period, civil society discourse was used both by colonizing and the colonized nations; complex and conflicting relations were at stake between European and African civil society in the colonial period, in the sense that contact between the aforementioned civil societies was actually very much “uncivil” and that it was intended to institutionalize the differences between groups of citizens and “ethnicized” subjects, and between civilized colonists guided by “constitutionalism” and aborigine tribes guided by “common law” principles.

Lewis also differentiates between “old” and “new” interpretations of the term civil society in the context of the Third World: the “old” are concerned with colonial history and the “new” with those contemporary processes of widening the use of the concept into undeveloped countries, primarily in relation to their inherent need to fight against undemocratic regimes and/or to solve elementary problems of poverty, unemployment, hunger. Within the context of “new” interpretations, special attention is paid to the current development of the nongovernmental sector in underdeveloped African countries, and it has been critically pointed out that this development is largely non-autochthonous, i.e. that the NGO’s are often formed under the patronage of global economic organizations, and thus represent a tool of the strategy pursued by international capital aimed at using the nongovernmental sector to control economic and social processes in the underdeveloped world.⁴ Concerning anti-colonial movements and the struggle for independence in Africa, Lewis concludes that civic activism against the state in Africa had long preceded struggles in Eastern Europe and the revival of civil society related to those struggles.

The globalization of civil society contains two empirical dimensions: one is related to the globalization of the discourse of civil society, of its usage in all parts of the world, and another to the cross-border networking of civil society actors and forming global civil society as an autochthonous entity. Of course, the normative dimension of the concept also attains globalized connotation: firstly, global civil society plays new roles, new modalities of struggle for democratic polity and overcoming democratic deficits on the global scene; and, secondly, the language of civil society in different parts of the world has its own specific tasks but also has a common normative attempt towards a free collective self-determination of the people.

The concept and the practice of civil society are being globalized in a way that reflects the empirical processes of inter-connecting societies and shaping a global society. From the normative-mobilizing perspective, civil society activists and theoreticians stress the need to defend global society from the global threats of nuclear war, environmental catastrophe, crime and violence, the domination of global powers over the fate of individual countries and societies, i.e. the need to oppose the tendency of “power policy” on a global level, and to defend the autonomy of (global) society as compatible primarily with the expansion of policies based on the rule of law at the global level, and incompatible with the policy of force, state cause, and domination of global centres of power.

Theoretical discourse has been broadened to encompass the concept of a global civil society, including European civil society. The category of global civil society is an ideal-typical one. On the one hand, it strives to include the actual, empirical processes related to the expansion of social ties to the global level, mediated by the internationalization of economic markets, transport, culture, satellite communications, globally transparent media, and the Internet. Such globalization processes result in a conflicting and/or assimilative crossing of civilizations and cultures, in the introduction of international political institutions and the

³⁰ Lewis, D. Civil Society in non-Western Contexts: Reflections on the “Usefulness” of a Concept, www.lse.ac.uk/collections/CCS/pdf/CSW13_web.pdf, 2001, p. 10.

adoption of international conventions for human rights protection, for the defence of democratic values, for combating terrorism and segregation on various grounds, thus leading to a global standardization of human rights culture and democratic political order. On the other hand, the category of global civil society also strives to express normative content, determination to embody the principle of democratic rule and the democratic way of life globally, to identify criteria for evaluating events in individual countries, as well as in global tendencies from the perspective of peace, tolerance, autonomy and control of society (societies) in relation to world centres – either formal or informal – of power and government.

Commenting on the normative dimension of the ideal-typical category of global civil society, John Keane remarks:

The vision of a global civil society is presented as a challenge to the normative silence or confusion within much of the contemporary literature on globalization and global governance. In opposition to mounting fears of terrorism, rising tides of bigotry and nationalism and loose talk of ‘anti-globalization’, the defence of global civil society mounted here implies the need for a defence of democratic ways of life, and for brand-new democratic thinking about such matters as violence, global markets, and government with a global reach.³¹

Global civil society, as well as European civil society, encompasses mass anti-globalization movements, civic protests against certain globally recognized issues, networks of associations, transnational non-governmental organizations, transnational civic *ad hoc* initiatives, World Social Forums and European Social Forums.

Calls for global civil society and European civil society match the needs for supranational forms of civic commitment against both unjustified state domination and neo-liberal marketization.

In regard to what is usually referred to as the anti-globalization movement, it should be stressed that this is a highly contradictory phenomenon. On one hand, it is a truly global social movement directed against the neo-liberal logic of globalization and unification of existent “ways of life” – specifically “Americanization”, “McDonaldization” – on a global level, and on the other hand, it is a sometimes violent (and in many ways intolerant and in contrast with democracy and “civil disobedience”) social movement.

European civil society is a constitutive part of the process of globalization of civil society, although it has had its specific features according to the specificities of the EU as a new form of polity which has not been consolidated yet.

All forms of globalized civil society and their relation towards democratic polity in a globalized context can be analyzed as certain different manifestations of civil society’s appearance in a transitional socio-political and institutional context.

Victor Perez-Diaz makes a distinction between the original meaning and its origins in the Anglo-Saxon liberal word, in “civil” or “republican” traditions, and the meaning of civil society in countries in transition. Of course, his analysis was related to those nation-state countries which are in transition, but can also be productive for the situation of a global civil society in the making. The author draws a distinction between the broader, or original, concept of civil society, applicable to advanced liberal democracies (civil society *sensu lato*), and the same concept taken in its more restrictive sense and related to countries seeking to move from totalitarian and authoritarian regimes into a democratic order:

Civil society *sensu lato*, or the first meaning of civil society, denotes a set of socio-political institutions including a limited government or state operating under the rule of law; a set of social institutions such as markets and associations based on voluntary agreements between autonomous agents, and a public sphere where these agents debate among themselves and with the state about matters of public interest and engage in public activities [...]. This construct of civil society *sensu lato* has an internal consistency. It is ‘civil’ inasmuch as its autonomous agents are

³¹ Keane, J. *Global Civil Society?*, Cambridge: Cambridge University Press, 2003, XII.

‘citizens’ (as opposed to mere subjects of a despotic ruler or of a ruling caste) and thus members of ‘civilized’ society (as opposed to barbaric or backward). But the point is that they can be citizens *only* because they are autonomous agents, and they can be autonomous vis-à-vis the state *only* because the state has a limited power to enter the area reserved for these agents [...]. But this autonomy may exist either in a full or in a diluted form. It exists in full only when the state is part of a civil society in the first sense, namely, when it is a limited state operating under the rule of law. Otherwise, in relation to the second sense the institutions of civil society (markets, associations, and a sphere of public debate) exist in a diluted and less developed way within the framework of other historical configurations, such as those related to authoritarian and totalitarian regimes (for instance, Franco’s Spain and the East-European socialist societies). It may be argued that the development or emergence of civil society in the second sense within an authoritarian or totalitarian regime prepares the path for its transition to a liberal democracy and a full-fledged economy, and thereby to the establishment of civil society in the first sense.³²

In regard to the issue of civil society in transitional countries, Perez-Diaz – continuing Linz’s discourse – speaks about the need of making a distinction between the processes of *transition* to, *consolidation*, and *institutionalization* of the new regime. This analysis again can be applied also for considering the “democratic deficit” of the European democratic polity:

Empirically, the three processes are interconnected: they are not consecutive phases in time, but they overlap. In the process of *transition*, the basic rules of the game [...] are established, both within the political class and society at large. These rules concern chiefly the limits of state power, the means of access of both politicians and society to that power, and the modalities for the exercise of such power [...] [T]his process should be distinguished from that of *consolidation* of the new regime, at the end of which there is a widespread expectation that the regime is going to survive, and that its basic rules will be respected [...]. This process should also be distinguished from the *institutionalization* of the regime, at the end of which the regime is recognized as legitimate by the majority of the population and for most of the time, and the basic rules of the political game not only prevail *de facto* but have been internalized by both politicians and society.³³

The difference that Victor Perez-Diaz draws is that transition, consolidation and institutionalization processes are also productive from the point of overcoming the European Union’s democratic deficit. An ideal-typical interpretation of civil society, with emphasized normative dimensions, matches also the EU’s framework in a sense of what must be done in order to establish a European democratic polity.

2.3. Contemporary Interpretations of Civil Society³⁴

Discourse of civil society starts from social relations of the autonomous individual, and as such expresses the modern political commitment to collective self-determination.

Civil society is a deliberative body, an incarnation of modernity insofar as it proposes an answer to the question of legitimate institutionalization. Democratic legitimacy is based on the deliberative establishment of an institutional framework of the rule of law, as well as on the communicative, deliberative, associative, public acting of citizens through civil society.

Civil society is an active and communicable field (public domain), where interests steaming from the private (individual and family) and collective life (related to the institutional

³² Perez-Diaz, V. M. *The Return of Civil Society*, Cambridge and London: Harvard University Press, 1998, pp. 55-57.

³³ *Ibid.*, p. 4.

³⁴ See: Vujadinović, D. The Concept of Civil Society in Contemporary Context, in: Vujadinovic D. et al. eds. *Between Authoritarianism and Democracy: Serbia, Montenegro, Croatia – Civil Society and Political Culture*, Belgrade: CEDET, 2005, pp. 15-43.

field of liberal-democratic order, but also to the public domain of education, health, housing, environmental protection, gender issues, work) are articulated from the perspective of “public use of reason for the common good”.

Civil society is a field of public action of autonomous individuals, responsible citizens, who form voluntary associations, *ad hoc* initiative groups, civic movements, non-governmental organizations, networks of associations, in an attempt to fight against any sort of overextended state power or colonization of life by heteronymous factors of domination, or against “democratic deficit” inside modern polity. Associative character of civil society *per se* (without its deliberative features) is not sufficient for solving “democratic deficit”, because there are also possible authoritarian political arrangements, in which different associations do exist without direct control of political power, i.e. without deliberative and communicative inspirations of civil society.

Civil society is an ideal-typical notion, while it always contains a normative-mobilizing dimension as well as an empirical-descriptive one. Civil society emerges from existent forms of autonomous associative and deliberative citizens’ activism. It is designed as a system of norms and values, as a normative project that aims to improve collective self-determination, to affirm the participatory character of democracy inside the rule of law, to promote the participation of citizens in decision making, to reconcile the principles of participation and representation.

The citizen appears in a twin role – as the representative of both individual autonomy and public autonomy; and as such he or she can become a member of associations and associations of associations. Civil society bonds individuals as holders of civil rights, civic associations and the public sphere into a single field. Civil society connects the principles and practices of autonomy, associability and publicity. Civil society acts as a horizontal network of human relations characterized by direct communication, neighbourly and local solidarity, spontaneous and/or voluntary and, as a rule, non-violent self-organization. This is the field of non-institutional politics, or the mediating field standing between the individual, the family, and society in general, on one hand, and the state and institutional politics, on the other.³⁵

In a normative-mobilizing sense, civil society has the function of mobilizing citizens to defend personal, political or social rights, guided by the values of freedom, equality, justice, and accompanied by the development of a democratic political culture of solidarity, cosmopolitanism, pluralism, tolerance, non-violence and humanitarianism. In the measure in which it is guided by the values listed above, civil society can also include associating for the purpose of achieving specific collective rights based on ascriptive qualities, such as religious affiliation, ethnicity, race, and so on.

Institutions which are closely connected with civil society are families, religious communities, charity associations, private funds, educational systems, universities, the free press and media. This is the pre-political social and cultural environment which – insofar as it acts in such a way as to facilitate the development of an autonomous type of personality, the affirmation of democratic political culture, a critical attitude to all that is contrary to universal human values – contributes to the establishment of the principles that which civil society is based on.

Among the definitions of civil society, some include and some exclude economic interests, and sometimes, though rarely, religious affiliations and institutions are also included in the concept of civil society.

³⁵ Vujadinović, D. *Civilno društvo i svakodnevni život* (Civil Society and Everyday Life), in: Pavlović, V. ed. *Potisnuto civilno društvo* (Suppressed Civil Society), Beograd: EkoCentar, 1995, p. 306.

According to Jean Cohen and Andrew Arato³⁶, the economic sphere does not belong to the definition, as civil society is a “sphere of social interaction between economy and state, composed above all of the intimate sphere (especially the family), the sphere of associations (especially voluntary associations), social movements and forms of public communication”. According to Van Rooy³⁷, civil society is the “population of groups formed for collective purposes primarily beyond the framework of the state and the market”.

Larry Diamond offers an interpretation according to which civil society and the state are complementary, and civil society excludes economic, religious, and family relations. He defines the field of civil society seemingly more empirically and descriptively than normatively:

Civil society is conceived here as the realm of organized social life that is voluntary, self-generating, (largely) self-supporting, autonomous from the state, and bound by a legal order or set of shared rules. It is distinct from ‘society’ in general in that it involves citizens acting collectively in a public sphere to express their interests, passions and ideas, exchange information, achieve mutual goals, make demands on the state, and hold state officials accountable.³⁸

Elsewhere, however, Diamond also points out the social-controlling and mobilizing role of civil society: “The mobilization of civil society is one of the main instruments for disclosing the misuses and for delegitimation of undemocratic regimes”.³⁹

Nevertheless, civil society “excludes” individual and family life as eminently belonging to the private sphere. The *differentia specifica* of civil society is related to active, public, critical, rational conduct regarding private and social problems, i.e. collective voluntary action and self-organization of people for changing the current quality of everyday and family life, and various aspects of social and political life. The everyday life of the individual - where public and private experience, as well as family life and various aspects of social life cross – represents a precondition (on the pre-political level) for the development of civil society. However, only if and when everyday life acts as the field of socialization of the autonomous personality type, it really contributes to civil society formation. Civil society presumes that an autonomous individual freely decides his or her involvement and association. Hence, the individual’s decision to step out of a given everyday milieu, family and social environment and to voluntarily associate with other persons in order to act publicly and autonomously towards improving, solving, changing the state of affairs, represents the domain of civil activity.

Ernest Gellner believes that the most important functional objective of civil society is to act as a force that endorses liberal freedoms⁴⁰ and that the uniqueness of modern civil society lies in the fact that it uses the “ties or connections” that permeate an entire society to create conditions for individual freedom in a liberal democracy.⁴¹

Political society is linked with the division of power and political pluralism, and, in a narrower sense, with political parties, party coalitions and the electorate. Civil society would not be able to realize its purpose without political society, but it is an important corrective for the political field (a government and its political parties).

³⁶ Cohen, J. and Arato, A. *Civil Society, Constitution, Legitimacy*, Lanham-Boulder-New York-Oxford: Rowman&Littlefield Publishers Inc, 1992, IX.

³⁷ Van Rooy, A. *Civil Society and the Aid Industry*, London: Earthscan, 1998, p. 30.

³⁸ Diamond, L. *Civil Society and Democratic Development: Why the Public Matters?*, University of Iowa Series, 1997, p. 5. (Paper published in the Center for International and Comparative Studies, Distinguished International Lecture Series, University of Iowa, 1999).

³⁹ Diamond, L. Rethinking Civil Society: Toward Democratic Consolidation’ *Journal of Democracy* 5, 3/1994, p. 7.

⁴⁰ Gellner, E. *Conditions of Liberty: Civil Society and Its Rivals*, London and New York: Penguin Books 1994, p. 5.

⁴¹ Gellner, E. Importance of Being Modular, in: Hall, J. A. ed. *Civil Society: Theory, History, Comparison*, Cambridge: Polity Press, 1995, p. 42.

The current conception of the principle of rule of law has several aspects: jurist (legality), constitutional (guarantees for basic human rights), political (division of power), whereas the fourth aspect is related to the existence of civil society, conceived as a corrective element towards political power (inseparable from a free public and a democratic political culture).

The most important presuppositions for the existence of civil society are the rule of law and legal state, guaranteed human rights and liberties, procedural democratic rules and institutions (most often in the form of a multiparty parliamentary democracy), a market economy accompanied by private property, democratic political culture, participatory democracy and the freedom of self-organization.

In order to develop, a civil society demands peace and relatively stable, non-violent social conditions, a well-regulated state, protection of human rights, and legal certainty.

Civil society is always threatened when a democratic public sphere turns into a manipulated one, when the “rule of law-civil society” paradigm is replaced with the (leader)/elite-masses paradigm of social relations, or when competition among interest groups, more or less democratic movements, parties and ideas is replaced with cleavage between democratic and ethno-nationalist ideas and movements, when state order regresses into a non-democratic one, when institutions of the system become criminalized and corrupt, with para-state “institutions” of violence act with and above the actual institutions.

The level reached by civil society is always a process, one that is continuously being verified and improved on. Civil society is an open concept and practice, a task never completed and never safe against steps backward, a contradictory process and a continuous struggle within itself alone and within the government and the field of politics.

Besides the positive principles cited above, civil society may also assume negative characteristics (egoism, unfair competition, separatism, particularism, localism, possessiveness, violence). Within the field of civic action, actions based upon principles incompatible with the concept of civil society (e.g. associations based on segregation) and deviations within authentic civil action are also possible.

At any rate, concepts that are normative are important as criteria and guides for controlling/counter-balancing power, and as a self-corrective tool for civil society itself (to counter-weight populism, deviations within civic action, and retrograde simulations of civic action). The normative, utopian dimension of civil society has a mobilizing force of stimulating citizens to act in accordance with public matters, and the public good.

It may be said that the interpretation of the ideal-typical concept of civil society – which emphasizes the positive normative dimension, is just one possible interpretation. Yet another interpretation is also possible, where the descriptive character of the concept is emphasized, which places every form of organization or association of people beyond the dictate of the state in the framework of civic action. There is also an interpretation which questions the positive normative concept of civil society mentioned above from the point of setting criteria too high and being too restrictive; in other words, leading towards the ideologization and idealisation of *what should be* in the field of civic action, while *what is* in the empirical field of civic action is also burdened by incivility. Thus, we are faced with an interpretation of civil society which does not aim to completely abolish the value criteria, but is (critically) focused on an empirical state of affairs, including the anti-civilizing aspects and components of a given civil society.

The current literature about civil society – which attempts to be reflexive and non-apologetic – points to the presence of incivility and violence in the field of civic action. Civil society requires a relatively stable everyday life and a state of peace; however, the problem with civil society in relation to war and violence, is the fact that the cult of war is imbedded in western culture, from which civil society – as concept and practice – has also emerged. This is

precisely where one of the basic foci of the contradictory character of civil society (and the phenomenon of incivility within it) lies, which resolved or at least attempted to be resolved by making a difference between what a “civilized” and “uncivilized” civil society is.⁴²

In contrast to the concept of civility – both as an ideal and as practice – which presumes a well ordered community and well ordered relations in that community, where the relations between people are based on decency, cultivated mutual communication, as well as on the institutional arrangements of the rule of law, stand the facts, as John Keane observes, about the twentieth century as being a “long century of violence”. Namely, contemporaneity has been marked with a contradictory phenomenon: violence chronically persisting within countries and among countries, and the permanent possibility of the regression of civil societies into uncivil societies. In contrast, however, “the long-term growth of a new *civilizing* politics aimed at publicizing and reducing the incidence of such disparate phenomena as murder and rape, genocide and nuclear war, the violence of disciplinary institutions, cruelty to animals, child abuse and capital punishment”⁴³. As Keane notes, “the point can be toughened: *all known forms of civil society are plagued by endogenous sources of incivility*, so much so that one can propose the empirical-analytic thesis that incivility is a chronic feature of civil societies, one of their typical conditions, and, hence, normatively speaking, a perennial barrier to the actualization of a fully ‘civilized’ civil society.”⁴⁴

Civil society has been primarily related to the secular character of modernity and has deep roots in the universal values of the Enlightenment, including religious tolerance, as well as the non-interference of the church in state affairs. The role of churches and religions in liberal-democratic countries, and especially in transitional countries has been ambivalent and controversial. Namely, their activities in some countries and in some certain situations was sometimes oriented towards improvement and sometimes towards the inhibition of modernizing processes. In countries with totalitarian and authoritarian regimes the role of the church sometimes has favoured the struggle against such regimes, but, at other times, has favoured their survival. According to Victor Perez-Diaz⁴⁵: “Religion may have the effect of ‘consecrating’ the existing political and economic arrangements [...] but it may also have the contrary effect of a ‘prophetic denunciation’ of those arrangements; most often it may have *both* effects, for different audiences and at different times.” Adam Mihn timer notes the mobilizing role of the Catholic Church in Poland during Poland’s fight against communist rule and the Soviet Empire (*Letters from Prison*), although he also stresses the ambivalent role of the Church, in a sense that it can also return to retrograde tendencies (as in the case of the anti-abortion campaign in Poland after the fall of communism).

Globalizing processes also impose, among other things, the necessity that the concept of civil society should be modified in relation to its genuine secular character. Namely, Keane remarks how⁴⁶ the contemporary phenomenon of *post-secular* civil societies in Islamic countries, and voluntary associations based on Islamic religion, are different from Islamic fundamentalism and opposed to the despotic (secular) governments in their countries (e.g. in Egypt, Tunisia). He says that a rising number of Islamists uses the language of civil society with sympathy:

They question the Eurocentric presumption that civil society, which is a European invention, cannot take roots among Muslims. These Islamists insist that

⁴² Keane, J. 1998.

⁴³ *Ibid.*, p. 119.

⁴⁴ *Ibid.*, 135.

⁴⁵ Perez-Diaz, V. M. 1998, p. 109.

⁴⁶ Keane, J. 1998, p. 27.

it is *not* true that Muslims are automatically inclined to identify themselves with segmented communities guided by the anonymous *Umma* in which the faithful, who 'do allegedly does not miss civil society too much', strives to positions through a clientelistic, cynical policy. These same Islamists deny the restrictively European definition of civil society. They insist that secularism, conventionally thought to be a basic requirement of a civil society, effectively functions as an Orientalistic ideology that protects despotic states suppressing the development of civil societies within the Muslim world.⁴⁷

Most importantly, the processes of globalization impose the cross-bordering character of civil society, both in the geographical and substantial sense. The substantial meaning of global civil society is related to the role of civil society in forming democratic polyarchical governance on the global world level, and also different regional levels, including the European Union.

2.3.1. Human Rights, a Critical Public and Civil Society

Generally speaking, both republicanism and classic liberalism are political philosophies which give an important place to those concepts related to "civicness" and "civility", and both traditions of political modernity reflect conditions of the possibility of collective self-determination, based on autonomous individual will and action. An important difference, however, comes from the fact that the republican concept of deliberation and liberty (the substantial commitment to the common good) is much more demanding than the liberal individualist conception.

The tension between participation and representation is at the core of the problematique of political modernity, of the mutual relationship between republicanism and liberalism, and also at the core of the ups and downs in the history of civil society.⁴⁸

The rebirth of the discourse of civil society and the public sphere is connected to a certain revival of republican sentiments in the contemporary liberal-democratic polity.

However, when speaking in a more general and substantial sense, republicanism can be seen, according to van Gerven, as an internal corrective of liberalism:

The understanding of responsibility as a moral virtue is the quintessence of republicanism, [...] as a political doctrine that emphasizes the need to care for the *res publica*, the common good. As such, this understanding is not antagonistic to liberalism, which is rightly regarded as the key-stone of a democratically organized society, but is instead complementary to it. [...] Democratic government and good governance are empty concepts if civil servants are not encouraged to feel responsible for the common good and citizens are not stimulated to become involved in public affairs.⁴⁹

Van Gerven notes that there are three versions of republicanism: the first, a moral version (as embodied in Rousseau's take on moral education for civic virtues); the second one is a "cultural" version, advocated by "communitarian" authors, such as Charles Taylor and Michael Walzer (republicanism conceived this as a counter-weight against individualist failing to invest into the public sphere); and, finally, the political version, as proposed by Habermas, which views republicanism as the creation of more participatory political structures and procedures. The political version of republicanism considers the causes and manifestation of this to be how self-interested individuals can be encouraged to act more like responsible citizens and to engage actively in the public sphere. The author mentions "that recent research shows that membership in voluntary civil society associations is important in promoting responsive and responsible citizens".⁵⁰

The influences of democracy on liberalism and of republicanism on liberalism have resulted in the establishment of a universal category of a citizen and the altered republican

⁴⁷ *Ibid.*

⁴⁸ See: Terrier, J. and Wagner, P. Declining Deliberation, in: Wagner, P. ed. pp. 83-99.

⁴⁹ Van Gerven, W. p. 213.

⁵⁰ *Ibid.*, p. 214.

identity of an active citizen, which is not problematic from the point of view of liberal individualism.⁵¹

With the revival of republicanism in the framework of constitutional democracy and civil society, a shift from the classic republican active citizenship has occurred in the sense of *a priori* determined individual's devotion to common good (the obligation to serve to *res publica*, the public duty of the individual to participate in public politics), towards a more liberal-democratic idea about constitutional guarantees of citizens' individual rights and freedoms, supported by citizens' activism, i.e. civil society acting to defend constitutionally guaranteed rights and freedoms from any threat or misuse of and by institutional political power.

The activism of a civil society's actors is based on the autonomous initiative of individual citizens, but it bears in itself – as promoting responsive and responsible citizenship – an orientation towards the common good; namely, through the fight for solving particular social, ecological, political, and other problems or defending the endangered individual, minority rights, rights of disadvantaged individuals and groups, etc., it contributes to an improvement in legislature, social, ecological, urban policy, as well as to a better control of government and all sectors of political power.

The protection of individual rights and freedoms from any government or other individuals cannot be based only on institutional and legislative framework, and cannot just mean a self-interested-approach, but also an approach to the “common good”; it demands active, autonomous citizens with moral energy and civic virtues, i.e. democratic political culture based on an emancipatory system of values and universal human rights.

Politics in the wider sense are the field of civil society activism for defending constitutional rights and freedoms, of civil associations' impact on political decision making, on public opinion, political culture, media, as well as on legislature, judicature, and executive power.

Civil society as politics in the wider sense deals with all human rights and freedoms which can initiate/provoke civil society activism. Each constitutional right and freedom can be endangered and insofar can become the cause of civic activism in order to be protected, for example: the right to life, the right to the integrity of the person, prohibition of torture and inhuman or degrading treatment or punishment, prohibition of slavery and forced labour, the right to liberty and security, respect for private and family life, protection of personal data, the right to marry and the right to found a family, freedom of thought, conscience and religion, freedom of expression and information, freedom of assembly and of association, the right to property, the right to asylum, protection in the event of removal, expulsion or extradition, the right to equality before the law and the right on elimination of discrimination, the right of access to documents, the right to an Ombudsman's service, as well as rights concerned with judicial processes, and so on.⁵²

Civil society considered *per se* deals with those rights which formally and legally enable civil society activism, such as freedom of thought, conscience and religion, freedom of

⁵¹ David Held discusses the essential republican influence on contemporary constitutional democracy, which is followed by changes in the (republican) meaning of a citizen's devotion to the public good. “Across diverse background, thinking moved against reliance on virtuous citizens and civic restraint as the basis of political community and shifted towards a greater emphasis on the necessity to define and delimit the sphere of politics carefully, unleash individual energies in civil society, and provide a new balance between the citizen and government underwritten by law and institutions. Over time, the fundamental meaning of liberty as interpreted by the republican tradition changed; and liberty progressively came to evoke less a sense of public or political liberty, ‘the right of the people to share in the government’, and more a sense of personal private liberty, ‘the protection of rights against all governmental encroachments, particularly by the legislature’. Old words took on new meanings and were rearticulated with other threads of political language and tradition.” (See: Held, D. 1996², pp. 40-45, p. 69).

⁵² See in detail about all these rights in the section of the book written by Rodoljub Etinski.

expression and information, freedom of press, free access to public documents, freedom of assembly (freedom of forming associations and public protest, including freedom of whistle blowing and civil disobedience) .

Civil disobedience is an important constituent part of civil action. This concept is applied to the grouping of people and their subsequent public and critical actions in the defence of constitutionality and legality against or despite specific legal solutions; namely, opposition to specific positive laws as unjust or illegitimate, and protest against violations of specific laws and regulations, in reference to general constitutional or fundamental legal solutions and their foundation on natural law or on the idea of justice. Hannah Arendt defines civil disobedience as “breaking the law to verify its constitutionality”. She also emphasizes the importance of group manifestation of civil disobedience, because authorities may remain insensitive to individual civil disobedience motivated by moral reasons, qualifying it as an excess, while they will remain “deaf and blind” with far more difficulty to group pressure for verifying the quality of a law.⁵³

Civil disobedience is a manifestation of civil society in its extreme form. It shakes up the state and society in a profound way, aiming to re-evaluate and establish relative stability at a higher level. The general meaning is in the legitimacy of public mass protests and movements, non-institutional pressure within the liberal-democratic order, in order to re-evaluate inadequate legal solutions or any incorrect application of law from the perspective of the constitutional guarantees of human rights, and to make them compliant. Hence, this represents a corrective role of mass pressure on legislative and executive power to prevent them from violating the Constitution.

On the other hand, civil disobedience in the case of non-democratic regimes plays a specific role of confronting the existing legal-political “order” from the perspective of principles of (desired) constitutional democracy.

According to Van Gerven, the civic dimension of freedom of information, free access to public and official documents, freedom of expression, freedom of the press (as the marketplace of ideas), as well as the right to whistle-blowing and civic disobedience, are strongly connected with human rights protection and promotion. These rights move people towards public activism in civil society and contribute to generating a critical public.

A critical public is identical to the concept of “public opinion” which radically shifted its meaning from referring to the diversity of popularly-held views (which are often ungrounded), to signifying the aggregate result of a polity-wide process of free, and therefore, rational opinion formation – whose outcome significantly guides political decision making.⁵⁴ This concept of public opinion, which has been modified due to Habermas, has represented a rational articulation of the common good through the deliberative exchange of opinions and ideas, and has been directly and essentially connected with the concept of civil society.

Public opinion is a very important factor in developing civil society and the democratic improvement of political systems towards open governance.⁵⁵ According to Van Gerven, an open government has the following components: civic responsibility, free access to documents, civil society and citizen participation, a vibrant public opinion, and a free press.⁵⁶

⁵³ Arendt, H. Civil Disobedience, in: *Political Essays* (Građanska neposlušnost, in: *Politički eseji*), Zagreb: Antibarbarus, 1996, pp. 223-262.

⁵⁴ Terrier, J. and Wagner, P. Civil Society and Political Modernity, in: Wagner, P. ed. p. 24.

⁵⁵ For example, the media can and should have a crucial role in providing a public forum and moral support to whistle-blowers, i. e. those who publicly protest against endangering individual human rights. (See: Van Gerven, W.).

⁵⁶ *Ibid*, p. 253.

Establishing universal human rights and constitutional guarantees of individual freedoms, and their political implications in the field of civic responsibility, citizens' participation, civil society activism, and improving the public sphere, represents the summation of convergence between republicanism and liberalism in political modernity.

3. European Civil Society - Its Concept and Actual Appearances

3.1. The Concept of European Civil Society

Discourse of civil society has become a structural part of debates about the democratic legitimacy deficit of EU governance. One of the main answers to the question of how the democratic deficit of the EU may be restituted – is connected with civil society, another with improving the democratic quality of governance in the EU.

Everything which is said about the meaning of civil society in general is valid also for the concept of European civil society. Talks on globalization processes applied to civil society development are also applicable, with the outcome of placing European civil society into the context of a global civil society. In addition, consideration of civil society discourse as a “third response” to the “crisis of organized democracy” can be applied not only to European “nation-states” but also to the European Union as a whole. European civil society is to be lodged into the global trend of polyarchical governance, and is to be put into the specific context of EU democratic polity.

“European Civil Society” is an ideal-typical concept with its normative-mobilizing and empirical dimensions. It represents, a normative project of developing European citizenship, European cultural space, and the European public sphere, as well as widening the space of democratic decision-making and solving the problem of the democratic deficit of the European Union.

It is a normative project based on universal human rights, on citizens' activism and public pressure attempting to control and counter-balance each possible and/or actual power-monopoly acts of the European Union's political institutions. Additionally, it also represents actual social networking of non-governmental organizations, social initiatives, and social movements at the European level.

The normative-mobilizing dimension of European civil society is supposed to promote the proposed ideas of a European democratic polity, “love of the (European) public”, concern for “common (European) affairs”, European “constitutional patriotism”, European citizens' responsibility, and Europeans' civic activism.

European civil society, in both concept and practice, is related to institutional and political configuration, which is still in the process of being constructed. In accordance with how Victor Peres Diaz and Linz differentiate transition to, consolidation, and institutionalization of a new democratic regime, the EU polity can be treated as a yet non-consolidated democracy on a transnational level. It might be said that there are similarities between countries in transition and the EU, in a sense that EU civil society exists and acts to a certain extent as the precursor of and encouragement for consolidating the EU's polity.

European civil society itself is a project which has been in-building⁵⁷, European citizenship⁵⁸ and the European public⁵⁹ represent the projects which have been arising, and the

⁵⁷ See: Keane, J. ed. *Civil Society – Berlin Perspectives*, New York-Oxford: Berghahn Books, 2006; Wagner, P. ed. 2006.

⁵⁸ See: Keane, J. *European Citizenship? – Historical Foundations, New Departures, CiSoNet Perspectives*, London-Berlin: CSD/WZB, 2005.

constitutionalization of universal human rights on the European level has been in the process of being established⁶⁰.

European civil society also has to be considered as one of dimensions of a global civil society⁶¹. This encompasses civic movements and associations which fight against neo-liberal globalization.⁶² Global civil society relates not only to civic associations and movements organized and networked on the global scale, but also to those local, regional NGOs and movements or ad hoc civil society gatherings which fight – either through single issue actions or through huge protests against official meetings of the highest representatives of economic and/or political (neo-liberal) world power.

European civil society certainly belongs to the general trend of globalization and cross-bordering of civil society presently. However, there are specific problems of democratic deficits in the EU and of European civil society.

The concept of European civil society will be considered starting from the (republican) understanding of the essential interrelationship of liberal-democratic political order/constitutional democracy, universal human rights and civil society. Empirical manifestations of a European civil society will be analyzed in their multiple forms, starting from the groups of nongovernmental organizations and networks, which have been involved in “social dialogue” with EU officials, then through huge European civic protests, counter-summits and social forums, and up to continually reappearing grassroots initiatives, protests, movements, NGOs and networks.

3.2. The Practice of European Civil Society

European civil society⁶³ encompasses not only civil society associations and movements which have been eminently declared or even registered and institutionalized on the level of European governance, but also a great scope of civil society actors and their networks and activities at the European level.

In regard to actual appearances, two streams could be differentiated in European civil society, as well as two ways in which the proposed streams make an impact on the democratization of European institutions and on building a European public space: one could be called an organized or institutionalised civil society which has been in a partnership with the Eurocracy, i.e. NGOs and network organizations which have been recognized by the European Commission and other EU institutions as the partners; they are officially incorporated into “social dialogue” for institutional reforms, aiming to overcome the democratic deficit of the EU. This part of European civil society has the capacity to influence official decision-making from the inside. “Open doors” of media can also significantly impact public opinion and promote democratic political culture.

Another can be described as uninstitutionalized (in the above mentioned sense) and - comparatively speaking – subversive civil society, which has been manifested through huge transnational protests and European civil movements and European Social Forums. This

⁵⁹ See: Berting, J. *Europe - a Heritage, a Challenge, a Promise*, Delft: Eburon, 2006.

⁶⁰ See: *Ibid*; See also: Goodhart, M. *Democracy as Human Rights – Freedom and Equality in the Age of Globalization*, New York-London: Routledge, 2005.

⁶¹ See: Keane, J. 2003; Kaldor, M. *Global Civil Society: An Answer to War*, Cambridge: Polity, 2003; Chandler, D. *Constructing Global Civil Society – Morality and Power in International Relations*, Basingstoke: Palgrave Macmillan, 2004.

⁶² See: Rucht, D. Social Movements Challenging Neoliberal Globalization, in: Keane, J. ed. 2006. pp. 189-211.

⁶³ See: *European Journal of Legal Studies*, Special Conference Issue: “Governance, Civil Society and Social Movements” 1, 3/2008; Keane, J. 2006; Wagner, P. ed. 2006.

uninstitutionalized civil society plays the role of public pressure, which can influence institutional decision-making, it generates European public opinion and democratic political culture from the outside – on the streets and through civic forums – and contributes to forming the sentiments of togetherness and belonging to European citizenship. Multiple networks of NGOs and civic associations also belong that function together on the transnational level through the Internet and diverse *ad hoc* grassroots initiatives, and which also contribute to social and cultural integration of Europeans. In addition, this includes all the local and regional nation-state-framed civic organizations which contribute directly or indirectly to the Europeanization of society, culture, media, communication, education, and to democratic institutional reforms in the EU.

The former accepts the given EU institutional arrangement, while the latter opts for Europe also, but one which would be much more democratic. It could be said that the attempts and initiatives of these two versions of European civil society do match in cumulative contributions to institutional reforms of the EU, building a European public space, and constituting European society.

In short, European civil society appears in different forms, as an “organized”, institutionalized European civil society; then mass civic protests and social movements – counter-summits and European Social Forums, and finally, a manifold of networks, initiatives, and NGOs which act at the European level or at the nation-state level, but with pro-European affiliations.

3.2.1. European “Organized” Civil Society

The EU White Paper on Governance⁶⁴, distributed in July of 2001 by the European Commission, represented the summation of the written expression of the *top-down* project – run for several years by enlightened technocrats in the EU, which aimed not only to link official politics with constant consulting “outside interest groups”, but also to expand and formalize “open and structured dialogue” with the representatives of “organized civil society”.

The Lisbon Treaty⁶⁵ also recognizes the importance of consultation and dialogue with associations, civil society, workers and employers, churches and other non-denominational organizations.

Drafters of the EU White Paper on Governance analyzed the growing cleft between the successes of European integration on the one hand, and the disappointment and alienation of “Europeans” on the other. They expect that civil society plays a main role in overcoming the situation in which “Europeans” have been passive “objects”. The commission has attempted to expand and formalize “open and structured dialogue” with the representatives of “organized civil society”, to overcome the democratic deficit and to secure an influence of the “Europeans” on improving the “rules, processes and behaviour that affect the way in which powers are exercised at the European level, particularly in regard to accountability, clarity, coherence, effectiveness”. Organized civil society is expected to compensate, next to institutional reforms, for democratic deficit, and to transform “Europeans” into active “subjects”.⁶⁶

⁶⁴ European Commission, *European Governance: A White Paper*, COM, (2001) 428 final. In addition, see: Craig, P. and De Burca, G. *EU Law – Text, Cases, and Materials*, Oxford: Oxford University Press, 2003³, p. 173 ff.; and, for a critique, see: Responses to the European Commission’s White Paper on Governance, <http://www.jeanmonnetprogram.org>.

⁶⁵ http://europa.eu/lisbon_treaty/glance/democracy/index_en.htm.

The Treaty signed by the Heads of State or Government of the 27 Member States in Lisbon on the 13th December 2007 aims to reinforce democracy, including social dialogue with civil society in the EU. Under the title “More Participatory Democracy”, this Treaty postulates that “there are already many ways in which European citizens can find out about and take part in the political process of the EU.”

(http://europa.eu/lisbon_treaty/glance/democracy/index_en.htm).

⁶⁶ See: Frankenberg, G. *op. cit.*

Institutional reforms which impose a formalized and institutionalized partnership between Brussels elite and representatives of civil society, have led to the incorporation of “organized” civil society into European Governance, in other words, towards the “governmentalization” of European civil society. Such reforms contributed to the improvement of decision-making processes on the supranational, European level. From the point of the interrelationship of official politics and civil society, these reforms have helped to complete politics of consultation with certain principles and criteria, to secure a greater transparency for consultations arrangements, as well as the legal basis for structured dialogue with NGOs (though without giving procedural or concrete rights to NGOs).

Frankenberg speaks about a “rank structure” of accredited civil society representatives in the framework of incorporation of organized civil society into European Governance. The first rank constitutes veteran social partners – employers and employees, who are massive union-based, and are institutionalized on a high level and, on the transnational level, well organized trade unions. The second rank deals with the “nobility” of European civil society, consisting of many-sided, diversely organized, transnational networked groups of organizations and NGOs, which are accredited in Brussels predominantly on an informal basis.

Unlike the social partners, the second rank groups lack mass, and are elite organizations, *a la* Greenpeace, and part-NGO, such as the ‘Platform of European Social NGOs’, and networks with democratic structures. They have a high profile as a result of their spectacular activities (after the fashion of Greenpeace) and imposing media presence, and they enjoy excellent organizational resources, professional expertise and close, familiar contact with the EU-administration. The interests they represent are less noticeable and more diversified than those of the social partners, while their chief concerns are environment, social and human rights. Their rationality is demonstrated (preponderantly) in the professional advice of councils, in particular, the sub-councils of the administration: to this extent, they have recently, and prominently, and perhaps prematurely, constituted a new form of celebrated comitology.⁶⁷

The third rank deals with similar, but less established and accredited in the frame of EU administration, associations which propagate supra-regional issues and extra-territorial projects. They also are well accepted as candidates worth being sponsored out of central funds.

However, there are certain problems in treating fragmented and diverse associations and NGOs as the representatives of the European *demos* or as “Europeans”. Selective accreditation of civil associations, such as the EU’s Commission partners, has been problematic by definition.

The “other side of the coin” of the “governmentalization” of civil society can be, according to Frankenberg, “politicism” in interpreting civil society, caused by the need to solve problems of democratic legitimacy. Namely, the overestimation and overburdening of civil society actors as “full time activists” of participatory democracy should be avoided, in the realm of public freedom in a republic. Members of social movements and networks do not have to make significant, enduring contributions in order to be understood as actors of civil society. It is enough that their activity be normatively designed by the ethic of equity and self-restraint (civility to be taken as a model for argumentation and protestations), and that they express a “community of the well-intentioned”, meaning that their emancipator activity need not have direct political impact and effect.⁶⁸

This restrictive, selective and elitist approach of the EU’s administration in recognizing civil society partners for institutional reforms, clearly expresses the limitations of democratic capacities for institutional reforms within the EU, based on partnership with EU civil society. Genuine democratization is of a limited scope, as governmentalization of civil society

⁶⁷ *Ibid.*, p. 16.

⁶⁸ *Ibid.*

representatives has been on the agenda; privileged parts of civil society lose their independence and spontaneity, and they easily start playing according to the own financial interests instead of according to general European well-being. Eurocracy domesticates and colonizes those registered partners, and amortizes more or less their social capital and moral energy; additionally it ignores unregistered civic associations of lower ranks and does not have any sensitivity for unsettling protest movements and political unrest, as well as for multiple single-issued or multi-issued sources of “European” dissatisfaction.

The institutionalisation of the partnership between civil society and the European Government has its positive side and its limitations. The most positive side might be that an “organized” civil society (though divided and segregated from the inside) does play and should more and more play the role of fighting Eurocracy. This is proposed to be included in formal constitutional arrangements and integrated into the new, flexible, and supposedly transparent practice of the EU’s governance. On the other hand, the social capital and moral energy of European civil society has been controversial, differentiated and segregated from inside and in the framework of partnership.⁶⁹ Just as the registered incorporation of civil society into institutional reforms was found as the solution for democratic deficit of the EU, a new and better solution for the limited democratic capacity of this partnership must be found again.

These official impulses for institutional reforms towards open governance⁷⁰ through social dialogue with civil society, in spite of their positive intention, bear a danger of losing the differentiation between governmental and non-governmental actors. “Governmentalization” of NGOs can compromise their own communicative potential and autonomous political capacity. In the sense of receiving financial support, the privileged status of certain NGOs bears the risk that these NGOs become bureaucratized and excessively dependent on EU funding, consequently losing autonomy, civic responsibility and orientation for the common good; they can easily split into conflict of interests and mutual competition with other NGOs (instead of cooperation in favour of common higher interests).⁷¹

If we want to sharpen the positive side, we can assume that this organized civil society – in spite of its controversial position and character – contributes to the development of a European public and a spirit of togetherness among European citizens, as well as a sense of belonging to a European cultural and political entity.

If we want to bring into focus the negative side, we can assume that the most serious problem is related to the risk that this organized civil society split into the logic of power.

Jody Jensen and Ferenz Miszlivetz speak about great risks which an overextended use of the concept of civil society bears for losing its deliberative and communicative capacity in fighting against a language of dominance and power. They even discuss the possibility of turning the language of civil society into the language of power:

⁶⁹ Frankenberg states: “The marginalization of a significant part of civil society’s associations makes the heralding of a European civil society look questionable, particularly where only transnational structures are representative organizations (and these only selectively) are supported and encouraged. The Commission’s *communiqués*, in particular the suggestions of the white paper, also portend a division of civil society: A Large part of the organizations of the third rank are neglected, contrarily those of the first and second rank are accredited and, though they have no concrete rights to judicial review, can confirm themselves about the agendas of the Commission or its committees and, on the grounds of soft law such as codes of conduct, minimum standards of bureaucratic practice or partnership arrangements, represent their interests. This divided, and to that extent ‘organized’ civil society will also be included in formal constitutional arrangements and integrated into the new, flexible, and supposedly transparent practice of governance. This integration of social partners and some NGOs has its price, for the beneficiaries are also expected to maintain minimal standards of representativeness, responsibility and transparency. The relationship of those fortunate associations of civil society with the EU administration is therefore reciprocal.” (*Ibid.*, p. 17).

⁷⁰ Van Gerven states: “[C]onsultation of ‘civil society’ groups in the preparation of legislation and policy has become part of the Commission’s and Parliament’s political culture, particularly so where new modes of governance are used – which assume the involvement of private actors in defining policy goals and instruments.” (Van Gerven, W. *op. cit.* p. 237.)

⁷¹ See: *Ibid.*, p. 236.

From the early 1970s to the 1980s, the notion of civil society primarily functioned as an umbrella concept and encompassed social movements and initiatives, as well as trade unions and the critical discourse of the independent white-collar workers. After that the notion moved through from the world of NGOs in the 1990s to reach its widest usage at the beginning of the new millennium. It appears in the reports and projects of the European Commission, the UN and the World Bank as well as in the programs of political parties, governments and multinational firms. Although the meaning of the notion varies with the cultural, political and institutional context, the practice proves [...] that all of these actors would create their own civil societies in order to qualify themselves and their activities. Civil society relates in this way to the public sphere – to a defined manner and mentality as well as to the community of NGOs. This expanded usage preserves the ambiguity of the notion. It can serve to fight political battles, to mantle social and political problems, but can also turn into the language of power.⁷²

A similar risk emerges, according to these authors, from the overextended usage of the concept of a European civil society, although it has become an unavoidable element of the EU and its nation-states documents, political party programs, business firms, etc.⁷³ Namely, European civil society discourse can be easily split into the new language of dominance and power if it does not manage to articulate itself as genuine civil society. However, they assume that the EU's self-reflection was started by the *White Paper on European Governance and Lisbon Treaty*, in a way which opens chances for real dialogue (instead of perpetual monologue from the side of Eurocracy).⁷⁴

3.2.2. EU Counter-summits and European Social Forums⁷⁵

Donatella della Porta analyzes the huge scope of un-institutionalised civil society actions and initiatives, such as counter-summits and European Social Forums.

Counter-summits have been organized against the official summits of International Governmental Organizations (especially the G8, World Bank, IMF, and WTO) and represent quite disruptive forms of protest at the transnational level. The global trend of emerging huge protests against centers of economic and political power, have their manifestations in Europe when certain world summits happen in Europe or in cases of EU summits. EU summits in Amsterdam 1997⁷⁶, in Nice 2000⁷⁷, in Gotenburg 2001⁷⁸, in Barcelona, Lisbon and Seville 2002,

⁷² Jensen, J. and Myszlivetz, F. The Second Renaissance of Civil Society, in: Wagner, P. ed. p. 148, p. 149.

⁷³ "It seems that civil society serves as an umbrella and shelter, the redeemer of the European project. European elites need their own civil society as well as national governments and political parties." (*Ibid.*)

⁷⁴ "This is a new development in the history of the EU that reveals the birth of a new rhetoric, that is, the *White Paper* emphasizes civil society's outstanding role in the creation of the future Europe. There is a whole sub-chapter on the topic of civil society entitled 'Involving Civil Society'. This not only enhances the possible role of civil society, but also emphasizes its responsibility in the shaping the good governance." (*Ibid.*, p. 151.)

⁷⁵ Main ideas and empirical data, are taken from the article written by D. della Porta, 'The Emergence of European Movements? Civil Society and the EU', *European Journal of Legal Studies* 1, 3/ 2008, pp. 1-37 (<http://www.ejls.eu/index.php?id=3>).

⁷⁶ Della Porta offers a detailed description of these huge civic protests, based on serious sociological and empirical research: "On June 16 and 17 1997, in Amsterdam, notwithstanding the approval of a new Treaty, the summit of the European Councils failed to deliberate on the large institutional reforms the European Commission was hoping for. On the first day of the summit, a coalition of NGOs, unions and squatted centers staged a demonstration. The coalition European March for Unemployment mobilized 50,000 people that arrived from all over Europe to ask for policy measures against poverty, social exclusion and unemployment. In symbolic protest, about 500 young people reached Amsterdam on foot, having left from different European countries on Labor Day. During the days of the summits, groups of young activists distributed joints asking for free drogues in all Europe and gay associations marched in the red light district demanding equal rights. The headquarters of the Central Bank, where Heads of State, Ministries and dignitaries met, were protected by 5,000 policemen." (*Ibid.*, p. 1)

⁷⁷ Della Porta describes these mass protests, which were held in Nice in 2000: "Three years later, another important step in European integration was met by protest. On December 6 2000, the day before the opening of the European Summit, 80,000 people gathered in Nice, calling for more attention to social issues. The event was called for by an alliance of 30 organizations from all over the Europe. Together with the European Trade Union Confederation (ETUC), there were associations of unemployed, immigrants and environmentalists, 'alterglobalist' ones as ATTAC, progressive and left-wing parties, communists and anarchists, Kurdish and Turkish militants, women's collectives, Basque and Corsican autonomists. In various French cities, activists built travelers' collectives, asking for free

were followed by huge counter-summits⁷⁹. Additionally, the G8 summit, held in Genoa in 2001, was followed by mass protest.

Counter-summits have been mainly oriented to public protest, huge street gatherings and marches, but also they are followed by counter-summit conferences, seminars and grassroots discussions. Since 2002, when the first European Social Forum was held in Seville, combinations of huge street protests, counter-summit seminars and conferences and European Social Forum conferences have happened.

Speaking about Seville, for example, the EU summit was held there in June of 2002, and the Seville Social Forum reacted by organizing conferences, seminars, and grassroots discussions on issues relating to immigration, social exclusion, and the casualization of labour that lasted for two days. The opening day of the official summit was marked by a general strike organized by Spanish trade unions. The counter-summit worked as a combination of a conference and a street protest of 200,000 people, who were marching “Against the Europe of

transportation to the summit. The Global Action Train, transporting about 1500 activists from squatted youth centers, La Basta, White Overalls, and the youth association of the Italian Communist Refoundation Party, was blocked at the border, in Ventimiglia, where sit-ins were staged. The mayor of Ventimiglia declared, ‘Which Europe is this’, that closes its borders when there is a summit?’ In the following days, the press contrasted the “street party” of the peaceful demonstrators with the “street battles” staged by a minority of radicals called “no global”. On the 7th of December, attempts by a few thousand activists to block the avenue of the summit ended up in police baton-charges, with the accompanied use of tear-gas. According to the chronicles, notwithstanding the deployment of anti-riot special police, armed with flash balls and rubber bullet pistols, the works of the summit were disturbed by the protest – among others, the tear-gas entered the summit avenue, making Mr. Chirac sneeze. On the same day, an assembly of the Cross Roads for Civil Society met to develop a “true constitution”, while a sit-in of European federalists was charged by the anti riot police. (*Ibid.*, pp. 1-2).

⁷⁸ The following year, protest escalated in Gothenburg, where the Swedish Old Left and Euro-sceptics met with the new and “newest” movement activists. On the 14th of June 2001, a “mass mooning” (activists showing their naked bottoms) greeted the visit of U.S. President Bush. Some of the protesters clashed with the police, who had surrounded their sleeping and meeting spaces. On the 15th of June, thousands marched to the headquarters of the summit, with some members of the non-violent network climbing the fences around the congress centre contesting what they defined as the exclusion of the people from a meeting that had to discuss policies that would reconcile environmental protection and economic growth. Notwithstanding the arrests of bus-travelers at borders and strict controls on the 2,025 protestors singled out as dangerous by the Swedish police, on the evening a Reclaim the City party escalated in street battles that ended up with 3 demonstrators heavily wounded by police bullets. The dinner of the European Council was cancelled due to protest. On the 16th of June 2001, in what was defined as the largest protest staged by the radical Left in Sweden, 25,000 marched “For another Europe”, “Against Fortress Europe”, defined as a “police superstate”, and “Against a Europe of the Market”, with the opening banner proclaiming that “The World Is Not for Sale”. Sit-ins followed in front of the Swedish embassies in Britain, Germany, Spain, The Netherlands and other European countries protesting against the deployment of masked police, carrying semiautomatic rifles with laser sights in what was defined as a “police riot”. (*Ibid.*, pp. 2-3).

⁷⁹ “The following year, three EU summits are to be met by protest. On 14-16 March 2002, a three days of protest targeted the EU summit in Barcelona, whose main focus was market liberalization and labor flexibility, later to be presented in the media as ‘an exit to the Right’ from the Lisbon strategy (notwithstanding the Head of the EC, Romano Prodi, talked of reconciling solidarity and free market competition). The protesters planned not only to contest the EU policies in the street but also to discuss alternatives during a counter summit. On Saturday 16, 300,000 people marched on the slogan ‘Against a Europe of capital, another Europe is possible’, from Placa de Catalunya to the Mediterranean harbor front in the largest demonstration against EU policies. Initially called by the Confederation of European Trade Unions, with representatives from the 15 EU countries, the event was joined by new unions, ‘soft’ and ‘hard’ environmentalists, anarchists and independentists (no dictionary recognizes this word), anti-capitalists and different civil society organizations. Following an opening banner proclaiming that ‘Another World is Possible’, protesters called for full employment and social rights against free-market globalization. While the long march (exceeding by far the organizers’ expectations) proceeded peacefully, at its end some more militant groups clashed with the police, deployed ‘en masse’ (8500 policemen) to protect the summit. Once again, demonstrators were rejected at the borders, after passport controls had been re-established between France and Spain. While the Italian Premier Silvio Berlusconi stigmatized the ‘professional globetrotters in search for a reason to party’, the Minister of Interiors of Spanish centre-right government so justified the rejection of peaceful marchers at the borders: ‘Some people think that they can do things that do not meet the approval of the vast majority of the population’.” (*Ibid.*, pp. 3-4).

Capital and War”. At the same time, 300 international activists and immigrants locked themselves into Salvador University to protest against the “anti-immigrant initiatives of the EU”.⁸⁰

A new counter-summit – as a reaction to the EU summit held in Seville in June 2002 – was organized again six months later, in December of that year. It was organized by the Initiative for a Different Europe and with the slogan “Against a Europe that does not like democracy”. A coalition of grassroots movements, social and students’ organizations, trade unions and left wing political parties asked for a Europe without privatization, social exclusion, unemployment, racism and environmental destruction. The protesters called for the right to free movement and dissent. The counter summit (organized by 59 NGOs from all over Europe) included lectures, discussions, and demonstrations against attacks on the welfare state throughout Europe, about the economic and social consequences of EU plans for eastward expansion, about the process of growing militarism, as well as about EU policies on migration. The one day counter-summit was followed by a march of 2,000 protestors denouncing racism. The next day, 10, 000 people marched behind the opening banner “Our World is Not for Sale”.⁸¹

According to Donatella della Porta, the EU summits and counter-summits shade doubt on the image of a broad “permissive consensus” around the EU. Although there are not many and often huge European protest events, they seem however to be prominent events in the history of an emerging global movement, protesting for global justice. European social movements and public protests not only represent the European quest for justice, but also belong to the global social quest for justice. These protests show that it is not the European level of governance which is contested, but the content of the decisions made by European institutions. The initiatives and slogans show clearly that the struggle aims for a different Europe and world. For example, the initiative called Cross Roads for Civil Society aims to develop a “true constitution”; coalition “Europe March” struggles against poverty, social exclusion and unemployment; there are huge groups fighting against “anti-immigrant initiatives of the EU”, racism, and militarism. Slogans which are used in street protests bear clear messages, like “For another Europe”, “Against Fortress Europe” (defined as a “police superstate”), and “Against a Europe of the Market” (with the opening banner proclaiming that “The World is Not for Sale”), “Another World is Possible” (with clear social-economic appeals for full employment and social rights against free-market globalization), “Against the Europe of Capital and War”, and “Our World is Not for sale”.⁸²

Rather than counter-summits, which are mainly oriented to public protest, European Social Forums are focused on debates among activists.

The idea of a European Social Forum (ESF) emerged in Florence, during the counter-summits to the World Economic Forum (WEF) held in Davos in 2002. It represented a “counter” to another counter-summit – the World Social Forum (a network of delegates of NGOs and social movements gathered around the issue of “Another possible Globalization”).

The first European Social Forum met in Florence in November 2002, and since then activists have met yearly or bi-annually in order to debate Europeanization and its limits. The second European Social Forum was held in Paris in 2003, the third in London in 2004, the fourth in Athens in 2006, and the fifth in Malme in 2008. The sixth European Social Forum is planned to be held in Belem 2009, and the seventh in Istanbul in 2010.⁸³

⁸⁰ *Ibid.*, p. 5; (See also: *Global Civil Society Yearbook*, Chronology, 2003).

⁸¹ *Ibid.*, p. 5.

⁸² D. della Porta, pp. 1-10.

⁸³ See more about European Social Forums: <http://www.ephemeraweb.org/journal/5-2/5-2index.htm> and <http://www.esf2008.org/about/what-is-esf>

European Social Forums are emerging structures of a European social movement, which cannot be clearly divided from counter-summits. These social forums are made of loosely coupled networks of activists endowed with multiple associational memberships and experiences with various forms of political participation. Discourses of these activists, as well as their organizations contribute to the development of a form of “critical Europeanism”, which is fundamentally different from populist Euro-scepticism. Generally speaking, protestors have expressed strong criticism to the forms of European integration, but no hostility to the building of a supranational, European identity and institution. They can therefore be seen as a critical social capital for the emerging of a European polity.

The “search for another Europe” is most evident in the movement for Europeanization “from below”, in both counter-summits and social forums.

Concerning the organizational dimension, World Social Forums and European Social Forums can be equally defined in the following way: “[T]he common basic feature of the social forum is the conception of an open and inclusive public space. Participation is open to all civil society groups, with the exception of those advocating racist ideas and those using terrorist means, as well as political parties as such.” The charter of the WSF defines it as an “open meeting place”. Its functioning, with hundreds of workshops and dozens of conferences (with invited experts), testifies to the importance given, at least in principle, to knowledge. In fact, the WSF has been defined as “a market place for (sometime competing) causes and an ‘ideas fair’ for exchanging information, ideas and experiences horizontally”. In the words of one of its organizers, the WSFs promote exchanges in order “to think more broadly and to construct together a more ample perspective”.⁸⁴

Della Porta notes the importance of an internal democracy in these social forums, in the sense that issues of inclusivity, representation, and degrees of structuration have always been cautiously considered and in the center of discussion. Democratic self-reflexivity keeps these forms of activity from losing a genuine purpose of their existence.

The author also speaks about the networking capacity of counter-summits and social forums as reflected in an overlapping membership of the counter-summit and social forum participants.⁸⁵ In addition, there is an indefinable mixture of societal actors and their roles at stake.

Della Porta quotes the spokesperson of the Genoa Social Forum (that organized the anti-G8 protest in 2001):

Vitorio Agnoletto writes of the ESF as a ‘non-place’: it is not an academic conference, even though there are professors. It is not a party international, even though there are party militants and party leaders among the delegates. It is not a federation of NGOs and unions, although they have been the main material organizers of the meetings. The utopian dimension of the forum is in the active and pragmatic testimony that another globalization is possible.⁸⁶

The European Social Forum in Florence presented an important moment in the construction of a critical public sphere for the discussion of the European Convention and its

⁸⁴ *Ibid.*, p. 10.

⁸⁵ “According to a survey at the first ESF, participants were deep-rooted in dense organizational networks. The activists were well grounded in a web of associations that ranged from Catholic to Green, from voluntary social workers to labor unions, from human-rights to women’s organizations: 41.5% are or have been members of NGOs, 31.8% of unions, 34.6% of parties, 52.7% of other movements, 57.5% of student groups, 32.1% of squats for the young, 19.3% of religious groups, 43.1% of environmental associations, 51.3% of charities, and 50.9% of sport and recreational associations.” (*Ibid.*, pp. 13-14)

⁸⁶ *Ibid.*, p. 11.

limits. Together with the democratization of European institutions, activists in Florence demanded a charter of social rights that goes beyond commitments in the Treaty of Nice.⁸⁷

Europeanized protests – counter-summits and social forums – address ever more the lack of concern at the EU level for social inequality. The EU lacks campaigns on issues of economic policies which are necessary for implementing such social policies. The most prominent ideas are those related to social and economic inequality and to the need for globalization and Europeanization “from below”.⁸⁸

Participants of counter-summits and social forums share a common set of values, and simultaneously respect mutual existing differences. Objectively speaking, as well as from the point of their self-perception, there is clearly a left-wing-profile at stake.

As already mentioned, European Social Forums do not reject the need for a European level of governance, nor the development of a European identity, but criticize the EU's policies asking for “another Europe” – which goes beyond the borders of the EU. They link different specific concerns within a common image of a feminist, ecological, open, solidaristic, just Europe. The document approved by the Assembly of the Movements, held at the third European Social Forum, states:

We are fighting for another Europe. Our mobilizations bring hope of a Europe where job insecurity and unemployment are not part of the agenda. We are fighting for a viable agriculture controlled by the farmers themselves, an agriculture that preserves jobs, and defends the quality of environment and food products as public assets. We want to open Europe to the world, with the right to asylum, free movement of people and citizenship for everyone in the country they live in. We demand real social equality between men and women, and equal pay. Our Europe will respect and promote cultural and linguistic diversity and respect the right of peoples to self-determination and allow all the different peoples of Europe to decide upon their futures democratically. We are struggling for another Europe, which is respectful of workers' rights and guarantees a decent salary and a high level of social protection. We are struggling against any laws that establish insecurity through new ways of subcontracting work.⁸⁹

Sharp and clear criticism of the European Union is presented in the Declaration of the Assembly of the Movements of the 4th European Social Forum, held in Athens on the 7th of May 2006:

Although the EU is one of the richest areas of the world, tens of millions of people are living in poverty, either because of mass unemployment or the casualization of labour. The policies of the EU based on the unending extension of competition within and outside Europe constitute an attack on employment, workers and welfare rights, public services, education, the health system and so on. The EU is planning the reduction of workers' wages and employment benefits as well as the generalization of casualization. We reject this neo-liberal Europe and any efforts to re-launch the rejected Constitutional Treaty; we are fighting for another Europe, a feminist, ecological, open Europe, a Europe of peace, social

⁸⁷ Della Porta states: “The impressive success of the first ESF in Florence, in 2002 - with 60,000 activists from all over Europe participating in three days of debate and between half and a million activists in the closing march - was the result of networking between groups and individuals with, at least, partly different identities. The multiform composition of the movement is reflected in a differentiated attention paid to how ‘globalization’ affects human rights, gender issues, immigrant conditions, peace and ecology. But the different streams converged on their demands for social justice and ‘democracy from below’ as the dominant interpretative scheme, able to recompose the fragments of distinct cultures. A multilevel public intervention able to reduce inequalities produced by the market and the search for a new democracy are in fact the central themes of the emerging European movement.” (*Ibid.*, p. 8)

⁸⁸ “In fact, it is precisely against European economic and social policies that protests are focusing at the supranational level, with some early mobilizations that though rare, represent nevertheless an important signal of change (for instance, in the European Marches against unemployment in 1997 and 1999). The search for ‘another Europe’ is most in evidence in the movement for globalization ‘from below’ that called for the mentioned counter-summits, but also organized the first European Social Forum (ESF) in Florence in November 2002.” (*Ibid.*, p. 9)

⁸⁹ *Ibid.*, p. 17.

justice, sustainable life, food sovereignty and solidarity, respecting minorities' right and the self-determination of peoples.⁹⁰

Contrary to the representatives of an "institutionalized" civil society, these alternative civil society activists not only reject partnership with the EU institutions but show great mistrust in the actors of institutional politics, like political parties, mistrust of the institutions of representative democracy – not just national governments, but also parliaments. There is decisively greater trust in local bodies, and for the UN. There is a rising mistrust in the EU, with a growing criticism of EU policy and institutions, particularly concerning the lack of democratic accountability.⁹¹

Criticism of the democratic capacity of the EU's politics and policies is especially present in relation to the Constitutional Treaty. The document is criticized, generally speaking, as an expression of the "constitutionalization of neoliberalism", and because rigid policies are proposed for any changes of the rules, it is anti-democratic and takes away all possibilities to change the rules from its citizens. The need for a unanimous vote by 25 states makes any change of the proposed constitutional treaty impossible. According to critiques, the third part of the Treaty, which focuses on the implementation of concrete policies, goes beyond the normal frame of a constitution: it constitutionalises competition rights, everything within it there is subordinated to competition, including public services. There is also a clear criticism of concrete policies, such as security policy, environmental policy, immigration policy, and so on.⁹²

At one of the plenary assemblies of the second European Social Forums, an Italian activist summarized the critique of the Constitutional draft and of the democratic capacity of the EU: "There is a real desire of Europe [...] but not of any Europe. The European citizens ask for a Europe of rights: social, environmental, of peace. But does this Constitution responds to our desire for Europe?"⁹³

Della Porta concludes:

The 'No to the Constitutional draft' is combined with demands for a legitimate European constitution, produced through a public consultation, 'a European constitution constructed from below'. And many agree that 'the Europe we have to build is a Europe of rights, and participatory democracy is its engine'. In this vision, 'the European Social Forum constitutes the peoples as constitutional power, the only legitimate power'. In a report on the seminar 'Our vision for the future of Europe', we read: 'Lacking a clear and far reaching vision the EU-governments are stumbling from conference to conference. In this manner the EU will not survive the challenges of the upcoming decades! Too many basic problems have been avoided for lack of a profound strategic position. In our vision we outlined an alternative model for the future of Europe. It contains a clear long range positioning for Europe making a clear choice for the improvement of the quality of life for all and for responsible and peaceful development'.⁹⁴

A Europe of rights and participatory democracy would be a social Europe, instead of a neo-liberal one. It can be built only through institutional reforms initiated "from below", through alternative civil society activism of "critical Europeanists", who do not want to accept with silent consent "negative integration" imposed "from above", but instead insist on public debate about all proposed institutional reforms. Namely, all the EU governors' proposals for overcoming a democratic deficit have to be submitted to "proof of the discussion" of a critical

⁹⁰ *Ibid.*, p. 16.

⁹¹ Della Porta quotes: "At the local level we have very low influence in the decision making process, but our influence becomes null in questions as the European constitution or the directives of the WTO or the IMF. We are even criminalized when we attempt it [...]." (*Ibid.*, p. 21)

⁹² See more detailed, *ibid.*, p. 22.

⁹³ *Ibid.*, p. 25.

⁹⁴ *Ibid.*, pp. 25-26.

public. This would not mean an agreement upon borders, ideologies and various cleavages, i.e. bargaining bad compromises, but public debate and deliberative consent/agreement about all relevant issues which indicate the existence of a European public sphere.

In short, critical Europeanism is fundamentally different from the more traditional “nationalist” Euro-scepticism.

To sum up, the question of overcoming the democratic deficit of the EU leads to the necessary interconnection of democratic institutional reforms, European civil society, and a critical European public. A democratic Europe is a Europe of rights and participation of Europeans in the decision making process. European civil society must not be identified with and reduced to an institutionalized and organized form of European civil society. European nomenclature must become open and resonant for “social dialogue” also with actors and ideas of counter-summits and European Social Forums, and with manifoldly uninstitutionalized social networks and initiatives.

3.2.3. European Civic Networks and Non-Governmental Organizations

There are numerous “grass-roots” local and regional organizations and associations, which do not have stable institutionalization and have an *ad hoc* emergence on the local or regional level and often have single-issue orientation. As such, they are not considered by the EU Commission as participants in social dialogue and partners in consultations, let alone potential recipients of subsidies.

Their local or *ad hoc* and single issue-orientation, as well as their diversity and spontaneity – in spite of their obvious civil society capacity – often disqualify them as real representatives of EU civil society. They usually are not treated as having supranational authority and as being worth of EU sponsorship and partnership.

Just to mention one important campaign: The European Citizens’ Initiative (ECI), whose aim was to achieve a legal basis for citizens’ direct impact on EU polity, by collecting one million signatures for achieving the right to initiative at the EU level. The ECI was started by a certain group of NGOs and individuals, signatures were collected as the result of a Europe-wide campaign, involving organizations and initiatives in various countries. Most of the signatures came from the Netherlands, Poland, France, Belgium and Bulgaria.⁹⁵

This campaign is relevant because of its extremely mass transnational/European character, because of its clear European single-issue focus, because of its direct impact at an empowerment of European civil society, public opinion and European civic identity, and also because of its direct impact on institutional reforms and overcoming “democratic deficit” in a most direct way.

The idea is that when implemented, the ECI will be the first transnational tool of democracy. This would enable European citizens and civil society organizations to directly influence the political agenda of the EU for the first time in history. It will give citizens a right of initiative that is equivalent to that of the European Parliament, and much more effective than the current European citizens’ right of petition. Being issue-focused, the right of initiative will contribute to shaping an open European public space around key debates that reflect citizens’ real concerns. ECI will not only help to close the gap between citizens and institutions, but also foster the development of European civil society.⁹⁶

⁹⁵ <http://panorama.citizens-of-europe.eu/?p=43>.

⁹⁶ <http://www.epha.org/a/2225>.

I would just like to mention two more citizens’ initiatives which aim to promote the communicative dimension of civil society: The *Tällberg Foundation*, which was founded in 1981, and organized from that time each year. The Tällberg Forum now brings together 400 to 450 leaders, a highly diverse set of people bringing a broad range of perspectives and experiences. This promotes the sharing of experiences and perspectives and a cross-fertilization of ideas. The Tällberg conversation takes place in plenary sessions, design workshops, thematic seminars, on nature walks and mediated through artistic performances. The environment is strictly informal, and everyone is strongly

The EU Commission's response to this extraordinary mass citizens' initiative was, in accordance with an attempt to promote "social dialogue", positive, as being shown in the following adoption of the idea into basic institutional and legal documents of the EU.

The Lisbon Treaty postulated, under the title "More Participatory Democracy", that

there are already many ways in which European citizens can find out about and take part in the political process of the EU. The newest of these is the citizens' initiative, whereby one million citizens, from any number of member countries, will be able to ask the Commission to present a proposal in any of the EU's areas of responsibility. The practical details of this initiative will be worked out once the Treaty of Lisbon takes effect.⁹⁷

A further step towards legal regulation of the right to initiative at the European level was made in the Working document of the Committee on Constitutional Affairs of European Parliament, announced on October 15th 2008, which contained guidelines for a proposal for the regulation of the European Parliament and of the Council on the implementation of European Citizens' Initiative. There it is written:

In providing for the introduction of the European Citizens' Initiative (ECI), the Lisbon Treaty contains a significant innovation in the area of European constitutional law, one which had originally been worked out in the European Convention, in close cooperation with non-governmental organizations, and which was only included in the draft Constitution prepared by that Convention after a lengthy struggle. The ECI represents a completely new instrument to strengthen democracy in the European Union. Its introduction is a first step towards the development of supranational direct democracy and its implementation could help to create a genuinely European public space in the longer term. The legal bases for the ECI can be found in the future Article 11(4) of the Treaty on European Union (EU Treaty, new version – EU Treaty) and in the future Article 24(1) of the Treaty on the Functioning of the European Union (FEU Treaty). The conditions and procedures for the ECI are to be laid down by means of a regulation adopted under the ordinary legislative procedure.

Regarding the differences between an ECI and a petition to the European Parliament:

Although the outcome of an ECI or a petition may be similar – for example, both may lead, at the instigation of several persons, to the adoption of a European Union legislative act – they differ fundamentally in terms of their function and, accordingly, their addressees and the conditions governing their submission [...]. Whereas petitions are addressed to the European Parliament, ECIs are addressed to the Commission. The European right of petition is granted to Union citizens in their capacity as persons directly or indirectly affected by the exercise of the European Union's sovereign powers and offers them the possibility, in that capacity, to address the directly-elected Parliament in order to inform it, as the representative of citizens' interests, about a given state of affairs and call for that state of affairs to be remedied. In contrast, for the first time the ECI enables Union citizens to participate directly in the exercise of the European Union's sovereign powers by giving them the possibility, like the Council or the European Parliament, to request the Commission to submit a legislative proposal. As a result, the

encouraged to bring their families and partners. The Tällberg Forum became a global meeting, but started from the local village meeting with local leaders of the village, local businesses and the community itself. A two-year process of deliberate village meetings, which naturally began with considerable conflicts of interests, concluded by adapting interests towards a shared purpose. A common purpose was articulated and kept on - to connect people with each other, because meetings are problem solving mechanisms. Therein, the Tallberg Foundation and Forum transformed itself from village meetings at the local Swedish level to the European (global) meeting. (www.tallbergfoundation.org)

The Women Citizens of Europe Network (RCE) was formed in Madrid, on the 21st of November 2000, in order to provide a systemic monitoring of the practical exercise of citizens' Rights in the EU, on the basis of the necessary integration of the principle of Equal Opportunities between women and men in all areas of activity. (www.redciudadanas.org)

⁹⁷ http://europa.eu/lisbon_treaty/glance/democracy/index_en.htm.

conditions governing the use of these two legal instruments also differ. The right of petition is restricted to matters which directly affect the petitioner or petitioners, whereas no such restriction applies to the participants in an ECI, and nor would such a restriction make sense. Instead, like all persons exercising European powers, the participants in an ECI are required to foster the European general interest and to comply with European law. No such requirement must be met when submitting a petition.⁹⁸

3.3. Civil Society, Human Rights and Public Opinion – the European Perspective

European civil society has special importance for generating European public opinion and European sentiments of belonging to the EU as a political community. European public opinion or public space also promotes the idea of European identity. While publicity by definition belongs to civil society, the precondition of civil society activism is the public associative acting of autonomous citizens. European civil society and European public are strongly and closely linked concepts. However, the concept of a European public has been wider than the concept of a European civil society. A European public has also had many other sources of autochthonous development, like media, internet, cultural and educational exchange, trade, as well as integrative consequences of the Europeanization of residences, work, education, and so on.

Contrary to what is often propounded, public opinion (in this wider sense) does play an important role in the shaping of European Union policies. According to Van Gerven⁹⁹, public opinion has played a role as a societal actor in the European integration process. At the outset this role was underestimated, as public opinion was only seen as having provided political leaders with considerable “permissive consensus” for the European project. However, it became clear soon after that even during the first decades of European integration, public opinion did guide the members of the elite in defining national preferences and defending them in the bargaining process. Public opinion also moved the integration process in Member States along the continuum from intergovernmentalism to supranationalism. A prominent example of how public opinion steered governmental decision-making in Member States is the public debates that occurred in France and Germany in the 1990s over the monetary union, and the ensuing public reactions to proposed cuts in government spending to meet the monetary union’s target. It is undeniable that in this and other occasions public preferences in Member States have conditioned the actions of interest groups, political parties, and elites toward proposed EU policies.

Eurobarometer, a continual empirical survey established in the 1970s by the European Commission, has had formulated the survey question in terms of whether particular policy areas should be decided jointly within the EU, instead of at the national level only since the mid of 1980s.¹⁰⁰

Van Gerven concludes:

It is often said that public opinion does not exist at the European level. That is only so if one looks at public opinion as a monolithic opinion related to the European integration as a global project. But it is clearly not true when public opinion is measured at the level of each Member State, and with regard to specific European policies. An analysis of Eurobarometer surveys [...] shows that, indeed,

⁹⁸ DT\747882EN.doc, 15.10.2008, <http://www.europarl.europa.eu/sides/getDoc>

⁹⁹ W. van Gerven, p. 240. (The author refers in his analysis to the research of two American sociologists, as well as to Eurobarometer surveys).

¹⁰⁰ Van Gerven describes the two authors’ report on the results of the survey, conducted in the then twelve Member States, concerning six policy areas: relations to developing countries, scientific research, foreign policy, environmental protection, asylum regulations, and immigration policies: “They find that, across all policy areas, support for policy integration is about 50 percent, but that support varies widely on specific policy issues. For example, in the 1990s support for cooperation with developing countries was about 80 percent, for foreign policy with third countries around 70 percent, for political asylum around 55 percent, and for cultural policy only about 45 percent.” (*Ibid.*, p. 240)

The Eurobarometer poll, carried out between mid-February and mid-March 2003 in the (then) fifteen Member states, found 63 percent of EU citizens favoring a common foreign policy (with 22 percent against) and 71 percent backing a common defense policy (with 17 percent against). (*Ibid.*, p. 242)

from the very outset of the European construction, public opinion has contributed substantially to define preferences in the member states, and has guided the respective governments in a significant way. That obviously applies to major integration policies, such as the internal market policies, but also to environmental policy and to such ‘hard-core’ policies as foreign policy, internal and external policy, and defence policy. As could be expected, Eurobarometer surveys show that the European integration experiment meets most resistance whenever it impinges on the substratum of cultural and national identification that is built over hundreds of years – if not millennium (as in the case of France and England).¹⁰¹

“Organized” civil society is supposed to promote intentionally and in a systematic way – through media and all possible public activities – the European idea, the idea of a European Union. This part of civil society has an easy entrance into the media, and insofar a direct impact, if the media has been supporting European integration. In this case, integration “from above” also acquires democratic impulses “from below”.

The part of European civil society which has not been institutionally incorporated has also promoted the European idea, but rather a different one, which should have been embodied primarily “from below”, and, as proposed, with an essentially bigger democratic capacity. Civil forums, counter-summits, and huge protests aim to develop a critical public, public awareness about the importance of an integrated Europe, but still a different Europe and a Europe integrated in a different way. In addition, multiple networks of NGOs, civic initiatives, internet forums, academic networking, and so on contribute through single-issued projects and grassroots gatherings to the capilar, complex and multileveled social, economic, cultural integration “from below”, and, therein, a feeling of European togetherness.

Huge civic protests, which are organized in cities in which summits of European or world political and economic elite are held – as counter-reactions to European (or World) nomenclature – contribute also to forming a critical public against Europeanization (and/or globalization) “from above”. However, their public impact is the most controversial. On the one hand, their massiveness *per se* gains in publicity among local citizens and throughout Europe, means the media has to report them. However, according to the fact that these protests have been often followed by violence – provoked by militant groups of protestors and the subsequent violent police reaction, as well as that they are subversive towards the official European idea, their media coverage often tends either to ignore and diminish them or to interpret them as being the doings of hooligans.

The relationship between civil society, a critical public and human rights can be considered also from the point of European citizenship. According to Jan Berting¹⁰², the issue of a different Europe can be posited as a question: “Whose Europe”, with an answer of “a Europe of European citizens”. European identity cannot be based on cultural unity; its unity can only be formed as sharing public political culture, the culture of a democratic political system based on a liberal/social Europe, and expressed not as patriotism based on cultural or national identity, but rather as constitutional patriotism. European citizenship is a “project for the future”, a normative concept of belonging to Europe in the sense of (European) constitutional patriotism.

Berting assumes, that what a European citizen is has not been fully established, in a way which encompasses legal, political, and social dimensions. He summarizes the meaning of the complex notion of citizenship, and connects it both to the inalienability of individual rights of human beings and their belonging to the political community of Europe on the basis of constitutional patriotism. He states:

¹⁰¹ *Ibid.*, pp. 254-255.

¹⁰² See: Berting, J. pp. 189-213.

Although the EU is a reality today, the European citizen is still a very bleak creature [...]. In juridical sense, the European citizen exists. The *Treaty on the European Union*, article 8, indicates that the persons, who have the nationalities of the member-states, are citizens of the EU. As such they have some rights, such as the right to circulate and to reside freely in the other member-states, the right to vote and to be elected in municipal elections and to vote in the elections for the European Parliament – a parliament without European political parties, the right to diplomatic and consular protection and the right of petition and of appeal to a mediator. Without any doubt, the European citizen has still more rights than these which are mentioned [...]. In spite of the fact that these rights are important, the concept of the citizen remains shallow and is far removed from the concept of the citizen of the present democratic nation-state.¹⁰³

Berting especially points out that there is also a farther reaching project of citizenship: political citizenship.

This implies the bringing of the EU-institutions within the reach of the citizens and the promotion of the active participation of the citizens in political decisions. This objective is included in the Maastricht Treaty of November 1, 1993, and is connected with the idea to make EU more democratic [...]. [J]udicial and political definitions of citizenship still leave out an essential aspect: the social dimension. This dimension of citizenship refers to the ways in which European citizens could create their reciprocal social and cultural identities.¹⁰⁴

According to Berting, this is in fact the project of creating a European society based on the cohabitation of different collective identities, which were created in the past (such as national identities), but will also share common goals into the future. This means a European society will develop a stronger European consciousness than is the case presently and, finally, an open-minded European identity. Berting assumes that an open-minded European identity must not replace other identities:

The cohabitation of collective and open identities will be the hallmark of Europe with its variegated richness. Especially the last dimension of citizenship shows that ‘individualism’ cannot be reduced to the idea that each individual is only pursuing its own, egoist interest, as the essence of social and cultural dimensions is reflection on relationship with the Other [...]. The ultimate yardstick must always be the inalienable rights of the individual human being, its individual conscience and freedom of choice. The *Universal Declaration of Human Rights* must be taken seriously in all European politics. The European Union has to protect the citizen against the many developments which encroach upon his dignities and liberties.¹⁰⁵

The establishment of European citizenship in its all-encompassing meaning has been linked, most generally, with the process of full democratization of the EU. Civil society – taken in its interplay with public opinion – has been playing an essential role in democratic construction and reconstruction of the given political reality in the EU, as well as building European citizenship.

John Keane points to the dialectical character of European civil society in its interplay with European citizenship. On the one hand, European civil society has “harmonizing” effects for trans-boarder social relations and for building European citizenship; on the other hand though, European civil society has had in itself also tendencies towards conflict, protest, contestation, difference, and, insofar, bears specific consequences related to European citizenship. He notes that this conflict potential of civil society poses a new theoretical and political challenge to the project of European citizenship:

Due to the fact that it is embedded in civil society activities, European citizenship, if it is to play a key role in the life of the European Union, will be a citizenship with difference – a form of citizenship that will not produce the

¹⁰³ *Ibid.*, p. 189.

¹⁰⁴ *Ibid.*, p. 191.

¹⁰⁵ *Ibid.*, p. 191-192.

harmony and homogeneity of a *Gemeinschaftsglaube* (Weber). European citizenship will instead be *pluralistic*, expressive of *multiple, potentially conflicting identities*, something of a guarantee of the right of citizens to be different.¹⁰⁶

Michael Goodhart¹⁰⁷ speaks – in an ideal-typical way – about how democracy under conditions of globalization is identical to fundamental human rights. These rights are the set of rights that, together, when realized, constitute emancipation.¹⁰⁸ They are rights necessary to guarantee individuals against domination and oppression. “When people are deprived of any of these rights, they are potentially subject to the arbitrary will or unwarranted interference of another person, of the state, of a corporation, or of some other actor(s).” Democracy is understood as “a political commitment to universal emancipation *through securing the equal enjoyment of fundamental human rights* for everyone.”¹⁰⁹

Goodhart offers a productive grouping of fundamental human rights, from the point of main domains of democratic emancipation, such as, firstly, individual liberty and security, secondly, fairness, thirdly, an adequate standard of living, and fourthly, democratic polity:

The fundamental human rights can be grouped into four clusters or clearly related bundles of rights. Rights relating to *liberty and security* concern the physical safety and integrity of individuals, their freedom of activity, choice, and movement, and their right to non-interference in matters of personal or intimate concern. Rights concerning *fairness* entitle people to equal and fair treatment under the law and in politics and in society. These rights include guarantees concerning legal and criminal procedure (due process, and adequate defence, etc.) and equal access to public benefits and services. Rights essential to an *adequate standard of living* concern the satisfaction of basic needs and the conditions in which one works and lives. These rights include such things as food, shelter, affordable access to health care, a living wage, and a decent education, choice in family and relationship status, and rights to enjoy and participate in one’s culture. Finally, *civil and political rights* encompass rights and guarantees concerning one’s social and political activities. These include freedom of assembly, conscience, and expression, a right to choose one’s own life style, and rights of access to and participation in government.¹¹⁰

Civil society activism – as based on civil and political rights – plays an important role in forming public opinion as well as in political decision making, institutional reforms, and attempts towards the full democratization of the political system.

Thusly, we are returning to the starting assumptions of this text, concerned with an essential interconnection of democratic polity and civil society, applied – in the context of contemporary globalization - on the local, nation-state, and global level, as well as on the European level.

Civil society has been considered in this part of the book as one of the essential tools for overcoming the democratic deficit of the EU, and for full implementation of universal human rights in the EU’s polity and society.

¹⁰⁶ See: Keane, J. 2005, pp. 10-11. Keane points to the difference between European citizenship as a unique form of post-national citizenship and traditional citizenship, which implies a duty of loyalty to a polity based on national identity and solidaristic community in the framework of particular nation-states: “The new language of European citizenship represents a direct challenge to such thinking. It highlights one of the big issues faced by the emergent European polity: how institutionally to protect and nurture a multiplicity of (complex, overlapping, hybrid, ‘bastard’) national identities, which for obvious reasons will not wither away into some common ‘European’ identity based upon a common language, ecological sensibility, sense of history and shared culture. Seen in this way, the project of European citizenship is attempting something never before attempted on a continental scale: to detach nationality and citizenship; to guarantee and protect citizens’ entitlements to their national identities; and (hardest of all) to protect the whole political order from politically dogmatic or violence-prone ideological renditions of national identity, expressed either as extra-parliamentary *nationalism* or as mild and confused and mindless ‘Euro scepticism’”. (*Ibid.*, pp. 11-12.)

¹⁰⁷ M. Goodhart, *Democracy as Human Rights – Freedom and Equality in the Age of Globalization*, New York-London: Routledge, 2005.

¹⁰⁸ *Ibid.*, p. 143.

¹⁰⁹ *Ibid.*, p. 141.

¹¹⁰ *Ibid.*, 143.

Civil society activism aims to defend constitutional rights and freedoms. The process of full implementation of universal human rights and of establishing a full meaning of EU citizenship can be identified with attempts to a full democratization of the EU's political order.

From the point of an ideal-typical conception of the EU's democratic polity, there is an essential interconnection of the concept of EU civil society with concepts of universal human rights, EU citizenship and a critical EU public. Therefore, the topic of EU civil society has been placed between discussions about the democratic deficit of the EU and the implementation of universal human rights in the EU.