



**PARTICIPATION IN POLICY  
MAKING:  
CRITERIA FOR THE INVOLVEMENT  
OF CIVIC NGOs**

DECEMBER 2004

*ASSESSING AND REVIEWING THE CRITERIA OF  
REPRESENTATIVENESS OF CIVIC NGOs PROJECT*

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## FOREWORD

This document contains information on the main findings of the survey on the institutional criteria and practices for identifying the civic NGOs able to participate in public policy making, implementation and evaluation. This survey was carried out in the 28 countries of the “New Europe” (the 25 EU member states and 3 candidate countries: Bulgaria, Romania, Turkey), at the supranational EU level and in 20 countries in Latin America. This report presents the results of the research in Europe; the Latin American findings are set forth in a separate document.

This report grows out of the project, “Assessing and reviewing the criteria of representativeness of civic NGOs,” which was promoted by Active Citizenship Network, (ACN). ACN is the European policy arm of the Italian organization, Cittadinanzattiva,<sup>1</sup> and it is committed to supporting national and local citizens’ organizations in the 28 New Europe countries in building a European citizenship. This project was supported by the European Commission DG Education and Culture, the Inter-American Development Bank (IADB), the United Nations Development Programme (UNDP), as well as the contribution of the European Economic and Social Committee, the World Bank and the Secretaría de Cooperación Iberoamericana (SECIB). The project as a whole was carried out between October 2003 and September 2004 in Europe and Latin America.

The project aimed to involve citizens’ organizations of the New Europe and Latin America in the assessment and the revision of the criteria of representativeness used for identify the civic NGOs to be involved in public policy making at the national, European and international levels. The results documented in this European report are based primarily on the contribution of our 30 partner organizations, working in the New Europe at the national or European level.<sup>2</sup> The projects’ partners work in very different fields such as human rights, women’s rights, consumers’ rights, the environment, welfare and international cooperation. They are all citizens’ organizations which act in the public arena to promote the general interest.

The general aim of the project was to examine the existing institutional criteria for identifying civic organizations to participate in the public policy process and to bring together civic organizations’ proposals for fair and workable criteria.

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<sup>1</sup> [www.cittadinanzattiva.it](http://www.cittadinanzattiva.it), [www.activecitizenship.net](http://www.activecitizenship.net)

<sup>2</sup>We worked with 30 partners. 26 represent all the countries of the New Europe (with 2 from Greece) except for Latvia, Lithuania and Luxemburg, in which we were not able to establish a partnership with a relevant civic NGO. 4 partner organizations are active at the European Union level.

The rationale underlying this project was that, while civic NGOs have a growing role in policy-making at all levels, the identification criteria used by institutions to involve these organizations are often obscure or otherwise inadequate. For example, some institutions do not have clearly articulated criteria, so that organizations do not know how to be heard by them. In other cases, criteria effectively privilege certain kinds of organizations (for example, larger, wealthier, more established or better connected ones). Given the rich diversity of civic NGOs, and the extent of their possible contribution to the public policy process, we believe that appropriate criteria are those best able to maximize this contribution. For these reasons, we saw an urgent need to rethink the identification criteria from citizens' organizations' point of view, taking into consideration their nature as well as their concrete experience.

The project had three main objectives:

- To contribute to the clarification of the existing criteria used to identify representative civic NGOs in Europe and in Latin America, using a sample of international organizations and countries of other continents as benchmarks;
- To compare the situations in Europe and Latin America and to verify whether they characterize two different models, or whether the challenge of civic NGOs' participation is similar in both areas;
- To bring together citizens organizations' evaluations of the existing criteria, and their proposals for more fair and workable criteria.

Regarding the clarification of existing criteria, the collection of information was carried out in three ways:

- The sending of a questionnaire to a selection of departments / offices of each country / institution / organization. This first activity was carried out by the project team. The questionnaire also contained questions on the Millennium Development Goals promoted by the UNDP.
- The collection of information by the project partners or the project staff from specified national or European institutional websites.
- Case studies, which were carried out by experts in the field of civic activism, were realized in the same period as the collection of information. They tended to collect more detailed data on the criteria actually used, as well as indications of implementation gaps, different points of view between government and civic NGOs and the existing good and bad practices in a determinate number of countries. In Europe, case studies were carried out in Great Britain (for Northern Europe), Italy (for Southern Europe) and Poland (for the new EU member states), as well as the European Commission (for the EU level). In Latin America, the selected countries were Mexico, Nicaragua, Argentina, Colombia and Brazil.

The existing criteria thus discovered were summarized in a Working Paper, which was sent to the partner organizations' for their comment.

Citizens' organizations' evaluations of existing criteria and proposals were expressed in their responses to the Working Paper.

The project commenced in October 2003 with preliminary studies, carried out by the ACN staff, of the criteria of representativeness used by institutions for involving NGOs in policy making. In November, the project staff drafted the questionnaire and accompanying letters to public institutions. In trying to make the concept of "criteria of representativeness" operative, we decided to focus the questionnaire more specifically on the criteria used by public institutions to identify the civic organizations able to participate in the public policy process. November and December were also spent researching the websites of the Ministries of Foreign Affairs, Environment, Social Affairs and the Prime Minister's Office, in 32 countries (28 from the New Europe and 4 extra-European benchmark countries), as well as related sites in European and international institutions, to find the most appropriate person or department to send the questionnaire. Responses to the questionnaire started coming in January, 2004 and were summarized and analyzed by the project staff. At the same time, we sought out and formalized relationships with the European partner organizations and experts, and communicated with them to set forth their duties and assist them in fulfilling them. The Latin American part of the project began in February, 2004, when the ACN staff met with Inés Brill in Rome. The Rome staff received most of the European case studies and partners' Internet research by May, 2004. We analyzed this as well, and brought all the information together in our Working Paper, which was sent out to the partners at the beginning of July, 2004. The partners responded with a 3-page paper. This final report was prepared between July and September 2004.

The purpose of this final report, drafted on the basis of the working papers and the partners' feedback, is to provide information on the existing identification criteria and procedures, on the country-focused case studies and on the partners' evaluations and proposals, as well as to set up an interpretation of the overall situation and a proposal for a new framework of principles and guidelines. The reports on Europe and Latin America are supplemented by an addendum containing the information collected on the Millennium Development Goals (MDGs) in both continents and the way in which national governments involve civic organizations in their pursuit.

The partners' proposals were presented and discussed at a final conference, held in Brussels on 16 and 17 September 2004. The conference featured the participation of representatives of the partners' organizations and national, European and international institutions which work with civic NGOs and

scholars. This was an occasion to discuss the advantages and disadvantages of various identification criteria, and the proposals for more fair and workable ones. The output of the conference consisted of remarks and questions, which were used to revise this report. Moreover, it produced a report containing the main issues dealt with during the discussion, which is published as annex to this report.

The project staff was composed of Cecília Fonseca, Melody Ross, Pamela Harris, Giovanni Moro, and Charlotte Roffiaen from Active Citizenship Network, as well as Inès Brill, who was wholly responsible for the part on Latin America.

The methodological and theoretical background of the research was set up with the support of FONDACA, Active Citizenship Foundation.

This report is divided into 6 main sections. The introduction sets forth our main conceptual framework, explains our methodological choices and describes the design and implementation of the research. Chapter 1 sets forth the findings of the survey of existing criteria. Chapter 2 focuses specifically on the results of the case studies. Chapter 3 analyses the partner organizations' evaluation of existing criteria. Chapter 4 brings together partners' proposals for appropriate criteria. Chapter 5, finally, summarizes the project's main findings and proposals.

## INTRODUCTION

### 1. *Civic NGOs and the crisis of representation*

#### Representation in question

There is no doubt that representation is one of the most important issues in contemporary democracies. All over the world, the two meanings of this concept – to “act for” and to “stand for” someone else – raise important questions.

Assumptions about “acting for” have been called into question by many phenomena, for example: the dramatic decrease in electoral participation; the weakening of national representative institutions; the strengthening of institutions which are neither appointed by the citizenry nor accountable for their actions; and the emergence of private and social actors which have a profound influence on public life without having any formal legitimization.

Assumptions about representation as a “standing for” have been similarly challenged. It is common knowledge that political institutions have lost or are losing their ability to “make visible” society as a whole, to know and portray the conditions and needs of relevant parts of population, to comprehend the multi-cultural, multi-ethnic and multi-religious identity of their constituent societies. Citizens’ well-documented distrust towards their political leaders is surely related to this break down of “standing for”.

Various attempts to redefine governments’ views of reality and modes of operation depart precisely from this crisis of representation. Such approaches as “governance,” “reinventing government” and the “new public management” all emerge out of the belief that representative bodies must be opened up to other actors, not only to improve their legitimacy, but also to make the whole citizenry more visible and better enable it to assert its rights.

Citizens’ organizations – of many different natures, sizes and operational fields<sup>3</sup> – are deeply concerned by the crisis of representation. Their worldwide development during the last thirty years has had a significance, which touches upon the core of this problem. This can be summarized as follows:

- Citizens’ organizations advocate – often successfully – the needs, rights and demands of people who are not recognized by the states and their public programs;

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<sup>3</sup> For a more precise and detailed definition of citizens’ organizations, see the next paragraph.

- In this way, citizens' organizations have put a number of issues, both of general interest and reflecting the needs of target groups, onto the public agenda;
- They exercise an effective role, which is, in theory, the rightful monopoly of representative institutions, political parties and "social partners" (trade unions and business associations).

### Citizens' organizations and representativeness: an unsolved problem

It should therefore come as no surprise that citizens' organizations, in light of the crisis affecting traditional democratic institutions, are helping to fill the representation gap between the citizenry and public powers, in order to give voice and visibility to otherwise unrepresented people and interests.

What is more surprising is the attitude often shown by institutional and political actors to citizens' organizations. On one hand, these actors seem to trust civic organizations with the task of bringing society closer to the state and making government more effective. On the other hand, they express fear and suspicion towards these organizations, insofar as they claim to represent people who did not delegate such organizations to act or stand for them. This contradictory attitude towards citizens' organizations can be considered as a case of that "Dr. Jekyll - Mr. Hyde" syndrome we have noted in the past.<sup>4</sup>

Citizens' organizations sometimes seem to confirm this assumption by their own (probably not completely conscious) behavior. For example, they often take the floor in the name of people they have never actually consulted; or they do not have a clear, continuous and public communication process with their constituencies; or they claim to take part in the decision making process on the mere basis of their self-appointment as representatives of this or that social group. In other words, citizens' organizations often fail to exercise the accountability demanded by their growing power and influence, thus making democratic governance even more difficult.

The general impression that emerges from the above-mentioned phenomenon is that the issue of the representativeness of citizens' organizations is vitally important, but is also underestimated, or dealt with using obsolete and unsuitable tools. This is true of policy makers and citizens' organizations alike.

A good example of this is the attitude of the European Union. The EU Constitutional Treaty recently demonstrated the openness of the European

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<sup>4</sup> Active Citizenship Network, "Public Institutions Interacting with Citizens' Organizations. A Survey on Public Policies on Civic Activism in Europe," paper, March 2004.



Union to civic NGOs and civil society organizations in general: Article 46 of the draft Treaty affirms the Union's willingness to make citizens' organizations partners in the policy making (specifically decision making) processes. This article twice mentions "representative associations," though it does not clarify what the word "representative" is supposed to mean.

Generally speaking, while there is common agreement on the need to involve citizens' groups and organizations in policy making, from the local to the global levels, there is also uncertainty and confusion surrounding which criteria would need to be fulfilled by citizens' organizations in order for them to be recognized as legitimate actors. Since the stakes are very high and concern us all, we must take this problem seriously.

This problem is moreover deeply rooted in reality. Citizens' organizations can indeed have very different positions on the issue of representativeness and can be representative in very different ways. Consumer, advocacy and environmental organizations do not in principle "represent" just their members, but also wide sectors of society or society "as a whole". In contrast, a small community group caring for people with HIV or the homeless also represents something more than its members, but in a very different sense: in working to protect weak minorities and target groups whose rights and interests are the public concern. In the case of citizens' organizations, the verb "to represent" can thus be referred to many different objects: for example, an actor, a target, a problem, or a special condition affecting some people. These are serious issues, and they demonstrate that the usual, merely quantitative criteria ("How many are you?"), traditionally used to weigh the importance of political parties and trade unions, are not suitable for citizens' organizations.

It is not helpful that the scientific community has largely ignored the issue of the representativeness of citizens' organizations. And when academics do deal with this issue (such as Sidney Verba or Morris Fiorina), they tend to conclude that citizens' organizations are, by definition, not representative, at least not in the common meaning of the term. Practitioners, by contrast, regard the representativeness of citizens' organizations as one of the most relevant concerns. They have to face an expanding phenomenon of civic activism in the public arena, and that is a good reason to take the problem seriously.

Our aim is not, of course, to solve this problem, but rather to contribute to highlighting it, in order to achieve a more comprehensive vision and therefore increase the opportunities for a solution.

*From representativeness to standard for participation in policy making, and vice versa*

In this light, we must clarify the basic methodological choice of our research. In order to make the issue of representativeness operational, Active Citizenship Network decided to translate it into the question of the definition of standards for the involvement of civic NGOs in the policy making process. In other words, we reduced the issue of the representativeness of citizens' organizations to the identification and analysis of the criteria institutions use to identify representative citizens' organizations as partners in policy making.

The rationale for this choice is the assumption that those citizens' organizations, which are invited or allowed to interact and cooperate with governments are those considered as representative. The criteria for their admission can thus be viewed as the effective standards of representativeness fixed and practiced by public authorities.

Of course, since citizens' active role in policy making is a matter of fact and not a decision of institutions, there can be – and there in fact are – citizens' associations which are representative, but do not participate in dialogue and cooperation with the governments. Nevertheless, it can be assumed that all citizens' organizations (excluding cases of political agendas and association with political parties and governments, which is not the focus of our survey) that interact with governments are considered representative, either because they “act for” or “stand for” someone or something else. This means that when public institutions involve civic NGOs in policy-making, they do so on the assumption that these organizations – because of such factors as their experience, competence, background and widespread presence – are able to do one or both of the following:

- To speak on behalf of individuals and communities involved in these issues (to act for),
- To give visibility to issues of public importance (to stand for).

Gathering and analyzing governments' standards for the identification of citizens' organizations, and checking their real implementation and related problems, thus implies collecting useful information on the criteria of representativeness of civic NGOs in the realm of public policy making. Analyzing in depth the issue of citizens' organizations' representativeness can in turn contribute to a better understanding and appraisal of the general crisis of representation in contemporary democracies.

These are the purposes and the expected outcomes of the Active Citizenship Network project as a whole, and this report in particular. Our practical goal is to put forward shared guidelines, which may provide a better and more effective

framework for the involvement of representative citizens' organizations, overcoming the problems affecting some of the existing criteria. This objective is conceived as furthering the interests not only of civic organizations, but of public institutions as well. To develop adequate standards and criteria for the evaluation of the representativeness of citizens' organizations could enable public institutions to make good use of civic energy, while ensuring that civic NGOs exercise their significant power with full responsibility.

## 2. *Conceptual and methodological framework*

On the basis of the above-mentioned rationale, we can now introduce some key concepts, which are useful in defining the field of research. Together with some methodological choices to be discussed below, the key concepts form the framework of this study.

### *The key concepts*

The concepts we are going to introduce are three: civic organization (or citizens' organization or civic NGO), public policy, and identification criteria.

The *first* is *civic organization* or civic NGO. It refers to a non-governmental organization – whatever its scope, size, legal status, objectives and membership – which is autonomously organized by citizens in order to protect rights, promote public interests and care for common goods. This definition includes voluntary organizations, advocacy movements (in the areas, for example, of human rights, consumer issues, the environment, equal opportunities), advice services, social enterprises, grassroots and community organizations, self-help groups and international cooperation NGOs. Civic organizations are not profit seeking, and act in service of the general interest.

The concept of civic organization allows us to define a set of civil society organizations which not only pursue legitimate private aims (in accordance with the principle of freedom of association), but also act in the public arena in caring for the general interest.

The second key concept is public policy. It refers to the sum of actions that public authorities take in the face of a public problem. These actions are usually broken down into:

- setting the agenda of public issues,
- planning strategies and programs,

- making decisions on a plan of action in forms such as laws, regulations and operational decisions,
- implementing the plan through actions, structures, or resources,
- evaluating the outcomes and impact of the implemented plan.

The realm of public policy making is distinct from that of politics, the rules of which legitimate the privileged treatment of groups and interests, based on considerations of power and ideology, and are shaped by the logic of the electoral process. Thanks to the approach of public policy we can focus the process of managing public problems on a daily basis, something different from (though obviously interrelated with) the political process. Public policy is relevant, because policy making has become a new arena of citizens' participation in public life, where the issue of representation takes on a particular importance.

This concept is also useful in avoiding a common misunderstanding, which would see public participation only in the phase of decision-making. We assume that participating in policy making means not only discussing laws and programs, but also acting in the implementation of policies.

The third key concept is identification criteria, which refers to norms and standards influencing or determining civic NGOs' ability to be involved in the formulation, implementation and/or evaluation of public policy. Identification criteria do so by constraining or regulating public institutions' discretion in involving partners and/or interlocutors from the range of non-governmental actors. They may be set forth in a legal framework, take the form of general or sectoral policies or simply describe the way that institutions actually function. Criteria have the quality of applying equally to all similarly-situated entities. Criteria are the practical and operational side of general paradigms defining the value, relevance and pertinence of civic NGOs as "acting for" and/or "standing for" others. The point is that these paradigms or basic assumptions are usually not expressed as such, but are directly translated into those operational norms and standards, which we define as identification criteria.

In other words, the concept of identification criteria is important because the issue of representativeness can be operationally translated into defining the effective criteria for choosing those organizations allowed to participate in policy making. This means that the identification and analysis of criteria will enable us to empirically study the issue of representativeness of civic NGOs in the public policy making arena.

### *Methodological choices*

As for the methodological choices, which have guided the research, the starting point for the definition of the research methodology and tools is the need to balance feasibility and reliability. To this end, we sought to identify operational research strategies able to yield meaningful and worthwhile results, given the constraints of the project.

These *constraints* can be summarized in three main points:

- time constraints, due to the deadlines established by the European Commission,
- limited financial resources, restricting the use of a wide spectrum of research tools,
- lack of accessible data, also in part for linguistic reasons.

Taking this situation into account, the following basic methodological points were established, leading to the definition of the research strategy and tools.

First of all, it was decided that the research of existing identification criteria be limited to those criteria accessible to citizens' organizations: we sent a letter and a questionnaire in English by post, fax and e-mail to governmental bodies, asking for information on this topic; and, together with our partners, we collected information posted on official internet sites. Both sources could provide only partial information on the topic. Nevertheless, it was established that only those criteria accessible to an average citizens' organization (without any special contact, personal relationship or background knowledge) would be taken into consideration as relevant criteria. Therefore, the active involvement of citizens' organizations in our research – a speciality of Active Citizenship Network – was a basic feature of the project.

Secondly, we decided not to take into account the national peculiarities of institutional or political systems, or historical backgrounds. For example, in Central and Eastern European countries, for historical reasons, the representativeness of civic NGOs only became a relevant issue after 1989; thus, no well-established behavior or habit could exist at present. Common law countries, by contrast, manifest very different institutional attitudes towards citizens' associations than some civil law countries. Despite these important differences, the arena of public policy making and its operational rules are quite similar in all countries, so that it is possible to get relevant and comparable information on this issue in each country. For the same reason, it is possible to compare the attitude and operational patterns of supranational institutions with those of national governments.

Thirdly, we decided to limit the search for criteria within individual states to central government institutions operating at the national level. This choice was motivated by the need to produce uniform, comparable and manageable results. We are aware that it is often at the local level that the most interesting citizens-governments relations take place, and that the institutional structures of certain states (such as Spain, Belgium or Germany) are federal. Nevertheless, it would have been impossible to get information beyond the national level.

### 3. *Research design and implementation*

The research was structured into four operations and related tools, aimed at gathering different kinds of data and information on the topic of representativeness of civic NGOs:

- government questionnaires,
- partner organizations internet research,
- case studies,
- position papers of partner organizations.

#### *Government Questionnaires*

We sent a questionnaire focusing on the institutional criteria for involving civic organizations in various phases of the public policy-making process to the ministries in charge of Foreign Affairs, the Environment, Social welfare and the Prime Minister's office in 32 countries:

- the 28 member states or candidate countries of the European Union,
- Australia, Canada, Tunisia and the U.S., as extra-European benchmarks and sources of further information on practices and problems.

In order to get their perspective, questionnaires were also sent to non-national institutions:

- international or multilateral organizations (OECD, UNICEF, World Bank, ECOSOC, IADB, The United Nations, UN Environmental Program),
- 4 institutions of the European Union (Commission, Parliament, Economic and Social Committee, Committee of the Regions).

An additional questionnaire, focusing on the role of civic NGOs in the pursuit of the UN Millennium Development Goals, was also sent to all of the above offices in Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey, the Foreign Affairs' ministries in all of the countries, and the international or multilateral

organizations. A total of about 145 letters were sent, by post, fax and electronic mail.

The list of questionnaire recipients was put together by ACN, by searching the websites of the relevant offices to gather information about the officials, offices and departments most likely to be interested and able to respond to the questionnaire(s). In certain cases, the specific function that we were targeting within ministries – especially environmental protection and development cooperation – was delegated to a specialized agency. Examples of this are environmental protection agencies (Denmark, US), international development agencies (UK, US, Canada, Australia) and agencies for the coordination of non-profit organizations (France, Italy). In these cases, the relevant person or department within the specialized agency was preferred over the more general function performed by the ministry. In cases of apparent overlap, both the ministry and the agency were selected.

*Prime Minister's Office.* In the absence of a specific office charged with NGO relations, the person/department in charge of social policy was selected. In certain states (France, Italy), there was a separate government agency dedicated to non-profit organizations, which was targeted instead.

*Foreign Affairs.* We targeted the department of development cooperation within the ministry, or the separate agency, when there was one. This selection made the research particularly precise in wealthy donor countries, all of which have a section devoted to development cooperation, if not a whole separate department/ministry. It raised doubts, however, in recipient developing countries, both within the New Europe and beyond. Departments of “economic relations” or “multilateral institutions” were selected instead.

*Welfare/Environment.* We targeted the office in charge of international and/or European affairs, on the assumption that it would be the most interested in the project, and the most able to work in English. If it was also possible to locate a person/section responsible for social participation, NGOs or community development, an additional letter was sent there. If there was no such section, as in the US, Canada, Australia, then community, social policy or participation was targeted. Not every country had an office of “welfare.” In the pursuit of functional substitutes, social affairs was preferred, then family, human services, social security and health.

Original language websites could be comfortably navigated, or at least reasonably understood, in Latin- and Germanic-based languages. In some cases, where precise ministerial information was available only in languages outside these families, or not available at all, the questionnaires were then sent to the ministries in general.

Sometimes the questionnaires were forwarded to other ministries (like Justice) or affiliated councils, and we accepted these responses along with the others.

We received a total of 35 substantive responses. Of these, 28 came from national governments in Europe, 3 from non-European national governments, 1 from the

European Union and 3 from international or multilateral institutions. The institutions that did respond to the questionnaire did not always answer all of the questions. For example, some addressed just one phase of policy making. The institutions that replied are the following:

1. Austria: Ministry of the Environment
2. Austria: Ministry for Foreign Affairs
3. Bulgaria: Ministry of Labour and Social Policy
4. Canada: Environment
5. Canada: Minister for International Cooperation
6. Cyprus: Ministry of Agriculture, Natural Resources and Environment
7. Cyprus: Ministry of Labour and Social Insurance
8. Czech Republic: Ministry of the Environment
9. Czech Republic: Office of the Czech Republic Government
10. Denmark: Ministry for Foreign Affairs
11. European Commission: Secretariat General
12. Finland: Ministry of Justice
13. Finland: Ministry of the Environment
14. Germany: Federal Ministry of the Environment, Conservation and Nuclear Safety (2 replies)
15. Germany: Federal Ministry for Economic Cooperation and Development
16. Hungary: Ministry of Health, Social and Family Affairs
17. Inter-American Development Bank
18. Ireland: Department of Foreign Affairs
19. Italy: Ministry of Foreign Affairs
20. Latvia: Department of European and Legal Affairs
21. Lithuania: Ministry of Foreign Affairs
22. Lithuania: Office of the Prime Minister
23. Malta: Council for Economic and Social Development
24. Netherlands: Ministry of Foreign Affairs
25. Netherlands: Ministry of Social Affairs and Employment
26. Poland: Ministry of Economy, Labour and Social Policy
27. Romania: Ministry of Labour, Social Solidarity and Family
28. Slovakia: Ministry of Regional Development
29. Spain: Ministry of Labour and Social Security
30. Sweden: Ministry of Justice
31. United Nations Development Program
32. United Nations Environmental Program
33. United Kingdom.: Department for International Development
34. United States of America.: US Aid for International Development

#### *Partner organizations Internet research*

Partner organizations were asked to visit institutional websites in order to examine whether identification criteria were readily available on them, and if so, what they were. 26 partner organizations from New Europe states (all of the members of the EU and the 3 candidate countries, except Luxembourg, Latvia and Lithuania, and two partners from Greece) visited the websites of the following eight ministries, or their functional equivalents:



- Prime Minister's Office,  
Foreign Affairs,
- Justice/Internal Affairs,
- Environment,
- Social Affairs,
- Education,
- Consumer Affairs,
- Health.

The ACN project staff performed this research of the above national government sites in Australia, Canada, Luxembourg, Tunisia and the United States.

Four European level partner organizations visited the sites of the following 10 European Union institutions:

- Council of the European Union,
- European Economic and Social Committee,
- EC DG Education and Culture,
- EC DG Employment and Social Affairs,
- EC DG Environment,
- EC DG for External Relations,
- EC DG Justice and Home Affairs,
- EC DG Sanco,
- EC Secretariat General,
- European Parliament.

They submitted brief reports, summarizing their findings.

One goal of this research was to supplement the information sent by the governments, and to check the government questionnaire responses against the information published on their websites. A second goal was to verify whether the identification criteria were easily accessible to interested citizens or not.

In many cases there were no criteria to be found. This result can have a variety of possible meanings:

- that the government/institution does not use criteria in identifying civic organizations,
- that its criteria are not posted on the web,
- even if posted on the web, this information is too difficult to find.

In reporting on their Internet research, some of the partners expressed their own views on the effective criteria in place in their countries. This material was reserved for other parts of the research.

### *Case Studies*

Focused examinations of identification criteria in Poland, the UK, Italy, Nicaragua and the EU were carried out by experts with a rich experience in the work of civic organizations.

Experts carried out six interviews:

- three with leaders of civic organizations, two of which were supposed to represent a national organization, and one was supposed to represent an umbrella organization,
- and three with government representatives, one drawn from each of the three different policy areas.

The interviews consisted of two parts, a formal questionnaire and a more open-ended discussion. Experts prepared reports of about 15 pages, in which they discussed the relevant context (national or European) and the method they used in identifying and contacting interviewees; they summarized the interviewees' answers to the questions and offered their own personal evaluations.

The goal of the case studies was to provide an in-depth comparison of the experiences of government officials' and civic organization representatives in working with each other, and their potentially different views on what the criteria are, how they are implemented and existing implementation gaps.

### *Partners' Position Papers*

On the basis of the three above-mentioned sources of information, the project staff drafted two working papers - one for Europe and another one for Latin America - bringing together the collected data. While these papers cannot claim to present an exhaustive picture of the situation in Europe and in Latin American, they do provide a significant spectrum of examples of the criteria and procedures used by institutions to involve NGOs in those two continents.

The relevant working paper was sent to all project partners, with a letter asking them for their comments. Specifically, the partners were asked to evaluate the existing identification criteria and procedures set forth in the paper or existing in their field of operation, to indicate the obstacles to the adequate identification of civic NGOs for participation in policy-making and to propose the criteria and procedure which, according to them, would be more suitable.

Taking into account the content of the Working Paper, the partner organizations involved in the project wrote a 3-page Position Paper containing their own views and suggestions on the topic of representativeness of the citizens' organizations interacting with governments.

The papers were aimed at giving value to the special competence of citizens' organizations, based on their direct involvement in interacting with governments and related knowledge.

Partners' Papers have specifically enabled us to collect information on:

- the criteria actually employed by governments in their daily activity,
- the main problems and implementation gaps emerging from experience,
- partner organizations' suggestions and proposals for new, more appropriate identification criteria, to be established and implemented by governments.

Especially with regard to the final point, partners' Position Papers can be considered as the verdict of a "*citizens' organizations jury*", that is, the outcome of a consultative process of deliberative democracy.

Position papers were written by the following 30 partners:

1. The World of NGOs, Austria
2. Foundation for Future Generations, Belgium
3. NGO Development Centre Bourgas, Bulgaria
4. Cyprus Consumers Association, Cyprus
5. Consumer Defence Association, Czech Republic
6. Danmarks Aktive Forbrugere, Denmark
7. Peipsi Centre for Transboundary Cooperation, Estonia
8. European Confederation of Workers' Co-operatives, Social Cooperatives and Participative Enterprises (CECOP), European Union
9. European Liaison Committee on Services of General Interest (CELSIG), European Union
10. European Citizen Action Service (ECAS), European Union
11. International Federation for Human Rights (FIDH), European Union
12. The Consumers, Finland
13. Reseaux Services Public, France
14. Maecenata Institut, Germany
15. European Expression, Greece
16. Consumer Protection Center (KEPKA), Greece
17. Nosza Projekt, Hungary
18. Age Action, Ireland
19. Associazione Nazionale delle Cooperative di Servizi e Turismo (ANCST), Italy
20. Consumers Association, Malta
21. Center for European Studies and Training (CESO), The Netherlands
22. European Centre of Sustainable Development (CEZR), Poland
23. Oikos, Portugal
24. Romanian Association for Consumers Protection (APC Romania), Romania
25. Association of Slovak Consumers, Slovak Republic
26. Legal Information Center for NGOs (PIC), Slovenia
27. Confederación de Consumidores y Usuarios (CECU), Spain
28. Kvinnoforum, Sweden
29. The Human Resources Development Foundation (HRDF), Turkey
30. Rutland Citizens' Advice Bureau, United Kingdom

The number and high quality of answers can be considered as proof of both the relevance of the topic for citizens' organizations, and their competence on the matter.

#### 4. *Value and limits of the results*

The last point to be dealt with in this introduction concerns the significance of this research in relation to its topic; that is, its value and limits.

Let's begin by identifying the *limits*. Three of them must be highlighted.

*First.* Norms and rules are by definition fixed, while the construction and mobilization of an active citizenry is by definition ongoing. Norms and rules change as well, but less quickly than citizens' organizations and their relations with institutions in particular. A limit of the research is that it gives us only a photograph and not a movie of the situation. This gap could be filled collecting the same information again within a couple of years; but at this moment the lack of diachronic data should be considered as a limit of the results of the research.

*Second.* The research is aimed at collecting a small amount of information in a wide range of situations. Therefore it cannot consider the phenomenon of the definition and implementation of government criteria for the identification of representative citizens' organizations in depth. The reality of the countries and institutions taken into consideration is without doubt much richer and more complex than what results from the gathered data and information, including the existence of a number of different criteria coexisting in the same institution and applied according to the different situations, programs to be defined or implemented or kind of organization involved. Given the constraints that the research had to take into account, though, only a part of this reality could be registered.

*Third.* In a number of cases no criteria for the identification of citizens' organizations by governments were identified. It does not necessarily mean that in those situations there do not exist any criteria. It could mean also that institutions did not communicate them, not considering them relevant. This is a relevant piece of information in itself. Since it is impossible to distinguish the two situations, it must be clarified that the research has much more value in being able to point out determinate existing criteria, than in documenting the absence of criteria.

Let us turn now to the *value* of the research. Four points can be stressed .

*First.* The research gives us an unprecedented look into a topic which is at the same time one of the most relevant and one of the less known in the field of public policies on civic activism. In other words, while politicians and policy makers tend to consider the issue of representativeness of citizens' organizations as a very hot topic, they do so without a proper amount of information and knowledge. The research can, thus, contribute to fill this gap between the relevance of the issue and the poverty of related information.

*Second.* The research can stimulate a stronger commitment of the academic community in the area of representativeness of citizens' organizations. As we have said, it is not only an issue of the utmost concern for practitioners, but it can also be a source of empirical data on the general question of crisis of representativeness in contemporary democracies. Putting at scholars' disposal data and information coming from the analysis of the "active citizens' side" of representation can improve research activity on this issue.

*Third.* The research consequently provides an empirical basis to the debate, ongoing at international, European and national levels, on the representativeness of the civic NGOs working in partnership with governments and transnational institutions. The research can thus ground this debate in reality, enabling us to avoid abstract or ideological solutions to a real and concrete problem. With particular regard to the European Union, the research can enable institutions and civil society to give a concrete, realistic and effective meaning to the requirement of representativeness of citizens' associations, stated in Article 46 of the Constitutional Treaty.

*Fourth.* The research can give both weight and responsibility to the citizens' organizations working on the question of representativeness. This research enhances the first-hand knowledge and know-how of citizens' organizations as targets of the processes of identification for the involvement in policy making. It moreover invites these organizations to participate in a process of definition and assessment of guidelines, tools and procedures for the evaluation of the representativeness of citizens' organizations. It can therefore be considered, in a sense, as an experience of deliberative democracy, involving policy targets as actors in policy making.

## CHAPTER 1

### **Findings of the survey on the existing criteria**

In this chapter we report the results of the data and information gathered from the official sources about the existence of criteria for the involvement of citizens' organizations as actors in the policy making process and their content. Data and information reported below therefore come from both the governments' answers to questionnaires and the partners' research on official Internet sites.

The points we will take into consideration are the following:

- Status and scope of the identified criteria,
- Kinds of criteria,
- Existence of formal prerequisites for identification,
- Actors involved in the identification process,
- Existence of tools and procedures for the publicity of criteria,
- Existence of forms of facilitation for the citizens' organizations interested in participating in policy making.

It must be borne in mind that this chapter reports only the information derived from official sources. This means that reality could be very different from the provisions reported here, as we will see in the following chapters.

From the methodological point of view, we have produced a specific typology for each point, which will be presented at the beginning of the paragraph. All of these points are linked to the operational concept of "identification criteria" defined in the Introduction.

In general, we used the three following policy phases or dimensions as a common operational starting point for the analysis:

- Formation, including agenda setting, planning and decision,
- Implementation,
- Evaluation.

The use of this distinction gave worthwhile results with regard to formation and implementation, while evaluation yielded almost no information; in virtually no case was it reported that citizens' organizations participate in evaluation activities. This result could signify public administrations' general indifference to evaluating their own performance, rather than an exclusion of civic NGOs from evaluation activities. In any case, to organize the research results, we applied only the categories of formation and implementation.

## 1. *Status and Scope of Criteria*

The analysis of the status and scope of identification criteria focuses on the following points:

*Table 1.1. – Status and scope of criteria - Typology*

- <i>Positive criteria</i>
* <i>Written</i>
- in laws and regulations
- in policy documents and guidelines
* <i>Unwritten</i>
- <i>No positive criteria</i>
* <i>Open procedures</i>
* <i>Flexible, ad hoc process</i>
* <i>Arbitrary procedures</i>
- <i>Scope</i>
* <i>General</i>
* <i>Sectoral</i>

Criteria may be official, written standards. Written criteria are set forth in such instruments as laws, regulations, governmental or departmental policy statements, and as such might be legally binding, or expressions of political or institutional commitment. They may also be unwritten standards (evolving out of custom, institutional practice or implicit policy). Unwritten criteria refer to regular and consistent practices that make identification procedures sufficiently foreseeable, as when they are regulated by written criteria. Like written criteria, they operate in a knowable and predictable way to regulate civic NGOs' access to participation in the public policy-making process.

The affirmative existence of identification criteria can be distinguished from three other kinds of situations, in which no positive criteria are to be found:

*Open procedure*, a situation characterized by the formal openness of institutions to the participation of any organization that may so desire. Participation is not determined by institutions applying, and organizations satisfying, criteria.

*Flexible, ad hoc identification process*. Institutional representatives declare that they are not regulated by fixed criteria, but rather follow a flexible, ad hoc (but not necessarily arbitrary or unprincipled) identification process.

*Arbitrary procedures* describes the situation in which public institutions' identification of non-governmental interlocutors is not constrained or regulated by norms and standards. An example of such arbitrary treatment would be when

identification depends on personal or partisan considerations, such as the exclusive awareness or affinities of the official in charge.

As far as the scope of the criteria are concerned, we have distinguished between criteria that (are meant to) apply in many different offices, ministries and policy areas from those that just apply specific sectors. *General criteria* refer to written or informal criteria that apply across different government offices and different procedures, participation mechanisms and policy areas. *Sectoral criteria* apply to particular sectors, offices or policy fields.

That having been said, we can turn to the results. Let's begin with the dimension of formation of policies.

Table 1.2. – Status and scope of criteria – Formation of policies

	European countries	Non-European countries	EU	International institutions	Total reported
<b>· STATUS</b>					
- POSITIVE					
* Written, in laws	8	0	1	1	10
* Written, in policy documents	8	1	1	3	13
* Unwritten	5	1	1	1	8
<b>Total Positive</b>					<b>31</b>
- NON-POSITIVE					
* Open procedure	12	2	1	2	17
* Flexible, ad hoc	8	1	1	1	11
* Arbitrary	1	1	0	0	2
<b>Total Non-Positive</b>					<b>30</b>
<b>· SCOPE</b>					
- GENERAL	5	2	0	0	7
- SECTORAL	23	0	0	0	23

As for this first table some remarks can be made.

Positive criteria are reported in 31 cases, just as often as non-positive criteria are.

Positive standards for the identification of citizens' organizations to participate in policy formation are most frequently defined in policy documents. They are set forth in laws somewhat less frequently, and embodied in unwritten form even less frequently; the degree of difference is, however, rather low. In the European countries, standards are equally embodied in laws and in policy documents. In any case, written criteria largely prevail over unwritten criteria (23 against 8).



As for the non-positive criteria, open procedures appear most frequently, and flexible criteria are mentioned by a relevant number of institutions as well. Open procedures were reported in the highest number of cases. Even if there are only two reported cases of arbitrary criteria of identification, this cannot be considered as good news.

About the scope of the criteria, they are in most cases sectoral. This could indicate the lack of a general policy regarding citizens' organizations, already noted in other research projects of Active Citizenship Network<sup>5</sup>. It should be added that all 5 European countries that have established general criteria have established sectoral criteria as well.

We can now report the data related to the implementation dimension of policies.

*Table 1.3. – Status and scope of criteria – Implementation of policies*

	European countries	Non-European countries	EU	International institutions	Total reported
<b>· STATUS</b>					
- POSITIVE					
* Written, in laws	4	0	0	1	5
* Written, in policy documents	10	3	0	1	14
* Unwritten	3	0	0	0	3
<b>Total Positive</b>					<b>22</b>
- NON-POSITIVE					
* Open procedure	0	0	0	0	0
* Flexible, ad hoc	0	0	0	0	0
* Arbitrary	0	0	0	0	0
<b>Total Non-Positive</b>					<b>0</b>
<b>· SCOPE</b>					
- GENERAL	1	1	0	0	2
- SECTORAL	18	3	0	0	21

Unlike in the formation of policies, there are very few reports of implementation criteria written in laws, while reports of criteria written in policy documents is more or less the same. This fact could be explained by the circumstance that implementation is considered a typical administrative activity, while formation of policies is commonly regarded as a more “political” activity – thus ruled in laws.

<sup>5</sup> Active Citizenship Network, “Public Institutions Interacting with Citizens’ Organizations. A Survey on Public Policies on Civic Activism in Europe”, paper, March 2004.

It must be also noted that non-positive criteria have not been reported for the implementation phase. The open procedure, which came in first place in the policy formation dimension, was not reported at all in the implementation dimension. This suggests that when relevant resources and activities are at stake (as they are in the implementation of policies), institutions have a greater incentive to fix positive criteria. While more open and flexible criteria seem to be considered more appropriate for consultation, the identification criteria is much more rigid for such activities as providing social services.

## 2. *Kinds of criteria*

The data and information on the substance of standards for the involvement of civic NGOs make up the core of this part of the research. We have organized the collected data according the following typology:

*Table 1.4. – Kinds of criteria - Typology*

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"><li>- <i>Objective criteria</i><ul style="list-style-type: none"><li>* Related to the organization<ul style="list-style-type: none"><li>- Size</li><li>- Territorial scope</li><li>- Degree or operational level</li><li>- Stability</li><li>- Resources</li><li>- Transparent accounting</li></ul></li><li>* Related to the organization's activity<ul style="list-style-type: none"><li>- Field of operation</li></ul></li></ul></li><li>- <i>Evaluative criteria</i><ul style="list-style-type: none"><li>* Related to the organization<ul style="list-style-type: none"><li>- Experience</li><li>- Expertise</li><li>- Reputation</li><li>- Independence</li><li>- Trust</li><li>- Networking</li><li>- Internal organization</li><li>- Specific interests</li><li>- General interests</li></ul></li><li>* Related to the organization's activity<ul style="list-style-type: none"><li>- Past results</li><li>- Quality of project</li></ul></li></ul></li></ul> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Some definitions and specifications related to this typology are necessary.

*Objective* criteria are standards that are measurable, like a requirement that an organization have at least 20 members to participate. While they are supposed to apply “automatically,” they may also depend on the administration’s commitment and ability to verify whether such objective requirements have been met.

Those *pertaining to the organization* are:

- *Size*: number of members, number of volunteers
- *Territorial scope*: membership or activities in a determinate local, regional, national or multi- national area (ex. European networks must have member organizations in several EU Member States).
- *Degree/level of organization*: first-degree organizations with individual members, second-degree organizations like networks or federations, the members of which are other associations.
- *Stability*: minimum years of existence.
- *Resources*: may be human, financial and technical.
- *Transparent accounting*: verifiable financial records.

Objective criteria *pertaining to organization’s activity* are

- *Field of operation*: the subject matter or policy area in which the organization is engaged. This might be determined by the organization’s self-definition, its interests and its activities.

*Evaluative* criteria, on the contrary, set forth a framework within which institutional officials must exercise their judgment in determining whether the criteria have been or can be fulfilled. They call for a certain discretion, choice and thus responsibility on the part of the administration.

Those *pertaining to the organization* are:

- *Experience*: this includes range of experience and number of years of experience.
- *Expertise*: technical skill, scientific competence, specific knowledge, know-how.
- *Reputation*: the quality of being well-known and/or well-respected, in a certain territory. It may refer more specifically to how an organization is viewed by relevant institutional actors or other organizations.
- *Independence*: from the government, business and/or industry, political parties and trade unions.
- *Trust*: good personal relationships between representatives of public institutions and the organization, a good working relationship, a history of cooperation, good will between the institution and the organization.

- *Networking capacity*: links and connections with other organizations, the ability to develop networks at the local, national, European or international level.
- *Internal organization*: adequate organizational structure, budget control and financial management.
- *Capacity to give visibility/voice to specific interests*: these might be specified as members' interests, minority interests, interests relevant to a specific group or issue.
- *Capacity to give visibility/voice to general interests*: expression of general concerns or of a large number of people.

Evaluative criteria *pertaining to organization's activity* are:

- *Past results*: outcomes of projects, consultations, and activities already carried out, evidenced by an organization's track record.
- *Quality of the proposed project*: design, relevance, efficient pursuit of goal or use of resources.

Taking into account these definitions and specifications, we can report the results of the survey on this important issue. We will begin with the data related to the dimension of policy formation.

Table 1.5. – *Kinds of criteria – Formation of policies*

	European countries	Non-European countries	EU	International institutions	Total reported
<b>· OBJECTIVE</b>					<b>30</b>
<i>* Related to the organization</i>					25
- Size	5	0	0	0	5
- Territorial scope	6	0	1	0	7
- Degree	6	0	2	1	8
- Stability	3	0	0	0	3
- Resources	0	0	0	1	1
- Transparent accounting	0	0	0	1	1
<i>* Related to the activity</i>					5
- Field of operation	5	0	0	0	5
<b>· EVALUATIVE</b>					<b>67</b>
<i>* Related to the organization</i>					63
- Experience	3	1	1	0	5
- Expertise	7	1	1	3	12
- Reputation	3	1	0	0	4
- Independence	2	0	0	1	3
- Trust	4	0	1	0	5
- Networking	1	0	0	1	2
- Internal organization	5	0	0	1	6
- Specific interests	14	2	1	3	20
- General interests	4	0	2	0	6

* <i>Related to the activity</i>					4
- Past results	3	0	1	0	4
- Project	0	0	0	0	0

Some comments on this table are necessary.

First of all, we see that criteria linked to the soundness of the organization itself are, both in objective and in evaluative cases, much more frequent than criteria linked to the organization's activity: 25 against 5 in the first case, 63 against 4 in the second. This could mean that, in the formation of policies, the concrete activities of citizens' organizations are not a source of assessment of their ability to be part of the government process.

The second remark is that evaluative criteria appear twice as often as objective criteria, according to the official sources: 67 against 30. This result probably sounds odd to the many citizens' organizations which are used to having to prove their existence from administrative and legal points of view in order to be consulted on a policy program related to a field in which they are highly skilled and experienced. But this is what emerges from official data and answers of governments' representatives. Later, we will check whether this vision is consistent with reality, or not.

Thirdly, from the two series of criteria, some clusters can be built, enabling us to get further information.

With regard to objective criteria, three clusters can be identified:

- *Diffusion* – Territorial scope + Field of operation + Degree of operation: 20 mentions out of 30
- *Structure* – Size + Stability: 8 mentions
- *Financial status* – Resources + Transparent accounting: 2 mentions.

With regard to the evaluative criteria, four clusters can be identified:

- *Expression of interests* – Ability to give visibility and voice to specific + general interests: 26 mentions out of 67
- *Capability* – Experience + Expertise + Past results + Project: 21 mentions
- *Public image* – Reputation + Independence + Trust: 12 mentions
- *Constituencies* – Internal organization + Networking: 8 mentions

Finally, as for the individual criteria, the two most important objective criteria are Degree of Operation and Territorial Scope (8 and 7 mentions respectively). Among the evaluative criteria, they are Ability to Give Voice/Visibility to Specific Interests (20 mentions) and Expertise (12). It could therefore be said that objective criteria stress the extension and roots of the organizations'

constituencies, while the evaluative criteria stress the organizations' ability to express specific interests and deal with specific problems.

Let us turn now to the results concerning the dimension of policy implementation.

Table 1.6. – Kinds of criteria – Implementation of policies

	European countries	Non-European countries	EU	International institutions	Total reported
<b>· OBJECTIVE</b>					<b>24</b>
<i>*Related to the organization</i>					19
- Size	0	0	0	0	0
- Territorial scope	1	0	0	0	1
- Degree	0	0	2	1	0
- Stability	1	1	0	1	3
- Resources	4	2	0	1	7
- Transparent accounting	6	1	0	1	8
<i>* Related to the activity</i>					5
- Field of operation	5	0	0	0	5
<b>· EVALUATIVE</b>					<b>53</b>
<i>* Related to the organization</i>					35
- Experience	6	2	0	1	9
- Expertise	7	0	0	1	8
- Reputation	1	0	0	1	2
- Independence	1	0	0	1	2
- Trust	2	0	0	0	2
- Networking	2	1	0	1	4
- Internal organization	4	2	0	1	7
- Specific interests	0	0	0	1	1
- General interests	0	0	0	0	0
<i>* Related to the activity</i>					18
- Past results	1	0	0	1	2
- Project	12	3	0	1	16

We see a similar gap in the implementation phase between criteria regarding the organization and criteria regarding its activity, precisely 19 against 5 in the objective criteria and 35 against 18 in evaluative criteria: in total, 54 against 23, which means that criteria related to the organization appear more than twice as frequently as criteria related to activity. The gap, though, is lower than in the policy formation phase, where it is slightly greater than 9:1. The possible reason for this difference is that in the implementation phase, the policy's direct impact on reality is at stake. As a result, operational factors are much more important to implementation than they are in the case of policy formation, where discussions and decisions are in the foreground.

To further highlight the differences between formation and implementation, we can compare the different weight of the same criteria. Let's take into consideration those criteria, which obtained the highest rank in terms of number of mentions in each phase.

Table 1.7. – Comparison between top criteria in the two phases

Formation	Total reported	Implementation	Total reported
Specific interests	20	Project	16
Expertise	12	Experience	9
Degree/level	8	Expertise	8
Territorial scope	7	Transparent accounting	8
General interests	6	Resources	7
		Internal organization	7

The top criteria for policy formation can be grouped into two clusters:

- *Structure and competence* – Expertise + Degree/Level + Territorial Scope: 27 mentions
- *Advocacy* – Ability to give voice to specific + general interests: 26 mentions

The top criteria for the policy implementation phase can be organized into two different clusters:

- *Practical ability* – Project + Experience + Expertise + Internal Organization: 40 mentions
- *Financial situation* – Transparent accounting + Resources: 15 mentions

Before any other consideration, we would like to note that the only criterion which recurs on both lists is expertise. On one side, this supports our hypothesis that standards for the identification of citizens' organizations are dealt with in completely different ways in the formation and implementation phases. On the other side, it shows the governments' tendency to consider and use citizens' organizations often just as experts, thus neglecting their own nature and their specific know-how.

What is the essential difference between formation and implementation dimensions? According to the above table, what is really important in policy formation is the organization's relation to the targets of policies and the relevance of its constituencies, while what seems important for implementation is the organization's reliability in operational and financial terms.

In order to verify the existence of relevant differences between the two dimensions, we can apply to implementation the same grouping used above in analyzing formation criteria. The results are the following.

With regard to objective criteria, three clusters can be identified:

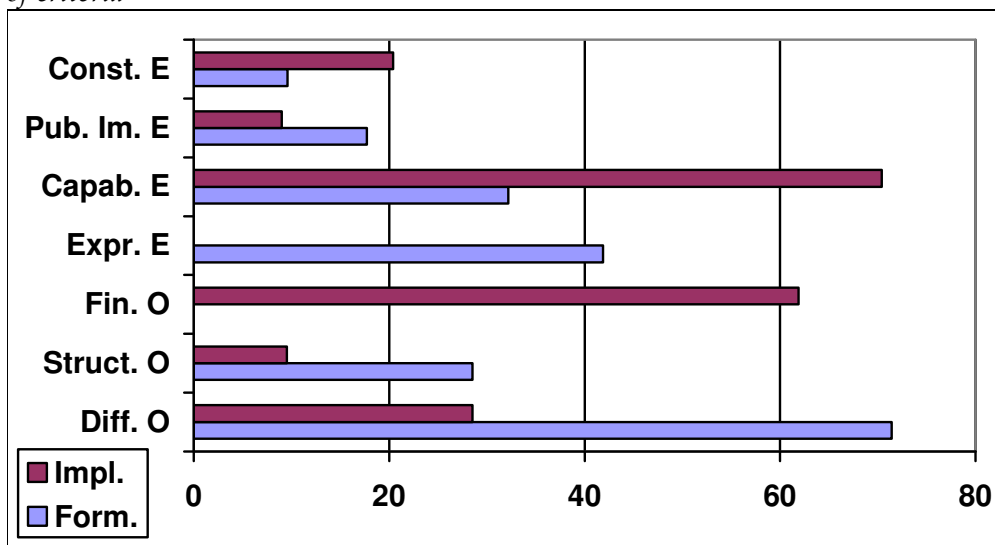
- *Diffusion* – Territorial scope + Field of operation + Degree of operation: 6 mentions out of 24
- *Structure* – Size + Stability: 3 mentions
- *Financial Status* – Resources + Transparent accounting: 15 mentions.

With regard to the evaluative criteria, four clusters can be identified:

- *Expression of interests* – Ability to give visibility and voice to specific + general interests: 1 mention out of 53
- *Capability* – Experience + Expertise + Past results + Project: 35 mentions
- *Public Image* – Reputation + Independence + Trust: 6 mentions
- *Constituencies* – Internal organization + Networking: 11 mentions

In order to illustrate the differences, the following graph can be useful. The graph is based on percentages relative to the partial totals of the two dimensions. Capital letters E and O distinguish clusters pertaining to evaluative and objective criteria.

*Comparison between Implementation and Formation dimensions with regard to the kinds of criteria*



The table shows two main divergences between Formation and Implementation dimensions. The expression of interests is of the utmost importance in Formation and does not appear in Implementation. On the contrary, Financial Status is really relevant in Implementation and of no importance in Formation of policies. Another relevant divergence regards Capability, on one side, and Diffusion on the other side. Capability is the most important criteria in Implementation and of less relevance in Formation; Diffusion is the most important criteria in Formation and of low rank in Implementation.



It must also be noted that evaluative criteria appear twice as frequently in the implementation phase than objective criteria.

Lastly, as for the individual criteria, the two most frequent objective criteria relate to financial matters: Transparent accounting and Resources (8 and 7 mentions respectively). Among the evaluative criteria, the most frequent are quality of Project (16 mentions) and Experience (9). It confirms what we have said about the peculiarities of the Implementation dimension.

### *3. The application of criteria*

Let us conclude this chapter by looking at four significant aspects of the definition and application of standards for the identification of citizens' organizations seeking to participate in policy making. They regard the existence of formal prerequisites to identification, the actors involved in the identification process, the existence of tools and procedures for the publicity of criteria and the existence of forms of facilitation to citizens' organizations' involvement in the policy process.

A consideration of these elements sheds light on two relevant aspects of the topic we are dealing with. It illuminates first of all the institutional and social context in which the standards for the involvement of citizens' organizations are applied. Secondly, they show us the way in which identification criteria are applied by institutions – an issue that cannot be separated from the criteria themselves, since it may noticeably affect the results of the process.

#### *Formal prerequisites*

Formal prerequisites may include registration requirements, accreditation (which may require peer review and self-assessment), and formal recognition as a foundation or association, fulfillment of general eligibility criteria or other legal status requirements and the submission of legal and other documentation.

While formal prerequisites do not themselves constitute criteria of identification, it is worth mentioning them insofar as they can govern threshold access to participation. Fulfilling them usually implies burdens on civic organizations in terms of time and human resources. The existence of formal prerequisites is reported in the following table, including both dimensions of policy-making.

*Table 1.8. – Existence of formal prerequisites in formation and implementation of policies*

	<b>European countries</b>	<b>Non-European countries</b>	<b>EU</b>	<b>International institutions</b>	<b>Total reported</b>
Formation	13	0	1	1	15
Implementation	10	2	0	1	13

We can see that the practice of requiring the fulfillment of formal prerequisites in order to access the identification process is quite widespread. With regard to European Union countries, it reflects a general attitude of public institutions towards citizens' organizations. As it was shown by the aforementioned survey on public policies on civic activism in Europe, public institutions often prefer to focus on formal rather than functional or pragmatic criteria. The existence of prerequisites is anything but irrelevant for citizens' organizations: in fact it usually implies a relevant investment of time, resources and relations which should be better used in effective participation in policy making. It must be therefore taken seriously into account in this analysis.

#### *Actors in the identification process*

A second element to take into consideration aims at answering the question: Who applies the criteria? A consideration of the actors in the identification process is essential to understanding how the criteria function in practice.

To this end, the following typology of actors and functions has been set up:

- *Institutional assessment*: the institution (the office or person in charge of the project, proposal, policy) decides whether an organization may participate, measuring whether it fulfills the criteria; administration of public tender procedures or open bidding procedures for project funding. In the European Union system, institutional assessment may have the particular quality of being performed by Member State governments.
- *Self-appointment*: participation formally depends on organizations' own volition. This might mean participating in an open consultation, an organization registering its interest with a government institution in being included on various lists (of experts in certain policy areas, representatives of particular interest groups or interested interlocutors) and may be exercised in response to an institutional call for expression of interest.
- *Peer recommendation*: members of standing councils and bodies may be identified by other organizations, or on the proposal of NGOs in the respective policy areas. Networks working with the government may arrange for the participation of particular organizations in development policy discussion. Regional or sub-regional forums of organized stakeholders may be held to nominate representatives to larger forums.

- *Hybrid bodies*: made up of both government and NGO representatives, these bodies may determine who may participate in consultation or receive funding for the implementation of policies.

The results of the application of this typology are reported in the following table.

*Table 1.9. – Actors in the identification process*

	European countries	Non-European countries	EU	International institutions	Total reported
<b>·FORMATION</b>					
* Institutional assessment	14	1	3	2	20
* Org. self-appointment	6	0	0	1	7
* Peer review	4	1	1	0	6
* Hybrid	1	0	0	0	1
<b>·IMPLEMENTATION</b>					
* Institutional assessment	11	3	1	0	15
* Org. self-appointment	0	0	0	0	0
* Peer review	1	1	0	0	2
* Hybrid	0	0	0	0	0

In the formation phase, institutional assessment comes in first place, though other procedures involving non-state actors are quite widespread (14 mentions in total, in comparison with 20 regarding institutional assessment). On the contrary, in the implementation phase, institutions seem to have a virtual monopoly over the process (15 mentions out of 17) and non-official actors have practically disappeared.

These data confirm what we have already noted on the differences between the two dimensions of policy-making with regard to involvement of citizens' organizations. While identification processes for participation in policy formation are more open, processes for participation in implementation appear more rigid and oriented from the top down.

*Tools and procedures for the publicity of criteria*

The ways in which institutions publicize the participation process and organizations' chances of accessing it may directly influence the range of organizations which are aware of this possibility and thus have a chance of applying and being included. A legal right to participate may be rendered more or less effective depending on the degree of adequate information.

This information has been organized according to the following typology:

- *Websites*: Extensive information, provided in an easily-accessible way (through single portals or unified access points, for example), might be a great help to organizations in participating in public policy making.
- *Official journals, newspapers and magazines*: The publication of information and documentation relating to processes in which civic organizations might participate, in official journals, newspapers and magazines, for example, might facilitate their participation because they are theoretically accessible to everybody.
- *Direct invitation*: The direct invitation/notification to organizations of processes, in which they may participate, through mailing lists for example, facilitates their participation since they don't have to actively seek out the information. However, the efficiency of this means of publication depends on how complete and updated the mailing lists are.
- *Network organizations*: The existence of recognized networks or umbrella organizations can enhance the publicity of information on criteria among the member organizations.

The results of the analysis of information on this point coming from official sources are summarized in the following table.

Table 1.10. – Tools and procedures for the publicity of criteria

	European countries	Non-European countries	EU	International institutions	Total reported
<b>·FORMATION</b>					
* Internet	11	1	1	2	15
* Official journals etc.	4	0	0	0	4
* Direct invitation	1	0	0	0	1
* Network organizations	2	1	0	0	3
<b>·IMPLEMENTATION</b>					
* Internet	11	3	1	1	16
* Official journals etc.	2	0	0	0	2
* Direct invitation	0	0	0	0	0
* Network organizations	0	0	0	0	0

The main features of publicity procedures as emerge from these data seem to be the following:

- The Internet is by far the most recurrent tool in both phases,
- It seems there is very little practice of direct invitation to organizations to participate,
- The role of networking organizations appears to be marginal.

On the basis of this information, it can be stated that the digital divide is one of the most relevant problems that actors of policy on civic participation, whether governmental or not, must address in the next years (though the use of institutional websites as a source of information may have partially conditioned the results).

### *Forms of facilitation*

The last point concerns the existence of forms of facilitation for the citizens' organizations seeking to participate in policy-making. Facilitation refers to government efforts or policies to help civic organizations to participate in public policy making. Different elements of facilitation have been organized under the following categories:

- *Support*: Financial support includes the funding of civic organizations to aid participation, and may enable more of them to do so effectively. Other forms of support include institutional assistance in preparing applications, provision of human or administrative resources.
- *Time*: A legal right to participate may be rendered less effective by a lack of adequate time to apply for participation.
- *Inclusion of the weak*: Practice or policy by which government takes a proactive approach towards the specific needs, interests and contributions of minorities, socially-excluded and underrepresented groups.

The results of the application of the typology to data and information coming from governments and other institutions are summarized in the following table.

*Table 1.11. Forms of facilitation*

	European countries	Non-European countries	EU	International institutions	Total reported
<b>·FORMATION</b>					
* Support	3	1	1	3	8
* Time	2	2	1	0	5
* Inclusion of the weak	2	1	1	2	6
<b>·IMPLEMENTATION</b>					
* Support	3	2	0	0	5
* Time	0	0	0	0	0
* Inclusion of the weak	0	0	0	1	1

From the information obtained, it could be affirmed that governments are not particularly concerned with facilitating citizens' organizations in fulfilling requirements for the participation in policy-making process. This is clearly the case at the implementation phase (where the lack of mentions is almost total), though less so for participation in formation. In the latter, international

institutions and the European Union seem to be relatively more sensitive to the matter than national (especially European State) governments.

## CHAPTER 2

### Results of the case studies

#### 1. *Purpose and structure of the case studies*

As explained in the introduction, the second research strategy was the carrying out of case studies. They were conducted by experts in the field of civic activism and involved the following national or supranational governments – for the European part of the project:

- European Union,
- Italy,
- Poland,
- United Kingdom.

Experts carried out six interviews:

- three with leaders of civic organizations, two of which represented a national organization, and one representing an umbrella organization. These leaders were supposed to be active in three different policy areas,
- and three with government representatives, drawn from the same three policy areas as the civic organizations' leaders.

The interviews consisted of two parts, a formal questionnaire and a more open-ended discussion. Experts prepared reports of about 15 pages, in which they discussed the relevant context (national or European) and the method they used in identifying and contacting interviewees; they summarized the interviewees' answers to the questions and offered their own personal evaluations.

The goal of the case studies was to provide an in-depth comparison of the experiences of government officials' and civic organization representatives in working with each other, and their potentially different views on what the criteria are, how they are implemented and potential implementation gaps.

To be more precise, the case studies aimed at substantively describing concrete situations, rather than contributing to formal typologies. This information can indeed help to illuminate the relationship between what is provided by laws, regulations and policy documents and what happens in reality. They can, therefore, enable us to analyze in greater depth the mechanisms by which identification standards are established and applied, identifying both problems and effective responses to actual needs.

This chapter has been organized as a summary of the main information coming from each national or supranational government/institution. Each summary was structured in terms of:

- Data
- Problems: obstacles and implementation gaps
- Differences in the points of view of government officials and civic leaders
- Proposals and good practices

For the sake of brevity, we have chosen to report the findings of case studies in a rather synthesized fashion. While the following may lack depth and nuance, we hope it makes up for this in breadth and clarity.

## 2. *European Union*

The expert interviewed institutional representatives and civic leaders in the following three sectors: consumer policy, the environment and social affairs.

### *Data*

The main source of general written criteria at the **European Commission (EC)** level is the *Communication of the Commission: towards a reinforced culture of consultation and dialogue – general principles and minimum standards for consultation of interested parties by the Commission, 11 December 2002*. In addition to establishing institutional duties relating to consultations (clear and comprehensive information, adequate publicity, allowing consulted parties sufficient time to respond and the provision of adequate feedback), it also sets forth standards for involving organizations in consultation. Depending on the specific consultation, consultation organizers should seek out: those affected by or interested in the policy, understood broadly; those able to contribute specific experience, expertise or technical knowledge; non-organized interests; those with a good track record in previous consultations; those able to contribute to a proper balance between social and economic bodies, large and small organizations, organizations from within and beyond the EU.

The **European Economic and Social Council (EESC)** has a detailed written policy for the identification of civil society organizations to participate in a permanent civil dialogue, expressed in particular in its *Opinion on organized civil society and European governance, 25 April 2002*. Participating organizations must: exist permanently at the European level; provide direct access to their members' expertise and thus rapid and constructive consultation; represent general concerns that tally with the interest of European society; comprise bodies that are recognized at the Member State level as representative of particular interests;



have member organizations in most of the EU Member States; provide for accountability of its members; have authority to represent and act at the European level; be independent and mandatory, not bound by instructions by outside parties; be transparent financially and in its decision-making structures. The ESC criteria have become influential upon other EU institutions in identifying “representative organizations.”

It is the practice of EC **Directorate General (DG) Social Affairs** to consult NGOs working in the specific areas of social affairs. These tend to be European networks belonging to the Platform on European Social NGOs. Institutional identification may follow an institutional call for organizations’ expression of interest, in which case the main criteria for identification may be technical capacity, resources and the relevance of the proposed work program. DG Social Affairs usually applies the Commission’s general minimum standards in organizing open internet consultations. As far as DG Social Affairs’ criteria for involving organizations to implement public policy, these are set forth in the calls for proposals. In one example, the main criteria were: internal organization, territorial scope, including an organization representing specific interests in the proposal.

EC **DG Environment** employs two main channels for consultation: open internet consultation and structured cooperation with Green Aid, a coalition of European organizations and networks. It tends to consult organizations with which it already works. Detailed criteria for funding NGOs to carry out specific implementation projects are laid out in calls for proposals. For direct funding, criteria pertain to both the organization (territorial scope of its membership, financial transparency, resources, expertise, networks) and its activity (the proposed work program).

EC **DG Sanco** uses the European Consumer Consultative Group (ECCG) to consult consumer organizations. A Commission decision sets forth the threshold requirements for qualifying as a “European consumer organization,” and thus potential membership in the ECCG (independence, specific interests, territorial scope, financial transparency, formal prerequisites). The awarding of implementation projects is not however limited to consumers organizations.

### *Problems*

- Though the *Communication* standards are supposed to be general, they are unevenly applied by the different DGs.

- Some DGs have a hard time managing the results of open internet consultations. This is because they have limited resources and little information on the authors of the contributions.
- The Commission also organizes many informal consultations. Practices are thus unpredictable and consultation remains contingent on the will of the Commission and its civil servants.
- Identification criteria and practices, and a general lack of transparency, make it hard for organizations to understand how and when they can participate. Lack of transparency is also compounded by practice of holding meetings with one organization at a time.
- There is a lack of support to enable organizations to participate in the consultation process, since EU institutions rarely cover expenses. This makes financial resources and a Brussels office the main *de facto* criteria of selection.

#### *Cognitive divergences*

No important differences between institutional officials and civic leaders' points of view emerge from the case study.

#### *Proposals and good practices*

- Though flexible identification criteria for consultation can be a problem, one civic leader cautions against rules that are too fixed and rigid, as they could lead to purely formal consultations. It is important to leave room for informal meetings, requested by NGOs themselves, which tend to be the most useful.
- In the case of formal consultations, transparency is guaranteed by the fact that all the contributions are published on the Commission website.
- There should be more public hearings, to which organizations are invited based on their real activities and expertise.

### 3. *Italy*

Owing to difficulties in gaining access to institutional representatives, the Italian case study departs slightly from the norm of 3 sectors, in each of which one government representative and one civic leader was interviewed. This was the case for two sectors only: the environment and welfare. In addition, the expert interviewed 1 institutional representative in the field of education and 2 civic leaders were interviewed in the sectors of health and international cooperation.

### *Data*

Many different laws govern the formal prerequisites that organizations must meet in order to be recognized by public institutions. Though set forth in a fragmentary way, the basic prerequisites require an organization to demonstrate the following: it is private and non-profit, has formal charter, is independent and self-governed, has volunteers, and in some cases, has a democratic internal organization. Such recognition qualifies organizations to receive public funding and to participate in public consultations and round tables.

About 40 organizations have been recognized by the **Ministry of the Environment**. They are all invited to consultation discussions, carried out on an informal basis every 8-10 months and also have an advantage in being awarded funds for carrying out projects. A National Council of the Environment, made up of 15 organizations chosen arbitrarily by the Ministry was declared illegitimate and eventually abandoned. A law calling for its reestablishment would constrain ministerial discretion in ing its members, setting forth the following main identification criteria: wide membership basis and territorial scope.

Participation in one of the **Ministry of Education's** four consultative councils is based on a history of working together, with a preference for nationally-representative organizations. These relationships are governed by ministerial decree. Criteria for participation in the Parents and Students' Associations Forum are quite detailed, formal and objective. Criteria and procedures for participation in the Permanent Observatory on the Integration of the Handicapped are rather indefinite, leaving significant discretion to the ministry.

Participation in the **Ministry of Work and Welfare's** consultative bodies is formally governed by laws, which do however leave the ministry ample discretion. A proposed amendment to a national law seeks to increase membership from 10 to 20 representatives, to be chosen from among those registered in the National Registry of Voluntary Organizations or Federations, with a presence in at least 7 regions or 20 provinces, according to different specific fields of operation.

The **Ministry of Foreign Affairs** has no objective legal criteria for consultation. Identification is left up to the discretion of government officials.

There are also informal channels to participation. Even relatively new, unrecognized organizations may be heard by institutions if they are able to clearly communicate valid proposals. Though only more established organizations may have the right to participate in some cases, other organizations may avail themselves of the privilege.

### *Problems*

- Informal channels for bringing in newer, local or unrecognized organizations are unpredictable. Informal criteria make reference to an organization's national territorial scope, but the identification process doesn't include an objective verification of this. Informal criteria, moreover, permit the same organizations to sit at many different tables, even if they are not the most representative in the particular sector.
- The generic criteria in place in some Ministries are easily manipulated by officials in order to choose the most politically correct organizations.
- Unrecognized organizations are at a disadvantage for receiving funding and being awarded implementation projects.

### *Cognitive divergences*

According to government representative, the Environment Ministry's general, informal meetings seem to be satisfactory to everyone as a forum for public debate. But according to the civic leader in the environmental area, the ministry currently privileges organizations complacent with its political direction, to the disadvantage of traditional, scientific, ecological associations.

### *Proposals and good practices*

- Education Ministry's councils seem to be working well, but it might be good to bring in local groups as well.
- The civic leader in the field of international cooperation would like to bring back formal consultative bodies, in which organizations were identified on the basis of their activity, expertise and experience working on a particular issue or in a particular sector. Ministerial discretion ought to be reduced to a minimum. Networks should have a greater say in which of their members gets to participate. Ministries ought to have an updated data bank of basic information about NGOs and their activities.
- Because of the increasing competition of international NGOs for access to national ministries, two important criteria would be: a national, territorial basis and independent decision-making and management.

#### 4. *Poland*

The expert interviewed institutional representatives and civic leaders in the following three sectors: consumer protection, the environment and health.

##### *Data*

NGO participation in both formation and implementation is formally governed by a general law, the 2003 *Act on Public Benefit and Welfare Work*.

In each of the government institutions investigated, the main tool used in practical collaboration with NGOs is a “distribution list.” Organizations may ask the institution to be put on the general list, which officials later use as a basis for selection. Only the **Ministry of the Environment** reported internal identification procedures for NGO participation in advisory bodies.

Public institutions use flexible criteria to identify organizations, privileging those that are known to them, and also taking into account such criteria as size, capacity, trust. The 2003 law notwithstanding, government representatives reported that there were no formal, legally-binding criteria. The identification process thus manifests a kind of government of men and not of rules; identification depends on the people making choices, who might rely on their common sense, good will, tradition or personal contacts.

##### *Problems*

- Two out of the three government officials interviewed held that there were no identification criteria in place in their institution. As far as they were concerned, the 2003 law just regulates relations between the public and civic sectors in general, without fixing criteria. What legislation that they do know about, they often misinterpret to suit their own interests.
- The informal criteria effectively in place – privileging size and personal contacts between organizations’ leaders and civil servants – limit small or new NGOs’ access to both information and funding.
- NGOs are too weak to make good on their legal rights under the 2003 Act in the face of government recalcitrance.

##### *Cognitive divergences*

Civic leaders were more aware of precise sectoral legislation on civic participation than government officials were.

Government representatives follow the traditional rules and customs of their institution, independently of any normative sense of what is legally required.

*Proposals and good practices*

No proposals or good practices emerge from this case study.

## 5. *United Kingdom*

The experts interviewed institutional representatives and civic leaders in the following three sectors: food policy, health and international cooperation.

*Data*

A *Code of Practice on Consultation* sets forth general standards for how the government should go about the process of consultation. Although it does not have legal force, its content is binding on government departments and agencies, unless exceptional circumstances justify a departure. The code stresses the importance of consulting interested parties and those whom the policy may affect. The burden is on the interested parties to establish their representativeness by providing a summary of the people or organizations that they represent.

The 1998 *Compact* between the government and the voluntary sector sets forth principles that have been incorporated into codes of practice on funding, consultation, volunteering, black and minority ethnic organizations and community groups.

Sectoral legislation may require institutions to establish and consult particular bodies.

There is a degree of formality in the identification of groups for structured relationships with the **Department for International Development**. These may take the form of Partnership Program Agreements between the Department and major NGOs and Strategic Grant Agreements with diaspora groups in the UK and other British NGOs.

There are few criteria for the involvement of NGOs in some policy areas and specific consultation exercises. The criteria employed in the food policy sector can be characterized as flexible: the nature and extent of organizations' involvement will vary according to the purpose of the agency activity. It is trying to develop identification criteria which consider: the purpose of the activity, expertise, representation of relevant special and local interests, involvement of

“gateway” organizations. Relations between public institutions and civic organizations are characterized in the health area by trust, organizations’ ability to get along in collaborative exercises. Included civic NGO representatives must have understanding of the policy-making process, experience and expertise.

#### *Problems*

- Adherence to the Code’s requirements varies a great deal across and within departments and agencies. Informal consultation is not always carried out prior to the formal consultation period, as required by the Code.
- Umbrella organizations are able to take a broad view, draw on the expertise of their members and amplify the voices of their smaller members to achieve ‘indirect’ representation. On the other hand, the government tends to perceive them as pressure groups. They may be ultimately involved in policy-making because of their expertise and lobbying, rather than because they offer access to wider networks.
- Significant barriers like insufficient time, staff and, sometimes, technical expertise may prevent organizations from participating as effectively as they would like in certain processes.
- The requirement of expertise in the policy process can lead to people coming exclusively from the capital city policy fraternity, making the debate too inward-looking and rarefied.
- Organizations that rely heavily on public funding, or have contracts to provide public services, risk losing their independence.

#### *Cognitive divergences*

According to the experts who carried out this case study, “the questionnaires cover matters of fact and so there are often few differences between the responses of the NGOs and the government bodies”.

#### *Proposals and good practices*

Despite the absence of general legal requirements, the need for effective consultation is recognized and encouraged by the government. Existing systems seem to be working rather well. The existence of the Compact between the government and voluntary organizations is a welcome recognition of the importance of their relationship, and of the need of some ground rules for the relationship.

## 6. *Main findings of the case studies*

What information come from the case studies? We believe that they can be analyzed in two ways. Firstly, we can draw some conclusions on the general features of identification criteria. Secondly, we can shed light on the main characteristics of identification process in its different phases. Doing this, our aim is to consider the case studies both as individuals and as a whole.

### *General remarks*

That having been said, the following four remarks can be made.

*One.* The practices referred to in case studies mainly regard the dimension of policy formation. This could suggest that the implementation phase is not perceived as an actual part of policy making process in which citizens' organizations must be involved on the basis of their ability to fulfill required criteria, but rather as a contractual matter.

*Two.* Bearing in mind the distinction, made in chapter 1, between objective and evaluative identification criteria, it could be said that these criteria reveal themselves as mixed and overlapping in reality.

*Three.* In many cases we see a wide variety of criteria, behaviors and habits. This regards not only the application of rules and standards, but also their definition and content.

*Four.* Though a huge implementation gap was expected, and in fact emerged from the case studies, what is more surprising is that the main feature of this gap seems to be complexity. While the governments' provisions are rather simple and straightforward, the reality described in the case studies is far more complex.

### *Emerging elements of identification process*

The second piece of information coming from the case studies regards the identification of qualifying elements of the various phases of the process.

### *Definition of rules, standards and criteria*

In all the case studies rules define the participation in policy making not as a citizens' organizations' rights, but rather as a institutions' prerogative or privilege. Though the rules are in fact more or less binding for institutions, participation in policy making is not a right.



In all the case studies as well, different criteria live together. For example, in the case of the European Union, the Commission and the Economic and Social Committee use different criteria, in the first case more evaluative and in the second more objective.

In some cases (European Commission, UK), it emerged that, in relation to the distinction between formation and implementation of policies, two different sets of criteria are established and used.

In two cases, the practice of a high degree of politicians' and officials' power of discretion is explicitly reported.

In the case of European Commission, with reference to environmental policy, the criteria of past relations between officials and citizens organizations has been mentioned.

Only in the case of the UK the participation of citizens' organizations in the definition of criteria has been reported.

#### *Tools and procedures*

The EU and the UK have established guidelines or codes of conduct including criteria for the identification of citizens' organizations, which are public.

Poland has established a "distribution list" open to all citizens' organizations interested in being included.

In Italy results widespread the tool of the institution of committees, though no precise criteria for their formation seems operating.

#### *Intervening variables and hidden criteria*

During the implementation of identification process, some unexpected variables emerge. The most important seem to be the following:

- diversity in the application of criteria according to the people, structures, etc. in charge of (EU, UK);
- arbitrariness and lack of transparency in the choice of organizations allowed to participate in policy making (EU, Italy, Poland);
- informal relations giving an advantage to well-established organizations (EU, Italy, Poland);
- choice based on partisan criteria (Italy);
- priority given to organizations' lobbying ability rather than to the real expression of people's interests and rights (UK);

- reference of public officials to institutions' traditions and habits rather than to the content of rules and laws (Poland).

Along the intervening variables must also be pointed out:

- the huge influence of politicians' and public officials' culture, attitudes and relations in including citizens' organizations (mentioned in the case studies of the EU, Italy and Poland);
- the relevance of organizational and logistic matters, such as the length of notice, place and hours of the meeting, as well as the possible existence of forms of support to citizens' organizations enabling them to be physically present (EU);
- the lack of time, human resources and competences of the civic NGOs, themselves (UK), as well as their power deficit in front of public institutions (Poland);
- the existence of cognitive divergences between politicians and public officials on one side and citizens' organizations on the other.

The lack of assessment of the fulfillment of criteria (Italy) and the difficulty to make real use of the results of consultation (EU) were mentioned as well.

Among the effects of these intervening variables the fact that participating organizations are ever those more representative (Italy), the exclusion of less organized or small organizations (Italy, Poland) and the privilege to "capital city" organizations (EU, UK) were reported.

#### *Success factors*

The case studies have also pointed out some success factors in the process of definition and application of criteria for citizens' organizations participating in policy making. We can consider as success factors both those which were really used, and those which were suggested as potential positive elements.

As for the real success factors the following were indicated:

- use of the official website in order to make the identification process transparent (EU);
- cooperation of citizens' organizations in the definition of the identification criteria (UK);
- use of public hearings as a tool for consultation (EU).

Among the potential success factors the following were indicated:

- rules not too rigid in order to avoid any risk of formalism (UE);
- integration of "representative" committees with local groups (Italy);
- reduction of public officials' power of discretion (Italy);
- more space to networks (Italy);

- institutions of a civic NGOs' database (Italy).

The content of case studies, as well as the provisional conclusions that can be drawn from them, provide a nice bridge to the partner organizations' reports. The next chapter is precisely devoted to the content of these reports.

## CHAPTER 3

### Partner organizations' evaluation of existing criteria

In this and the next chapter we are going to report the evaluations and suggestions set forth in the Position Papers written by the partner organizations in reaction to our working paper. As noted in the introduction, 30 organizations submitted their comments and remarks:

*Table 3.1. – List of the partner organizations that sent Position Papers*

1. The World of NGOs, Austria
2. Foundation for Future Generations, Belgium
3. NGO Development Centre Bourgas, Bulgaria
4. Cyprus Consumers Association, Cyprus
5. Consumer Defence Association, Czech Republic
6. Danmarks Aktive Forbrugere, Denmark
7. Peipsi Centre for Transboundary Cooperation, Estonia
8. European Confederation of Workers' Co-operatives, Social Cooperatives and Participative Enterprises (CECOP), European Union
9. European Liaison Committee on Services of General Interest (CELSIG), European Union
10. European Citizen Action Service (ECAS), European Union
11. International Federation for Human Rights (FIDH), European Union
12. The Consumers, Finland
13. Reseaux Services Public, France
14. Maecenata Institut, Germany
15. European Expression, Greece
16. Consumer Protection Center (KEPKA), Greece
17. Nosza Projekt, Hungary
18. Age Action, Ireland
19. Associazione Nazionale delle Cooperative di Servizi e Turismo (ANCST), Italy
20. Consumers Association, Malta
21. Center for European Studies and Training (CESO), The Netherlands
22. European Centre of Sustainable Development (CEZR), Poland
23. Oikos, Portugal
24. Romanian Association for Consumers Protection (APC Romania), Romania
25. Association of Slovak Consumers, Slovak Republic
26. Legal Information Center for NGOs (PIC), Slovenia
27. Confederación de Consumidores y Usuarios (CECU), Spain
28. Kvinnoforum, Sweden
29. The Human Resources Development Foundation (HRDF), Turkey
30. Rutland Citizens' Advice Bureau, United Kingdom

The partner organizations' responsiveness to our request for information, and their comments and suggestions on the results, demonstrate their interest in the question of the definition of criteria of representativeness of citizens' organizations. It also demonstrates that they are particularly placed to participate

in the definition of these criteria. Chapters 3 and 4 are based on the thoughtful participation of the partner organizations in the final phase of the research. In ranking their evaluations, preferences, preoccupations and proposals, we have taken their Position Papers as arguments in a larger process of deliberative democracy.<sup>6</sup>

These chapters report the remarks and comments put forward in the Position Papers. Chapter 3 focuses on the partners' evaluation of the existing criteria, specifically their advantages and disadvantages. This evaluation indicates whether (and how) these criteria and their application can be improved, and the risks attendant upon their use. Chapter 4 sets forth the criteria and standards put forward by the partners as improvements on the existing criteria, if not ideal solutions.

This section treats only those parts of the Position Papers containing precise evaluations and proposals. The partners' work provided us, in addition, with great insight into their own working contexts and valuable feedback on the structure of the research, which has informed this report as a whole.

Before presenting the partner organizations' views, it is necessary to recall the typologies we used for analyzing the data and information originating in public institutions, presented in chapter 1:

Table 3.2. – *Typologies used for the analysis of data and information coming from official sources*

<p><b>· Status and scope of criteria</b></p> <p>- Positive criteria</p> <ul style="list-style-type: none"><li>* Written<ul style="list-style-type: none"><li>- in laws</li><li>- in policy documents, regulations, guidelines, etc.</li></ul></li><li>* Unwritten</li></ul> <p>- No positive criteria</p> <ul style="list-style-type: none"><li>* Open procedure</li><li>* Flexible and ad hoc process</li><li>* Arbitrary procedure</li></ul> <p>- Scope</p> <ul style="list-style-type: none"><li>* General</li></ul>
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<sup>6</sup> We use the term deliberative democracy here to refer to a process of policy formation in which citizens and public authorities participate, interact with each other and are expected to give reasons for their positions and decisions. We use this term instead of the more generic "participatory democracy," precisely in order to stress not only the involvement of citizens in the *entire process of policy formation* (not just final decision-making), but also their duty to give persuasive reasons for their policy goals, and consequent right to be taken seriously. In participating in this project, which sought to engage citizens and public authorities in discussion of common goals, partners contributed indeed to a process of deliberative democracy.

<ul style="list-style-type: none"><li>* Sectoral</li><li>· <b><i>Kinds of criteria</i></b></li><li>- <i>Objective</i> criteria<ul style="list-style-type: none"><li>* Related to the organization<ul style="list-style-type: none"><li>- Size</li><li>- Territorial scope</li></ul></li></ul></li></ul>
<ul style="list-style-type: none"><li>- Degree or operational level</li><li>- Stability</li><li>- Resources</li><li>- Transparent accounting</li><li>* Related to the organization's activity<ul style="list-style-type: none"><li>- Field of operation</li></ul></li><li>- <i>Evaluative</i> criteria<ul style="list-style-type: none"><li>* Related to the organization<ul style="list-style-type: none"><li>- Experience</li><li>- Expertise</li><li>- Reputation</li><li>- Independence</li><li>- Trust</li><li>- Networking</li><li>- Internal organization</li><li>- Specific interests</li><li>- General interests</li></ul></li><li>* Related to the organization's activity<ul style="list-style-type: none"><li>- Past results</li><li>- Quality of project</li></ul></li></ul></li><li>· <b><i>Application of the criteria</i></b></li><li>- Existence of formal prerequisites</li><li>- Actors in the identification process<ul style="list-style-type: none"><li>* Institutional assessment</li><li>* Org. self-appointment</li><li>* Peer review</li><li>* Hybrid</li></ul></li><li>- Tools and procedures for the publicity of criteria<ul style="list-style-type: none"><li>* Internet</li><li>* Official journals, etc.</li><li>* Direct invitation</li><li>* Network organizations</li></ul></li><li>- Forms of facilitation<ul style="list-style-type: none"><li>* Support</li><li>* Time</li><li>* Inclusion of weak</li></ul></li></ul>

These typologies are the point of reference for the critical remarks, as well as for the proposals expressed in the partners' Position Papers.

We can now present the partners' comments with reference to the content of the above box. We have organized these comments into expressions of the advantages and disadvantages of the existing criteria. In keeping with the open-ended nature of the partners' responses, we consider such advantages and disadvantages with respect to both the formation and implementation phases taken together. The partners' positions have been organized according to specific, substantial arguments, many of which were made by more than one partner. Next to each argument, in parenthesis, is the number of partners who made such argument, and their origin (national or EU - where there are more than one, like for the EU and Greece, the partner's name is also specified). Simple expressions of favor or disfavor (ex. "written criteria are essential," "unwritten criteria are detrimental") have been counted here as well, as advantages or disadvantages, respectively.

## 1. *Remarks on status and scope of criteria*

### *Positive criteria*

#### **a. Written Criteria: general**

- i. Advantages
  1. Enhance transparency (4: EU - FIDH, Malta, Belgium, Portugal)
  2. Increase accountability (3: Malta, Belgium, Ireland)
  3. Promote stability, ensuring the continuous involvement of NGOs even when governments change (2: Malta, Turkey)
  4. Prevent arbitrary or corrupted identification (2: Hungary, EU - FIDH)
  5. Nurture a right to participation (2: Finland, Greece - European Expression)
  6. Essential to the social legitimacy of the process (1: Portugal)
  7. A lack of official written criteria means that NGOs have to devote important resources to advocating for their establishment (1: Cyprus)
  8. Help to distinguish between effective and ineffective organizations (1: Cyprus)
  9. Are good for bureaucrats (1: Hungary)
- ii. Disadvantages
  1. Privilege a limited number of better-equipped organizations and can limit the participation of small, new, less experienced, grassroots or politically uncomfortable ones, for example, by creating significant burdens upon them (ex. bureaucratic, need for legal expertise) upon civic organizations (7: Belgium, Denmark, EU-FIDH, Hungary, Poland, Romania, Turkey)
  2. Lack flexibility (2: Malta, Belgium)

**Total advantages: 10 partners;**  
**Total disadvantages: 8 partners.**

#### **b. Written Criteria: law**

- i. Advantages

1. Can establish participatory rights, which is an essential requirement (1: Hungary)
2. Their lack is a real problem (1: Bulgaria)
- ii. Disadvantages
  1. Limit participation (1: Greece - KEPKA)

**Total advantages: 2 partners;**  
**Total disadvantages: 1 partner.**

**c. Written Criteria: policy**

- i. Advantages
  1. Flexible (2: EU - FIDH, Malta)
- ii. Disadvantages
  1. Manipulable (1: EU - FIDH)

**Total advantages: 1 partner;**  
**Total disadvantages: 1 partner.**

**d. Unwritten Criteria**

- i. Advantages
  1. Make interactions and cooperation flexible (1: Finland)
- ii. Disadvantages
  1. Do not guarantee an equitable identification process, but rather favor well-established, well-known and/or well-connected organizations and tend to disadvantage new and innovative organizations (6: Austria, Greece - KEPKA, EU - FIDH, EU - ECAS, Ireland, Malta, Poland).
  2. Do not guarantee a right to be involved and their application depends on the civil servants in charge (2: EU-ECAS, Greece-KEPKA)
  3. Favor personal subjectivity instead of an objective institutional evaluation (1: Turkey).
  4. Lack transparency (1: Greece - KEPKA)
  5. Lack accountability (1: Ireland).

**Total advantages: 1 partner;**  
**Total disadvantages: 8 partners.**

*Non-positive criteria*

**a. Open procedures**

- i. Advantages - none reported.
- ii. Disadvantages
  1. May reinforce *de facto* inequality between organizations (2: Slovenia, Sweden)
  2. Especially when there is a large number of interested parties, can lead to such a wide and diffused number of contributions that the effectiveness of the consultation is seriously compromised (2: EU-FIDH, UK)
  3. Can be an excuse for not establishing legally-binding criteria (1: Greece - European Expression)

**Total disadvantages: 5 partners.**

**a. Flexible, ad hoc identification process**

- i. Advantages
  1. Can strengthen the NGO sector (1: Turkey)



2. Enable policy makers to adapt to a changing world (1: Sweden)
- ii. Disadvantages
  1. Usually lack transparency (1: EU-FIDH)**Total advantages: 2 partners;**  
**Total disadvantages: 1 partner.**

**c. Arbitrary procedures**

- i. Advantages – none reported.
- ii. Disadvantages
  1. No transparency or accountability (2: Austria, Malta)
  2. Can be used by governments to exclude organizations with different political views than the government on certain issues (2: Ireland, Turkey)
  3. Deny the right to participate (1: Malta)**Total disadvantages: 4 partners.**

*Scope*

**a. General**

- i. Advantages
  1. Are preferable when there is no real justification for different criteria in different policy fields (1: Slovenia)
  2. Create uniform treatment for everybody (and should be inclusive) (1: Malta)
- ii. Disadvantages
  1. Risk excluding NGOs working in specific areas (1: Denmark)
  2. Can be difficult to apply, because of the huge diversity of civic organizations (1: EU – FIDH)
  3. Risk not meeting the real needs of society (1: Austria)**Total advantages: 2 partners;**  
**Total disadvantages: 3 partners.**

**b. Sectoral**

- i. Advantages
  1. More flexible: they can be tailored to the specific needs of the sector or in case a new policy field arises out of new problems (2: Austria, Malta)
  2. Can be useful in choosing organizations to provide services (1: Austria)
  3. Promote expertise (1: Greece – European Expression)
  4. Fit the traditional pattern of policy making (1: Czech Republic)
- ii. Disadvantages
  1. May exclude organizations operating across different fields (1: Greece – European Expression)**Total advantages: 4 partners;**  
**Total disadvantages: 1 partner.**

## 2. *Remarks on the kinds of criteria*

### *Objective criteria – related to the organization*

#### **a. Size**

- i. Advantages
    - 1. May be a reliable measure of representation (2: EU-FIDH, Netherlands)
    - 2. The number of members and beneficiaries usually indicates the cost-effectiveness of an organization (1: Austria)
  - ii. Disadvantages
    - 1. Favors large and wealthy NGOs while excluding smaller, but still valuable, ones (3: Austria, Hungary, Romania)
    - 2. Difficult to verify, which tends to privilege organizations which spend more time advertising themselves, than performing real activities (1: Bulgaria)
- Total advantages: 3 partners;**  
**Total disadvantages: 4 partners.**

#### **b. Territorial Scope**

- i. Advantages
    - 1. May be a reliable measure of representation (2: EU-FIDH, Netherlands)
    - 2. A fair criteria, when there are a large number of organizations (1: Denmark)
    - 3. National organizations are usually best placed to participate at the national level because they have adequate staff and resources (1: Ireland)
  - ii. Disadvantages
    - 1. Wrongly excludes such organizations as: grassroots, highly specialized, small, local or regional NGO's (4: EU-ECAS, Greece – KEPKA, Poland, Romania)
    - 2. Not expedient at the European level, because EU institutions need to hear the voices of national and regional levels, especially from the new Member States (1: EU-ECAS)
- Total advantages: 4 partners;**  
**Total disadvantages: 4 partners.**

#### **c. Degree of Organization**

- i. Advantages
    - 1. Can effectively filter the most appropriate organizations according to different policy tasks (2: Austria, Netherlands)
  - ii. Disadvantages
    - 1. Limits the capacity of organizations to coordinate and work together (1: Greece - KEPKA)
- Total advantages: 2 partners;**  
**Total disadvantages: 1 partner.**

#### **d. Stability**

- i. Advantages
  - 1. Some stability is necessary to ensure that informed decisions are taken (1: EU-ECAS)
  - 2. Ensures that an organization has the required knowledge and experience (1: Spain)
- ii. Disadvantages

1. It is a barrier to newcomers, tending to encourage the *status quo* (4: EU-ECAS, Malta, Poland, Spain)
2. Useless when the criteria of resources and transparent accounting already apply (1: EU-FIDH)
3. Doesn't give an indication of an organization's capacity to fulfill certain tasks (1: EU-FIDH)

**Total advantages: 2 partners;**

**Total disadvantages: 5 partners.**

#### e. Resources

##### i. Advantages

1. The existence of minimum structures is necessary when public resources are invested (1: EU-FIDH)

##### ii. Disadvantages

1. Risks favoring large, wealthy, well-established NGOs while excluding smaller and younger ones, encouraging the *status quo* (5: EU-FIDH, Hungary, Malta, Poland, Sweden)

**Total advantages: 1 partner;**

**Total disadvantages: 5 partners.**

#### f. Transparent Accounting

##### i. Advantages

1. Fundamental, especially because it gives an indication of the priorities and aims of the organization (2: Austria, Netherlands)

##### ii. Disadvantages - none reported

**Total advantages: 2 partners.**

#### *Objective criteria – related to the organization's activity*

#### a. Field of Operation

##### i. Disadvantages

1. Very limiting, in that it excludes interested and qualified organizations that happen to work mainly in other fields (1: Hungary)

**Total disadvantages: 1 partner.**

#### *Evaluative criteria – related to the organization*

#### a. Experience

##### i. Advantages

1. An important criterion (1: Portugal)

##### ii. Disadvantages

1. May disadvantage newcomers (2: EU-FIDH, Poland)
2. Not a sure indicator of the quality of an organization's contribution (1: Hungary)

**Total advantages: 1 partner;**

**Total disadvantages: 3 partners.**

#### b. Expertise

##### i. Advantages

1. An important criterion (but must be grounded on or combined with practical experience) (4: Austria, Greece-KEPKA, Malta, Portugal)

- ii. Disadvantages
  - 1. It is difficult to measure (a qualified staff does not necessarily guarantee a valuable contribution) (1: Hungary)

**Total advantages: 4 partners;**  
**Total disadvantages: 1 partner.**

### c. Reputation

- i. Advantages
  - 1. An important criterion, if assessed from the citizens' point of view (1: Greece-KEPKA)
- ii. Disadvantages
  - 1. Very difficult to measure and subjective (2: Austria, Spain)
  - 2. Favors established organizations, and might endanger diversity (1: EU-FIDH)
  - 3. Can lead to inequalities in transition countries (1: Slovenia)

**Total advantages: 1 partner;**  
**Total disadvantages: 4 partners.**

### d. Independence

- i. Advantages - none reported.
- ii. Disadvantages
  - 1. Difficult to measure and could lead to inequality, especially in transition countries where public officials lack the necessary expertise to perform such evaluations (2: Austria, Slovenia)

**Total disadvantages: 2 partners.**

### e. Trust

- i. Advantages
  - 1. An important criterion (if assessed from the citizens' point of view) (2: Greece-KEPKA, Malta)
  - 2. Is relatively easy to measure (1: Spain)
- ii. Disadvantages
  - 1. Favors established organizations, and might endanger diversity (4: Estonia, EU-FIDH, Greece - KEPKA, Turkey)
  - 2. Is not sufficient (1: Malta)
  - 3. Can lead to inequalities (1: Slovenia)

**Total advantages: 3 partners;**  
**Total disadvantages: 6 partners.**

### f. Specific Interests

- i. Advantages - none reported.
- ii. Disadvantages
  - 1. Might be less representative and less objective than general interests (1: EU-FIDH)

**Total disadvantages: 1 partner.**

## *Evaluative criteria – related to the organization's activity*

### a. Past Results

- i. Advantages - none reported.

- ii. Disadvantages
  - 1. Risks excluding newcomers (1: Greece-European Expression)
  - 2. This criterion is never really applied, due to the nature of civic NGOs (1: Austria)
  - 3. Can lead to inequalities (1: Slovenia)

**Total disadvantages: 3 partners.**

### 3. *Remarks on the application of the criteria*

#### a. **Formal prerequisites**

- i. Advantages - none reported.
- ii. Disadvantages
  - 1. Legal *status* requirements risk discouraging the participation of weaker groups and can exclude otherwise qualified and valuable organizations (2: Austria, Hungary)
  - 2. Useless burden for NGOs (1: Denmark)
  - 3. Risk discouraging and limiting participation if they are too numerous and complicated (1: Malta)
  - 4. Accreditation requirement risks creating a new elite (1: Austria)

**Total disadvantages: 5 statements, 4 partners**

#### *Actors in the identification process*

#### a. **Institutional Assessment**

- i. Advantages - none reported.
- ii. Disadvantages
  - 1. Both the establishment and application of criteria by institutions alone risks endangering the independence of NGOs (4: Austria, EU-FIDH, Greece-KEPKA, Turkey)
  - 2. Problematic, if there is no accountability on the part of public authorities for unfair decisions (1: Hungary)

**Total disadvantages: 5 partners.**

#### b. **Self-Appointment**

- i. Advantages
    - 1. A fundamental right of NGOs (1: EU-ECAS)
  - ii. Disadvantages - none reported.
- Total advantages: 1 partner.**

#### c. **Peer Recommendation**

- i. Advantages - none reported.
- ii. Disadvantages
  - 1. Risks privileging well-known and well-established NGOs in a specific NGO network, even if they are not the best for the job (1: EU-ECAS)

**Total disadvantages: 1 partner.**

#### d. **Hybrid Bodies**

- i. Advantages
  - 1. Guarantee independent and pluralistic choice (1: EU-FIDH)

- ii. Disadvantages – none reported.  
**Total advantages: 1 partner.**

*Tools and procedures for the publicity of criteria*

**a. Internet**

- i. Advantages
    - 1. The best method because widely accessible (1: Malta)
  - ii. Disadvantages
    - 1. Access requires resources that NGOs might not have (1: Romania)
- Total advantages: 1 partner;**  
**Total disadvantages: 1 partner.**

**b. Official Gazette**

- i. Advantages – none reported.
  - ii. Disadvantages
    - 1. In some countries, access to official gazette has a cost which limits access (1: Romania)
- Total disadvantages: 1 partner.**

**c. Direct Invitation**

- i. Advantages
    - 1. Might work very well in small countries (1: EU-FIDH)
  - ii. Disadvantages
    - 1. Can exclude newcomers, especially in big countries or where the government doesn't know all the organizations in a specific area (3: Denmark, EU-FIDH, Malta)
- Total advantages: 1 partner;**  
**Total disadvantages: 3 partners.**

*Forms of facilitation*

**a. Financial Support**

- i. Advantages
    - 1. Can be important in helping NGOs and important political interlocutors, like minority groups, meet the criteria in the first place or otherwise facilitate participation (5: Hungary, Ireland, Netherlands, Poland, Romania).
    - 2. Enables NGOs to spend less time fundraising, and more time participating (1: Poland)
  - ii. Disadvantages
    - 1. Largely impractical for consultation (EU-ECAS)
- Total advantages: 5 partners;**  
**Total disadvantages: 1 partner.**

**b. Time**

- i. Advantages
  - 1. Is crucial for the success of an organization in the identification process (3: EU-FIDH, Ireland, Malta)
- ii. Disadvantages
  - 1. Can slow down the political process (1: Netherlands)

Total advantages:	3 partners.
Total disadvantages:	1 partner.

#### 4. *Remarks and comments on partners' critical statements and proposals*

In the section that follows, we seek to present the partners' votes, and the reasons motivating them, in a more systematic way. Looking first at the main concerns of the partner organizations, we are able to see the arguments that they raised most emphatically, and the recurring concerns that inform their evaluations of many different criteria. The second section proposes a "consensus index," which seeks to measure partners' agreement or disagreement on the value of the individual criteria, in order to identify both areas of high consent and relative ambivalence. Both operations are useful for assessing the partners' collective position.

##### Main arguments and concerns

Here we bring together the arguments that were voiced most frequently by the partners, in favor or against particular criteria. While these do not necessarily resolve controversies surrounding the criterion itself, the spontaneous recurrence of these arguments signals that we should attribute a certain weight to them. The list that follows sets forth those arguments made by at least 3 partners, starting from the most repeated. In parenthesis next to the argument is the number of partners who made it.

- **Written criteria** have the disadvantage of privileging limited number of better-equipped organizations, and can limit the participation of small, new, less experienced, grassroots or politically-uncomfortable ones. (7 partners)
- **Unwritten criteria** have the disadvantage of favoring well-established, well-known and/or well-connected organizations, and tend to disadvantage new and innovative organizations. (6 partners)
- The objective criterion of **resources** has the disadvantage of favoring large, wealthy, well-established NGOs, while excluding smaller and younger ones. (5 partners)
- **Financial support** has the advantage of helping NGOs and minority groups to meet the criteria in the first place or otherwise facilitating participation. (5 partners)

- The objective criterion of **territorial scope** has the disadvantage of wrongly excluding such organizations as: grassroots, highly specialized, small, local or regional NGOs. (4 partners)
- The objective criterion of **stability** has the disadvantage of functioning as a barrier to newcomers. (4 partners)
- The evaluative criterion of **trust** has the disadvantage of favoring established organizations. (4 partners)
- Inclusion on the exclusive basis of **institutional assessment** has the disadvantage of endangering the independence of NGOs. (4 partners)
- **Written criteria** have the advantage of enhancing transparency. (4 partners)
- The evaluative criterion of **expertise** has the advantage of being important (4 partners), but it must be grounded on or combined with practical experience. (3 partners, out of the 4 above)
- **Written criteria** have the advantage of increasing accountability. (3 partners)
- The objective criterion of **size** has the disadvantage of favoring large and wealthy NGOs, while excluding smaller, but still valuable, ones. (3 partners)
- Publicity by **direct invitation** has the disadvantage of excluding newcomers. (3 partners).
- Facilitation by giving organizations enough **time** has the advantage of enabling organizations to succeed in the identification process. (3 partners)

As many as 9 out of the 14 statements above express disadvantages, while only 5 express advantages. This is perhaps to be expected, as partners were asked to both evaluate the existing criteria and propose new or better ones. Positive evaluations of existing criteria were registered in this section if they were expressed as advantages, but they were registered in Chapter 4 if they were expressed in proposal form. This could perhaps tilt the balance of positive to negative evaluations in this section.

What is so striking about this list is that a total of 8 out of the 9 disadvantage arguments all make the same point: the factor in question tends to favor “strong” organizations, variously referred to as wealthier, bigger, national, older, better-connected, better-equipped, and to inhibit weaker ones (poorer, smaller, local, newer, more isolated, etc.).



This is even more striking (and challenging) if we consider just the top two arguments: both written and unwritten criteria can discriminate against the weak in favor of the strong. Partners' overriding concern is that both clear written criteria, and the lack thereof, can entrench the status quo, keeping out newcomers and minorities. While this is paradoxical on the surface, it suggests that criteria - even good, clear, written ones - might have perverse effects, especially when applied by human beings.

An important challenge thus posed by these results is how to give special consideration to weaker organizations, to ensure that the inherently exclusive application of criteria do not unduly disadvantage them or the people or interests that they represent. The objective, neutral and evenhanded application of the criteria probably isn't enough. One way of helping such organizations that leaps off this list (5 partners) is by providing financial support to needy organizations in some form or another.

#### Consensus Index

The second way to deal with the opinions expressed by partners has been the construction of a "Consensus Index". The following tables use a simple algebraic summation to illustrate the level of consensus surrounding the value of individual criteria. The consensus value attaching to each criterion was calculated by taking the number of partners making one or more argument in favor, and subtracting this by the number of partners making one or more argument against. The consensus value is the sum of these two numbers. The result can be a positive or a negative number.

Partners have been able to vote both for and against a particular criterion, by giving reasons, and many have done so. We have counted the total number of partners voting on each side, and have allowed for two-sided votes (1 partner expressing both an advantage and a disadvantage counts as voting both for and against).

Where the citizens jury's votes fall evenly for and against the criteria in question, the index number approaches 0, and 0 thus represents the lowest consensus and greatest ambivalence. A high positive number signifies high agreement in favor of the value of the criteria; a high negative value represents high agreement against the value of the criteria. The consensus values range from +5 to -7, with the median value being -1. The consensus values can be interpreted as follows:

Low consensus: +1 to -1  
Medium consensus: +3 to +2, -2 to -3  
High consensus: >+4, <-4

Let's begin introducing the value of Consensus Index related to Status and Scope of Criteria.

Table 3.3. – Consensus Index: Status and Scope of Criteria

	Partners in favor	(-) Partners against	Consensus Value
POSITIVE CRITERIA			
* Written: general	10	(-) 8	2
* Written: laws	2	(-) 1	1
* Written: policy	1	(-) 1	0
* Unwritten	1	(-) 8	-7
NON-POSITIVE CRITERIA			
* Open procedure	0	(-) 5	-5
* Flexible process	2	(-) 1	1
* Arbitrary	0	(-) 4	-4
SCOPE			
* General	2	(-) 3	-1
* Sectoral	4	(-) 1	3

Here we see that the partners manifest a deep ambivalence over the value of written criteria as such. 10 partners highlighted the value of written criteria, the strongest overall expression of support to emerge from this analysis. And yet 8 partners, in fact many of the same ones, also underscored the possible disadvantages of written criteria. Viewing this together with the partners' top concerns, we recall that 7 out of these 8 made the substantially the same argument, namely that written criteria can privilege better-situated organizations while disadvantaging less powerful or newer ones. Partners' low consensus over the value of written criteria seems rooted in the double-edged nature of the criteria themselves: while clear, written criteria may promise transparent, accountable, equal treatment on the one hand, they might also have the perverse effect of favoring the strong. Insofar as they favor the strong, written criteria can end up reproducing the very conditions of arbitrariness that they are meant to preclude.

To shed light on the partners' ambivalence with respect to written criteria, it is helpful to note their very high consensus (the highest one registered here) against *unwritten criteria*. 8 partners rejected the use of unwritten criteria, mainly for entrenching the power of strong organizations. Only one partner spoke out in favor of them, for the consistent reason that they enable greater flexibility.

*Scope: general vs. sectoral.* While some arguments against general standards may also be construed as arguments in favor of sectoral ones, the two categories are not mutually exclusive, as general laws or policies may be complemented by

more detailed sectoral ones. There is a medium degree of consensus in favor of sectoral standards, and a low consensus surrounding the value of general standards.

Table 3.4. - Consensus Index: Kinds of Criteria

	Partners in favor	(-) Partners against	Consensus Value
- OBJECTIVE CRITERIA			
* Organization			
- Size	3	(-) 4	-1
- Territorial scope	4	(-) 4	0
- Degree	2	(-) 1	1
- Stability	2	(-) 5	-3
- Resources	1	(-) 5	-4
- Trans. Account.	2	0	2
* Org.'s Activity			
- Field of operation	0	(-) 1	-1
- EVALUATIVE CRITERIA			
* Organization			
- Experience	1	(-) 3	-2
- Expertise	4	(-) 1	3
- Reputation	1	(-) 4	-3
- Independence	0	(-) 2	-2
- Trust	3	(-) 6	-3
- Networking	-	-	-
- Internal org.	-	-	-
- Specific interests	0	(-) 1	-1
- General interests	-	-	-
* Org.s' Activity			
- Past Results	0	(-) 3	-3
- Project	-	-	-

Here again we see a preponderance of negative judgments, and more overall agreement in rejection of certain criteria than in their favor. Again, this may have something to do with the nature and structure of the partners' task in writing the Response Paper (see above). This interpretation is supported by the fact that many criteria which received no mention in this stage (like internal organization, expressing general interests and the quality of the project) turn out to be very important in the next, propositional phase (Chapter 4). This signals that the partners' evaluations must ultimately be read together with their proposals.

*Objective criteria.* The most common criticism, leveled against 5 out of the 7 objective criteria discussed here, is that they wrongly exclude otherwise qualified or relevant organizations, especially smaller, newer and weaker ones. This criticism befell the resource criterion most heavily (high negative consensus value of -4), then stability (-3), size (-1) and field of operation (-1). This criticism also underlies the ultimately low consensus (0) on territorial scope; 4 partners voted against it for the same reason. Partners also provided sound arguments in favor of these objective criteria. This suggests that while there might be many good reasons to adopt them, this should be combined with some kind of mechanism to make them more sensitive to the kinds of organizations that they would otherwise be likely to exclude.

*Evaluative criteria.* With respect to the evaluative criteria as well as the objective ones, partners worried that specific criteria, especially trust (-3), but also reputation (-3) and experience (-2) might disadvantage newcomers. By the same token, past results also attracted a medium negative consensus (-3), mainly for the same reason of disadvantaging newcomers. Expertise attracted a medium positive consensus making it stand out as a particularly favored criterion overall.

How can we interpret the partners' overall rejection of such ostensibly fair evaluative criteria as reputation, trust and past results? One hypothesis stems from the observation that criteria themselves can have perverse effects; they can be malleable in the hands of those charged with applying them, and vulnerable to being used as tools of arbitrary exclusion. This may be all the more true for less objective, more evaluative criteria. Such criteria are not automatically applied in an evenhanded way, but rather depend on the skill and good will of the authorities applying them to function fairly. The partners' negative evaluation of these criteria might reflect their distrust of public authorities' ability or desire to apply them in an evenhanded way. This syndrome of distrust explains why even potentially good criteria get negative marks; this is because organizations do not trust institutions to apply them fairly. Even the best of criteria, in the wrong hands, can be used to discriminate against the weak.

Table 3.5. – Consensus Index: Application of the Criteria

	Partners in favor	Partners against	Consensus Value
- Formal Prereq.'s	0	(-) 4	-4
- Actors			
* Institutional Asses.	0	(-) 5	-5
* Org. self-appt.	1	(-) 0	1
* Peer review	0	(-) 1	-1

* Hybrid bodies	1	0	1
- Publicity			
* Internet	1	(-) 1	0
* Official gazette	0	(-) 1	-1
* Direct invitation	1	(-) 3	-2
* Network org.	-	-	-
- Facilitation			
* Support	6	(-) 1	5
* Time	3	(-) 1	2
* Inclusion of weak	-	-	-

*Formal prerequisites.* In commenting on existing criteria, partners expressed only a negative evaluation of formal prerequisites, whatever form they may assume, giving them a high negative consensus value of -4. Here too, their most pressing concern was the ultimately arbitrary discouragement or effective exclusion of less privileged organizations.

*Actors in the identification process.* Partners found institutional assessment to be the most problematic, giving it a high consensus value of -5. Also disfavored, though much less so, was choice by peer recommendation (-1). Self-appointment and identification by hybrid bodies received lukewarm support.

*Publicity.* In interpreting the publicity tools set forth in Table 3.5, it is worth mentioning that 3 partners did insist on the general importance of the publication of criteria for improving their effectiveness and avoiding authorities' interpretation of the criteria to suit themselves (Czech Republic, Malta, Netherlands). In this part of their response papers, partners tended to bring up problems associated with the use, and especially the exclusive use, of one tool or another. Direct invitation, which makes publicity dependent on institutional initiative, raised the most concern, and attracted a negative value (-2) for the familiar reason that it particularly risks excluding small, newer, less well-known organizations.

*Facilitation.* Partners spoke out strongly in favor of forms of facilitation, especially the advantages of financial support to enable organizations' participation. The high positive consensus expressed here for forms of support (and the highest expressed overall) is especially noteworthy.

It is worth recapitulating the areas in which partners expressed their strongest judgments, both positive and negative. Partners voiced the greatest net support for institutional efforts to facilitate organizations' participation, above all by providing financial and other forms of support. Partners also gave overall high

marks to sectoral criteria, either instead of or in addition to general ones. Finally, the identification criterion that generated the most support was that of expertise, especially if combined with experience.

Partners' greatest overall criticism went to the following three factors: unwritten criteria, open procedures, and the exclusive power to choice in the hands of institutions. This suggests a certain distrust of the institutions themselves, and a desire to limit their discretion.

As the same time, partners also expressed a strong, articulated interest in the value of flexibility. On the one hand, they worry about too little flexibility. This is expressed by their arguments in favor of policies (instead of laws) and by their clear (if qualified) support for a flexible, ad hoc identification process, as well as their concern over the possible inflexibility of written criteria in general. While flexibility might be a good thing, partners on the other hand also worry about too much of it. Policy is more flexible than law, but also more manipulable. Laws may establish participatory rights for some, while shutting others out of the process in a more definite way than mere policies would. Also reflecting their concern with too much flexibility is their strong rejection of open and arbitrary procedures. The partners' overall ambivalence suggests that the greatest challenge in proposing new criteria will be to balance determinacy with flexibility, to preserve the advantages of both, while limiting their disadvantages.

## CHAPTER 4

### Partner organizations' proposals

In their Position papers, partner organizations formulated a number of proposals aimed at pointing out basic elements for a more adequate set of criteria for the identification of citizens' organizations as representative partners of governments in the policy making process. Some of these criteria are new (or at least not identified in the official sources used for this research), while others refer to existing criteria, which may not be applied in the partner's country.

As we have noted above, partner organizations have demonstrated a high degree of commitment and competence on the issue. 25 partners submitted at least one concrete proposal. They have a varying degree of complexity, but they can in any case be considered as relevant contributions and starting points for the identification of a shared proposal of guidelines. We hope that these guidelines may eventually be used as a common policy tool.

In contrast to our treatment of the partners' evaluation of existing criteria, which we organized according to their specific content, the partners' proposals are here presented country by country. Moreover, many partners indicated how, according to them, the application of the existing criteria could be improved. On the contrary, others proposed to abolish existing criteria or practices, because they constitute an obstacle to the participation of NGOs in the policy making process which cannot be overcome. We have thus decided to treat both proposals and obstacles together, since they all aim at a more adequate identification system.

The first point will thus be dedicated to the listing of the partners' positive and negative proposals, while the second one is a tentative typology, the results of which will be commented and analyzed in the third point.

#### 1. *The proposals*

##### *Austria*

- There should be a general law to regulate participation of NGOs.
- Criteria must be sufficiently open so as not to exclude small organizations and flexible enough to adapt to the changing needs of society.

- Policy criteria should be written in guidelines, easy to understand (and well explained) and transparent.
- Expertise (intended as scientific competence) is very important but must always be combined with practical experience in the field.
- The degree of the organization should be a criteria relating to specific situations (first-degree or second-degree organisations can be more adapted to fulfil certain policy tasks) and not applying generally.
- The expression of specific interests should be taken into account in a democratic approach, avoiding the expression of specific interests against the general interest.

#### *Belgium*

- There cannot be a unique set of criteria for all NGOs because they are too diverse.
- The criteria should be flexible enough to respond to new or existing forms of relevant social actions.
- What most matters is the relevance of the message and the experience.

#### *Bulgaria*

- There should be two different kinds of criteria: criteria for the participation in the first phases of policy-making (formation) and those for the participation in the implementation of policies, and especially the provision of services.
- Participation in the formation stage of policy-making is a right and therefore, there shouldn't be any selection (criteria) and the principles which should be implemented are the equal opportunities to access and the support to the disadvantaged.
- Participation in the implementation of policies, and especially the provision of services should be regulated by the following criteria:
  - \* Expertise
  - \* Experience
  - \* Independence
  - \* Transparent accounting
  - \* Past results
  - \* Quality of the proposed project
  - \* Number of people served by the organization
  - \* Quality of the services of the organization
  - \* Cost effectiveness of the use of the resources of the organization
  - \* Transparency of the organization's financing
  - \* To become eligible for public funding, an organization should have proposed at least one modification in the legislation approved by the national Parliament in the past year.



### *Cyprus*

- The Cyprus Consumers Association has advocated for a long time for the adoption and the application of such criteria as:
  - \* Accountability
  - \* Transparency
  - \* Governance
  - \* Financial sustainability
  - \* Expertise
  - \* Experience
  - \* Reputation and credibility among its peers
  - \* Trust
  - \* Expression of general interests
  - \* Networking capacity
  - \* Independence
  - \* Quality of the proposed projects and past results
- Umbrella organizations should be involved and have a clear role in the design of the process of identification of civic NGOs and in its implementation itself, because they can be a source of valuable local knowledge.

### *Czech Republic*

- Effective criteria demonstrating experience at the local level should be favored.
- General criteria could be set by law but policy could be more appropriate to the concrete application of these criteria.
- The accessibility of the criteria and the time are crucial factors.
- There should be a significant support to improve the organizational and financial stability of civic NGOs, as well as the level of qualification of their staff, which are all necessary factors to establish a functional system of criteria implementation at the national level.
- The real impact of existing criteria is very much influenced by the way in which they are interpreted and applied.

### *Denmark*

- Written criteria are very important in order to make the involvement of NGOs a right.
- It is better to have sectoral or specific criteria connected with different policy phases.
- The only objective criteria should be the field of operation, so that all organizations of the field can decide whether to participate or not. Therefore, there should be no other criteria for consultation (different for funding, where it is legitimate to specify the kind of organizations it is designed to support).

- In case it is important to keep down the size of a committee, evaluative criteria can be meaningful.
- In the case of multinational organizations, the geographical representativeness can be a fair criterion.
- All kinds of media should be used to publicize the criteria, trying to find out the most adapted ones to advertise every specific opportunity.
- Time is a very important factor.
- In order not to exclude anybody, general criteria should be very general – Big organizations are sometimes “dinosaurs” and in a democratic society, it is important to give space to smaller organizations and minorities.

#### *Estonia*

- There should be a clear legal basis for participation with 2 levels:
  - \* There should be one law or policy, related to legal status in particular, applicable to all national institutions and which should just determine which types of organizations should be involved
  - \* Specific criteria for the different fields of society, which should be developed by the ministries in collaboration with the third sector. These specific criteria should especially include:
    - Size
    - Experience
    - Financial situation
- The criteria should also be determined according to the phase of policy making.
- In Estonia, personal contacts play a very big role in some fields. This kind of criteria handicaps the newly founded organizations

#### *European Union – CECOP*

- Necessity of transparency in the process of identification.
- Quantitative criteria such as the territorial scope should be used together with qualitative criteria such as experience.

#### *European Union – CELSIG*

- Importance of the flexibility in the application of criteria because civil society and naturally mobile and polymorph.
- Importance of well-spotted publicity.
- Financial support is crucial to allow effective participation of NGOs in the policy making, but money should be paid in advance to take into accounts the specific needs of organizations with limited own resources.
- Transparency should apply to the whole process of identification and evaluation.
- Sufficient time is a fundamental factor.
- There should be official criteria, publicly and largely displayed.

- The set of criteria should be large enough to cover the various situations of NGOs.

*European Union – ECAS*

- Written and publicly available criteria guarantee continuity in spite of the staff changes and ensure that new civil servants clearly understand the nature and extent of their duty.
- European institutions should have up-to-date database of the organizations (CONNECS is not comprehensive enough) and DGs should share information with each other.
- The self-appointment should be used together with identification by hybrid bodies in order to guarantee a balance of input.
- Internet and direct invitation should be used together with other channels of publicity.
- Financial support should be used at times to counterbalance different interests.

*European Union – FIDH*

- Criteria should be adjusted to the sector and the phase of policy making in which they apply.
- Transparent accounting should become one of the general criteria in all calls for proposals.
- Expertise is important for the overall evaluation of the organization's capacities.
- Evaluative criteria pertaining to the activity of an organization is the most appropriate in case of participation in the implementation.
- Institutions should not rely on a single publicity means. Internet is the most transparent medium but publication in journals is necessary for the people who don't have access to the internet.
- Building a list of organizations which are regularly consulted could give the possibility to grant them a financial support to facilitate their work.
- The lack of transparency of flexible and ad hoc identification process can be overcome by publishing the criteria fixed for individual identification processes.
- In order to be a reliable measure of expression, the criteria of size must always be combined with territorial scope.
- The self-appointment could work with a list open to application.

*Germany*

- The quality of the message and the accountability of the organization are the sole standards on the basis of which an organization can be measured.

- There is a difference between consultations aimed at giving interested NGOs an opportunity to voice their opinion on pending measures or decisions and consultations aimed at gaining an expert advice on a specific subject matter:
  - \* In the first case, it is important to verify that the organization is adequately representative and fairly voices its members' views
  - \* In the second, only the expertise is important and the fact that it comes from an NGO or not is irrelevant.
- Financial support is very important because in its absence, the poorest NGOs are disadvantaged.
- It is important to involve anybody who wishes to be involved in the decision making process and the government should not have the power to refuse a participant. In this way, the best arguments will be able to influence the decision.
- Proposed criteria:
  - \* A transparent procedure of accreditation and identification,
  - \* A clear distinction between the different levels of participation,
  - \* A process linking participation opportunities to quality.
- Consultation guidelines should be established and reflect the specific working mechanism of NGOs.

#### *Greece – European Expression*

- Necessity of official, written and binding criteria.
- Identification should be a two-step process in order not to exclude newly established NGOs:

Registration with the relevant ministry / Department to acquire the right to be consulted (Open procedure).

Rigorous objective and evaluative criteria to participate in policy implementation or in decision making. In this case, the criteria should pertain to the organization, to ensure that it is trustworthy:

- Resources
- Transparent accounting
- Territorial scope.
- Criteria should be general and apply to all government offices and policy phases).

#### *Greece - KEPKA*

- General, written criteria must be implemented in all sectors and in all the different policy phases. These criteria should ensure democracy, plurality and transparency.
- Identification should be done by the organizations themselves.
- Objective and evaluative criteria are important but they should be verifiable.
- Personal contact with public officials as a criteria favors the participation of the same organization in all the spaces.

### *Hungary*

- Publicizing the criteria is essential to guarantee transparency and accountability. Access to proper and timely information should be ensured.
- The use of e-government techniques for consultation limits the need for identification of participants.
- Needed criteria for consultation:
  - \* on-line registration
  - \* distinction between lobbies and advocacy NGOs.
- Training of both institutions and NGOs is necessary to avoid implementation gaps.
- The whole process of identification should be transparent.
- A legal framework establishing NGOs' right to be involved in policy making is necessary.
- Legal rights may have only a formal significance, unless accompanied by policies and regulations implementing them.
- The application of the criteria by the public authority can be problematic if the decisions are partial and unreasonable and if the authorities are not accountable for their decisions.
- Negative personal behaviors, knowledge gap and technical gap are obstacles applying to both NGOs and public institutions.

### *Ireland*

- Evaluation of policies should be ongoing and inclusive.
- Peer identification seems to be the only fair way to allow groups to choose their own representatives.
- It is important that gender balance is maintained in the process, as well as the balance between ages, races, etc.
- Dissenting voices should not be silenced.
- The government should prioritize the voice of those who are directly impacted by the decisions to be taken and usually excluded from the decision making process.
- The simplification of the participation processes would make it easier for more and smaller NGOs to participate.
- Publicize participation process extensively not only through internet but also using mass media (radio and TV).

### *Italy*

- There should be two different sets of criteria:  
The first one for the participation in the policy planning and decision making, which should mainly contain quantitative and qualitative criteria regarding the expression of interests, favoring their aggregation  
The second one for the participation in the implementation of policies, which should contain criteria such as:

- Experience,
  - Competence,
  - Reputation,
  - Transparency (in case of public funding),
  - Accountability (in case of public funding).
- The fulfillment of these criteria could result in the inscription of the organization on a list according to the sector of experience and competence.
  - The evaluation of the organizations and the control of the fulfillment of the criteria should be done by an independent body, in which could participate the main beneficiaries of the policies.
  - The transparency and formality of the process must be correlated to the degree of involvement and responsibility of the organizations in policy making.
  - There should be more information on the possibilities of participation and the identification processes on the websites of the public institutions, not only regarding the calls for proposals and for tenders.
  - There should be a general, formal and clear framework of the possibilities and processes of participation in the decision making.
  - There should be a transparent and public system of inscription and monitoring of the civic NGOs, in which NGOs should guarantee the accuracy and adequacy of the information, and the control of which should mainly be based on the reputation of the organizations.

#### *Malta*

- Chosen organizations should have the following characteristics:
  - \* a statute (this promotes the rule of law and transparency),
  - \* be democratic,
  - \* be subject to transparency and accountability rules (i.e. general audit by public authorities independent of government).
- The ranking of existing criteria would be the following:
  - \* Expertise,
  - \* Experience,
  - \* Trust,
  - \* internal organization,
  - \* expression of specific interest,
  - \* expression of general interest,
  - \* networking capacity,
  - \* reputation,
  - \* independence (even though independence is the last one, it is still extremely important).
- Self-appointment is the best option once identification criteria are met.
- Whatever process is used to apply the criteria, it is important that it is open, transparent and motivated.

- There should not be too many criteria as not to stifle the development of participation, nor too few as not to give power to government to use NGOs for their own needs.
- Criteria should be flexible enough to consider the variety of NGOs.
- The sectoral criteria should be a subset of general criteria.
- Personal relations between civic organizations' leaders and civic servants can be an obstacle if it is used as a criteria to identify NGOs.

#### *Portugal*

- Criteria should be expressed in transparent, well-publicized laws or regulations.
- NGOs should be recognized on the basis of their experience. The other most important criteria should be technical capability.

#### *Romania*

- The attitudes of public officials that still believe NGOs are their rivals is an obstacle.

#### *Slovenia*

- Civil dialogue and expert consultation are two different matters, in which NGOs have different roles. Therefore, they require different criteria (i.e. NGOs should represent general public interest in the first one and have expertise in the second one).
- Organizations should decide who represents them and not be state appointed.
- It is fundamental that the obligations / responsibilities of the elected or delegated representatives are clear and explicit (i.e. to report back, to hold meetings to consult and inform, mechanisms which guarantee the person delegated presents all the different opinions and points of views).
- Transparency in the process.
- In cases of limited access to decision making process, it is more important to establish mechanisms of equal opportunity than criteria of representativeness in order to limit the nomination of "state friendly" organizations.
- To remedy the de facto inequality linked to open procedures, it is important to support smaller organizations.
- The process of participation should be open.
- Evaluation criteria can lead to inequality in transition countries since the public officials do not as of yet have the experience to perform such evaluations.

### *Spain*

- It is important to take into account the past activities of an organization, and not only those of the last 12 months.
- The size criteria should take into account the national situation of associations.

### *Sweden*

- Criteria must be clear, accessible, non-arbitrary and they must reflect diversity.
- They must be flexible to enable policy actors to adapt to a changeable world. Criteria should thus be periodically revised.
- There should be special criteria for non-profit organizations, which compete for funding on a very different basis than international organizations, trade unions, etc.
- It is necessary to make sure that women are among the represented and that the organization is not gender blind.
- The structure for participation should avoid procedural exclusions, due to meeting places and times or rigid report formats.

### *Turkey*

- In order for criteria to function there need to be certain conditions, and above all the lifting of total control of the State over NGOs.
- Written criteria must be decided and evaluated by NGOs and public institutions together.
- Flexible and inclusive processes of identification are important to strengthen NGOs.
- Criteria based on personal contacts can result in organizations that have personal contacts receive large grants and have the opportunity to improve their reputations while the NGOs without personal contacts are continually marginalized.

### *United Kingdom*

- Civic organizations must become intimately involved in the evaluative part of the policy cycle.

## *2. Typology of the partners' proposals*

The typology of the partners' proposals does not follow the classification of the existing criteria (Chapter 1) but reflects the partners' own points of view and priorities. It includes both the positive and the negative proposals of the partners. The latter are effective practices of the institutions, even if they do not result among the official criteria, which are considered by the partners as obstacles to



an adequate process and should thus be eliminated or overcome for the sake of the good governance.

The typology was established according to the chronological order of the identification process, from the prerequisites to the functioning of the process. For each step, the proposals have been listed according to their weight (the number of partners supporting the same proposal) and by "families", since the organizations have often proposed various applications of the same criteria or the same principle.

#### **Prerequisites**

- Statute (1: Malta)
- Be democratic (1: Malta)
- Be subject to transparency and accountability rules (1: Malta)

#### **Status of criteria**

##### *\* Written*

- Written (5: De, EU - ECAS, Greece - European Expression, Greece-KEPKA, Tur)

##### *\* Law*

- General legal framework (5: Aus, Est, Czech, It, Hun)
- Law (1: Aus)

##### *\* Guidelines*

- Guidelines (1: Ger)
- Sectoral guidelines (1: Aus)

##### *\* Policy*

- Policy for the application of the criteria (2: Czech, Hun)

#### **Scope of criteria**

##### *\* Sectoral / Specific*

- Should be defined according to the policy phases (5: Bul, Den, EU - FIDH, Est, It)
- Should be defined according to the policy area / sector Sectoral criteria (2: Den, EU - FIDH)
- Sectoral criteria, which should be the subset of general criteria (1: Malta)

##### *\* General*

- Should apply to all departments / ministries General (2: Greece - European Expression, Greece - KEPKA)
- Should apply to all policies phases (2: Greece - European Expression, Greece - KEPKA)

#### **Kinds of Criteria**

##### *\* Experience*

- Experience (4: Bel, Cyp, Malta, Port)
- Experience in the implementation phase (2: Bul, It)
- Experience determined on a sectoral basis (1: Est)
- Experience at the local level (1: Czech)

##### *\* Expertise*

- Expertise (3: Cyp, EU - FIDH, Malta)
- Expertise in the implementation phase (2: Bul, It)

- Expertise in case of expert consultation (2: Ger, Slov)
- Expertise, if combined with experience in the field (1: Aus)

*\* Transparency*

- Transparent accounting and financing in the implementation phase (3: Bul, EU - FIDH, It)
- Transparent accounting (2: Greece - European Expression)
- Transparency (1: Cyp)

*\* Accountability*

- Accountability (2: Cyp, Ger)
- Accountability in the implementation phase (1: It)

*\* Reputation*

- Reputation and credibility among its peers (2: Cyp, Malta)
- Reputation in the implementation phase (1: It)

*\* Past activities and results*

- Past activities and results (2: Cyp, Spain)
- Past results in the implementation phase (1: Bul)

*\* Independence*

- Independence (2: Cyp, Malta)
- Independence in the implementation phase (1: Bul)

*\* Expression of general interest*

- Expression of general interest (2: Cyp, Malta)
- Expression of general interest in case of civil dialogue (1: Slov)

*\* Finances*

- Financial sustainability / resources (2: Cyp, Greece - European Expression)
- Financial situation determined on a sectoral basis (1: Est)

*\* Expression of specific interests*

- Expression of specific interests (1: Malta)
- Expression of specific interests, but never against general interest (1: Aus)
- Expression of specific interests in the formation phase (1: It)

*\* Quality*

- Quality of the proposed projects (1: Cyp)
- Quality of the proposed projects or services of the organization in the implementation phase (1: Bul)
- Quality (1: Ger)

*\* Size*

- Size, based on the national situation (1: Spain)
- Size determined on a sectoral basis (1: Est)
- Size, linked with the territorial scope (1: EU - FIDH)

*\* Others*

- Relevance of the message (2: Bel, Ger)
- Trust (2: Cyp, Malta)

- Networking capacity (2: Cyp, Malta)
- Territorial scope in the case of multinational organizations (1: Den)
- Governance (1: Cyp)
- Directly interested groups (1: Ir)
- Technical capability (1: Port)
- Degree of the organization determined case by case (1: Aus)
- Number of people served by the organization in the implementation phase (1: Bul)
- Cost effectiveness of the organization in the implementation phase (1: Bul)
- Legislative proposals approved by the Parliament in the implementation phase (1: Bul)

#### **Characteristics of the criteria**

##### *\* Accessibility*

- Accessible / Publicly available (5: Czech, EU - CELSIG, ECAS, Hun, Swe)

##### *\* Flexibility*

- Flexible (4: Aus, Bel, Malta, Swe)

##### *\* Clarity*

- Clear (3: Aus, It, Swe)

##### *\* Evaluative criteria*

- Evaluative criteria pertaining to the activities for the implementation (1: EU - FIDH)
- Evaluative criteria in case of limited access to consultation (1: Den)
- Evaluative criteria should also come together with quantitative criteria (1: EU - CECOP)

##### *\* Others*

- Official (2: EU - CELSIG, Greece - European Expression)
- Jointly defined (2: Est, Tur)
- Inclusive, in the case of general criteria (2: Aus, Den)
- Transparent (1: Aus)
- Binding (1: Greece - European Expression)
- Verifiable (1: Greece - KEPKA)
- Non arbitrary (1: Swe)
- Specific to NGOs (1: Swe)

#### **Characteristics of the set of criteria**

- No unique set (1: Bel)
- Large (1: EU - CELSIG)
- Adequate number of criteria (1: Malta)

#### **Procedures of identification**

##### *\* Transparency*

- Transparent (8: EU - CECOP, CELSIG, Ger, Greece - KEPKA, Hun, Malta, Port, Slov)

##### *\* Open procedure*

- Open procedure in case of consultation (3: Bul, Den, Ger)
- Open procedure (2: Malta, Slov)
- Open procedure in case of e-consultations (1: Hun)

##### *\* Self-appointment*

- Self-appointment (1: Malta)
- Self-appointment together with identification by hybrid bodies (1: EU - ECAS)

- Self-appointment based on a list open to application (1: EU - FIDH)

*\* Peer identification*

- Selection by NGOs themselves (2: Greece - KEPKA, Slov)
- Peer selection in case of consultation (1: Ir)

*\* Identification lists*

- Sectoral list of the organizations fulfilling the criteria (1: It)
- Identification based on a registration list open to application (1: Greece - European Expression)

*\* Others*

- Flexible (2: EU - CELSIG, Tur)
- Guarantee the balance between genders, ages, races, etc. (2: Ir, Swe)
- Guarantee the equal opportunities of access in case of consultation (2: Bul, Slov)
- Preserve the plurality of opinions (2: Greece - KEPKA, Ir)
- Support the disadvantaged in case of consultation (2: Bul, Ir)
- Evaluation by an independent body including the beneficiaries of policies (1: It)
- Involvement of umbrella organizations (1: Cyp)
- Identification based on positive criteria in case of public funding (1: Den)
- Motivated (1: Malta)
- Inclusive (1: Tur)
- Accountable (1: Hun)
- Democratic (1: Greece - KEPKA)
- Its formalism must be proportionate to the degree of involvement of the organizations in the policy-making (1: It)

**Necessary factors for the functioning of the process**

*\* Publicity of the criteria*

- Multiple channels (3: Den, EU - ECAS, EU - FIDH)
- Well spotted (2: EU - CELSIG, Malta)
- Publicizing the criteria is essential to guarantee transparency and accountability (1: Hun)
- Channels adapted to every opportunity (1: Den)
- Large (1: EU - CELSIG)
- Mass media: radio and TV (1: Ir)
- More publicity on institutional websites (1: It)
- Should regard participation opportunities in all phases of policy making (1: It)
- Publication of the criteria fixed for every identification in case of ad hoc process (1: EU - FIDH)

*\* Financial support*

- Financial support (2: Czech, Ger)
- Financial support based on a database of consulted organizations (1: EU - FIDH)
- Financial support paid in advance (1: EU - CELSIG)
- Financial support when necessary to remedy the unbalance of interests (1: EU - ECAS)

*\* Time*

- Time (3: Den, Czech, EU - CELSIG)

*\* Training*

- Training of NGOs' staff (2: Czech, Hun)
- Training of institutions' staff (1: Hun)

*\* Database*

- Up-to-date database of NGOs (1: EU - ECAS)
- Public list of NGOs and their characteristics, managed by NGOs themselves (1: It)

*\* Others*

- Support to smaller organizations in case of open procedures (1: Slov)
- Sharing of information between the different sectors / departments (1: EU - ECAS)
- Distinction between lobbies and advocacy NGOs (1: Hun)
- Simplification of the procedures (1: Ir)
- Mechanisms to guarantee the representation of the delegating organizations' or members' views (2: Ger, Slov)
- Avoid De facto exclusion due to non adapted consultation modalities (1: Swe)
- No control of the State over NGOs (1: Tur)

**Obstacles to the functioning of the identification process**

*\* Personal contacts*

- Involvement process based on personal contacts (4: Est, Greece-KEPKA, Malta, Tur)

*\* Public officials*

- Negative attitude and knowledge gap of public officials (3: Hun, Rom, Slov)

*\* Application of the criteria*

- The impact of the criteria depends on the way in which they are interpreted and applied (1: Czech)
- Lack of accountability of the institutions in case of unfair application of the criteria (1: Hun)

**Others**

- Involvement of NGOs in the evaluation of policies (2: Ir, UK)

### *3. Remarks and comments on partners' proposals*

As mentioned in the introduction, the partners both proposed new criteria and procedures and supported some of the existing criteria. The new ones are naturally supported by a minor number of partners, since they were not suggested in the working paper on which the partners have based their comments. However, their innovative value should not be underestimated.

As regards the existing criteria, the partners have often specified the way in which they should be applied. It actually results from these proposals, as well as from the evaluations of Chapter 4, that many criteria are not good or bad in themselves, but that their impact mainly depends on the way in which they are interpreted and implemented.

In the light of these considerations, we will first examine the criteria and procedures which have created the major consensus, taken both as single proposals / obstacles and "families". The first list gives information on the

criteria and procedures considered by a large number of partners as necessary or, on the contrary, harmful *in themselves*. The second list highlights the categories of criteria considered as most important, but only if the institutions follow the indications given by the partners for their application.

### *Individual proposals*

Starting from the highest consensus, the individual proposals supported by at least 4 partners are:

- Transparent procedures of identification (8 partners);
- The existence of written criteria (5 partners);
- The existence of a general legal framework (5 partners);
- The definition of criteria according to the policy phases (5 partners);
- The accessibility and public availability of criteria (5 partners);
- The criteria of experience (4 partners);
- The flexibility of criteria (4 partners);
- To avoid a process based on personal contacts (4 partners).

The first point which can be noted is that the most important item for the partners is not a specific criteria but the transparency of the procedure. Moreover, the ranking of this proposal is much higher than the ranking of the second one, which indicates that transparency is far ahead the other concerns of the participating NGOs.

The second and third proposals both regard the existence of written criteria, even if the third one is much more precise and limited than the second one, since it only supports the existence of a general legal framework and not the fact that all criteria should be written. The statements of the partners (see point 1) demonstrate that the high ranking of these proposals is linked to two main considerations: first, the request for a right to participate and the possibility to claim for its respect in front of the court; second, the need for transparency and accessibility of the criteria, which is better guaranteed by written than by unwritten criteria.

The preference for the definition of criteria according to the policy phases indicate that most partners consider the criteria to participate in the definition of policies (consultation) should be different from those applying to the implementation of policies, which often imply the provision of services and / or the access to public funds. Partners often advocate a large / open access (see data on open procedures) in the first case and more selective procedures in the second one.

According to the partners, the accessibility and public availability of criteria is an important condition for a fair process of identification. It is very much linked to their request for written criteria and transparency and is certainly one of the reasons why they have dedicated so many proposals to the publicity of criteria (see below).

The experience of the organization is the first and unique criteria mentioned by more than 4 partners (all the other proposals regard the procedure of identification, the status of the criteria, their characteristics, etc.). This seems to confirm that more than the criteria themselves, what matters most is the way in which they are publicized, applied, etc.

The flexibility of criteria reveals in particular the concern of the partners for the adaptability of the criteria to the diversity and the rapid evolution of civic organizations, which have to adapt to the changes of society. It is not contradictory with the request for written criteria since many partners supported the existence of a general legal framework and, in this case, the flexibility can be guaranteed by the policy of application of the criteria.

Several partners criticized the fact that in their countries, identification processes were based on personal contacts and as a result, newcomers and organizations expressing dissenting voices were often excluded. Since it is impossible to deny the existence and weight of personal contacts in the relationships between institutions and NGOs, one of the solutions to counterbalance this situation could be the creation of mechanisms to guarantee the equal opportunities of access, as suggested by 2 partners.

### *Families*

Starting from the highest consensus, the "families" of proposals supported by at least 6 partners are:

- The publicity of the criteria (12 partners);
- Specific scope of the criteria (8 partners)
- The criteria of experience and its various applications (8 partners);
- The criteria of expertise and its various applications (8 partners);
- Transparent procedures of identification (8 partners)<sup>7</sup>;
- The legal status of criteria (6 partners);
- The criteria of transparency (6 partners);
- Open procedures of identification (6 partners).

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<sup>7</sup> This single criteria has also been inserted in the second list since, by itself, it was supported by more than 6 partners.

First of all, it is interesting to note that the proposals dedicated to the best ways to publicize the criteria are far more numerous than the other ones. It seems to indicate that many organizations feel de facto excluded from the participation processes because they don't know about the opportunities and the criteria they must fulfill to take part in the process. The dissemination of information is thus a vital factor of success of the process. More than suggesting specific publicity channels, the partners have insisted on the necessity to use several of them at the same time in order not to exclude anybody.

As regards the specific scope of criteria, it reflects both the preference of partners for criteria defined according to the different policy phases (see above) and for sectoral criteria, rather than general ones. However, sectoral criteria are not incompatible with a general framework supported by many proposals (see above), the principles of which can be specified, interpreted and adapted by every minister or department.

Experience and expertise are the first two categories of criteria mentioned by the partners. Both are qualitative criteria and it is noticeable that no quantitative criteria appears among the most quoted proposals (the first one would be the size of the organization, mentioned by 3 partners with 3 different concrete applications). They refer to the past and present capabilities of the organization. They are both considered as especially important in the implementation phase and expertise is mentioned as obviously necessary in the case of expert consultations involving NGOs. It is also interesting that one partner supported expertise, but only combined with practical experience in the field.

The transparency of the procedure, as well as the legal status of the criteria have already been commented upon above.

The criteria of transparency mainly refers to the organizations' accounting and it is proposed in particular with reference to the implementation of the policies, since it often involves the managing of public funds by civic organizations.

Finally, 6 partners have supported the open procedures but most of them limit this proposal to the consultation, considered as a democratic forum in which all organizations should be able to participate. The ranking of these proposals may also reflect the main concerns of civic organizations which emerged in Chapter 3: the risk of exclusion of small, weak and new organizations (even if open procedures doesn't necessarily appear as the best remedy), the fear for influence / control of the state over the civic NGOs and the distrust in the fair application of the criteria by the institutions.



## CHAPTER 5

### Main findings and conclusions

In this chapter we are going to summarize the results of the various parts of the research and, on the basis of these results, we will give shape to proposals for a reform of the criteria of representativeness of citizens' organizations.

#### 1. Summary of the findings

In order to present a general vision of the results, thus make them more easily comparable, in this section we report a broad synthesis of them.

##### 1.1. A general typology of criteria

The research enabled us to build a typology of the existing criteria according to the official sources, which was also a guiding tool for further analysis. The typology is the following:

Tab. 5.1 - Typology and number of references in official sources of existing criteria

Criteria	Formation, Number of References	Implementation, Number of References
<b>· STATUS</b>		
- POSITIVE		
* Written, in laws	10	5
* Written, in policy documents	13	14
* Unwritten	8	3
<b>Total Positive</b>	<b>31</b>	<b>22</b>
- NON-POSITIVE		
* Open procedure	17	0
* Flexible, ad hoc	11	0
* Arbitrary	2	0
<b>Total Non-Positive</b>	<b>30</b>	<b>0</b>
<b>· SCOPE</b>		
- GENERAL	7	2
- SECTORAL	23	21
<b>· KINDS OF CRITERIA</b>		
- OBJECTIVE		
*Related to the organization	25	19
- Size	5	0

- Territorial scope	7	1
- Degree	8	0
- Stability	3	3
- Resources	1	7
- Transparent accounting	1	8
* <i>Related to the activity</i>	5	5
- Field of operation	5	5
<b>Total objective</b>	<b>30</b>	<b>24</b>
- EVALUATIVE		
* <i>Related to the organization</i>	63	35
- Experience	5	9
- Expertise	12	8
- Reputation	4	2
- Independence	3	2
- Trust	5	2
- Networking	2	4
- Internal organization	6	7
- Specific interests	20	1
- General interests	6	0
* <i>Related to the activity</i>	4	18
- Past results	4	2
- Project	0	16
<b>Total evaluative</b>	<b>67</b>	<b>53</b>
<b>· APPLICATION OF CRITERIA</b>		
* <i>Formal prerequisites</i>	15	13
* <i>Actors in the identification process</i>		
- Institutional assessment	20	15
- Org. self-appointment	7	0
- Peer review	6	2
- Hybrid	1	0
* <i>Tools and procedures for the publicity</i>		
- Internet	15	16
- Official journals etc.	4	2
- Direct invitation	1	0
- Network organizations	3	0

This typology, which was assessed and integrated with further remarks and proposals by the partner organizations, can be considered a first, relevant result of the survey. Since now such a map lacked and, consequently, every discourse on representativeness of civic NGOs used to turn out in generic either sometimes naïve statements. By now, the representativeness debate can start from well-defined typology of formally stated criteria.

## 1.2. *Findings of the survey on the existing criteria*

The first part of the research was a survey on the existing criteria for the identification of representative citizens' organizations as actors in policy making, based on the governments' and institutions' answers to questionnaires and official websites.

This information was gathered distinguishing the phase of policy formation from the one of implementation.

### *Status and scope of criteria*

With regard to the dimension of *policy formation* positive criteria are reported in 31 cases, just as often as non-positive criteria are. They were most frequently set forth in policy documents, rather than in laws and in unwritten form. In any case, written criteria largely prevail over unwritten criteria. As for the non-positive criteria, open procedures appear most frequently, and flexible criteria are mentioned by a relevant number of institutions as well. About the scope of the criteria, they are in most cases sectoral. This could indicate the lack of a general policy regarding citizens' organizations, already noted in other research projects of Active Citizenship Network.

As for *implementation phase*, there are very few reports of implementation criteria written in laws, while the frequency of reports of criteria written in policy documents are more or less the same. This fact could be explained by the circumstance that implementation is considered a typical administrative activity, while formation of policies is commonly regarded as a more "political" activity – and thus lends itself better to being governed by laws. Non-positive criteria, on the other hand, have not been reported for the implementation phase. The open procedure, which came in first place in the policy formation stage, was not reported at all in the implementation phase. This suggests that when relevant resources and activities are at stake (as they are in the implementation of policies), institutions have a greater incentive to fix positive criteria. While open and flexible criteria seem to be considered more appropriate for consultation, identification criteria is much more rigorous for such activities as providing social services.

### *Kinds of criteria*

With regard to the *policy formation* phase, criteria linked to the soundness of the organization, both objective and evaluative, are much more frequent than criteria linked to the organization's activity. This could mean that, in the formation of policies, the concrete activities of citizens' organizations are not a source for the assessment of their ability to be a part of the government process. A second

observation is that evaluative criteria appear twice as often as objective criteria do, according to the official sources. This result, probably unexpected for many civic NGOs facing bureaucratic requirements, could be an example of divergence between provisions and views of institutions and reality on the citizens' organizations' side.

As for the *implementation phase*, we see a similar gap between criteria regarding the organization and criteria regarding its activity: criteria related to the organization appear more than twice as frequently as criteria related to activity. The gap, though, is less than in the policy formation phase. The reason for this difference is that, in the implementation phase, the policy's direct impact on reality is at stake. As a result, operational factors are much more important to implementation than they are in the case of policy formation, where discussions and decisions are in the foreground.

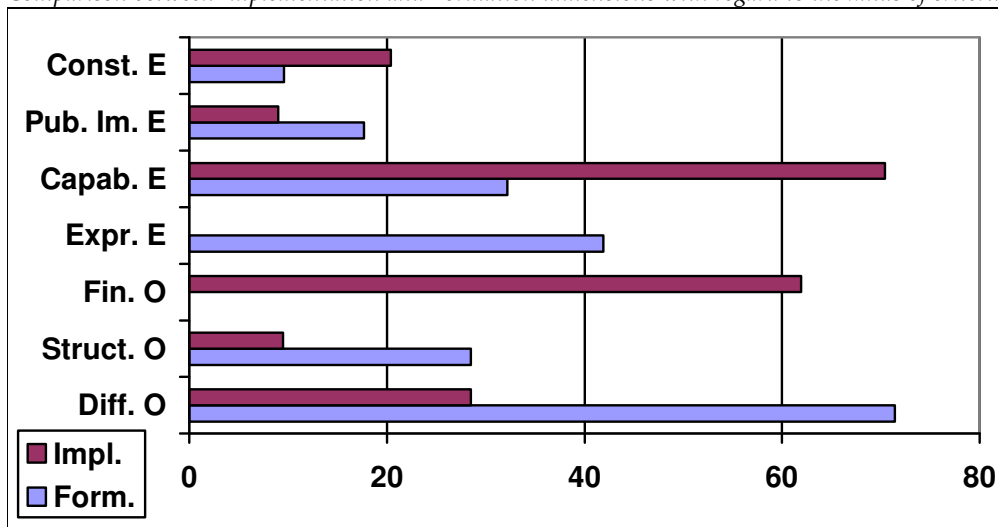
From the analysis of kinds of criteria a relevant difference between formation and implementation phases emerges. This is shown by an examination of the top criteria in the two dimensions. The top criteria for policy formation can be grouped into two clusters: structure and competence (27 mentions) and advocacy (26 mentions), while those of implementation phase are practical ability (40 mentions) and financial situation (15 mentions).

In order to further verify the existence and meaning of the difference between formation and implementation, a comparison between groups of criteria has been carried out. The groups were the following:

- Objective criteria
  - \* *Diffusion*: Territorial scope + Field of operation + Degree of operation
  - \* *Structure*: Size + Stability
  - \* *Financial status*: Resources + Transparent accounting
- Evaluative criteria
  - \* *Expression of interests*: Ability to give visibility and voice to specific + general interests
  - \* *Capability*: Experience + Expertise + Past results + Project
  - \* *Public image*: Reputation + Independence + Trust
  - \* *Constituencies*: Internal organization + Networking

The result of the comparison is illustrated in the following graph. The graph is based on percentages relative to the partial totals of the two dimensions. Capital letters E and O distinguish clusters pertaining to evaluative and objective criteria.

*Comparison between Implementation and Formation dimensions with regard to the kinds of criteria*



It must be noted that the only criterion which is relevant in both dimensions is expertise. On the one hand, this supports our hypothesis that standards for the identification of citizens' organizations are dealt with in completely different ways in the formation and implementation phases. On the other hand, it shows the governments' tendency to consider and use citizens' organizations just as experts, thus neglecting their particular nature and their specific know-how.

The table shows two main divergences between the formation and implementation dimensions. The expression of interests is of the utmost importance in formation, while it does not appear in implementation. By contrast, financial status is really important in implementation and irrelevant to the formation of policies. Another relevant divergence regards capability, at one extreme, and diffusion on the other. Capability is the most important criteria in implementation, but less relevant in formation; diffusion is the most important criteria in formation, but of low rank in implementation.

It must also be noted that evaluative criteria appear twice as frequently in the implementation phase than objective criteria do.

What is the essential difference between the formation and implementation dimensions? What is really important in policy formation is the organization's relation to the targets of policies and the relevance of its constituencies, while what seems important for implementation is the organization's reliability in operational and financial terms.

### *Application of criteria*

As for the *formal prerequisites*, the practice of requiring the fulfillment of formal prerequisites in order to access the process is quite widespread. With regard to European Union countries, it reflects a general attitude of public institutions towards citizens' organizations. Formal prerequisites create obvious burdens upon citizens' organizations.

As for the *actors of identification process*, in the formation phase, institutional assessment comes in first place, though other procedures involving non-state actors are quite widespread. On the contrary, in the implementation phase, institutions seem to have a virtual monopoly over the identification process and non-official actors have practically disappeared. This means that while identification processes for participation in policy formation are more open, processes for inclusion in implementation appear more rigid and oriented from the top down.

As for *the tools and procedures for the publicity of criteria*, the main features of publicity procedures that emerge from these data seem to be the following:

- The Internet is by far the most recurrent tool in both phases,
- It seems there is very little practice of direct invitation to organizations to participate,
- The role of networking organizations appears to be marginal.

As for the *forms of facilitation*, from the information obtained, it could be affirmed that governments are not particularly concerned with facilitating citizens' organizations in fulfilling requirements for the participation in policy-making process. International institutions and the European Union seem to be relatively more sensitive to the matter than national (especially European national) governments.

### 1.3. *Findings of the case studies*

The case studies regarding European Union, Italy, Poland and United Kingdom (interviews with a total of six civic leaders and government representatives on the local situation, existing problems and divergences and proposals) produced both general results and results related to the process of identification of civic NGOs.

*General remarks*

- The practices referred to in case studies mainly regard the dimension of policy formation. This could suggest that the implementation phase is not considered as a part of policy making process in which citizens' organizations must be involved on the basis of their ability to fulfill required criteria, but rather as a contractual matter.
- Bearing in mind the distinction, made in chapter 1, between objective and evaluative criteria, it could be said that these criteria reveal themselves as mixed and overlapping in reality.
- In many cases we see a wide variety of criteria, behaviors and habits. This regards not only the application of rules and standards, but also their definition and content.
- Though a huge implementation gap was expected, and in fact emerged from the case studies, what is more surprising is that the main feature of this gap has to do with relative degrees of complexity. While the governments' provisions are rather simple and straightforward, the reality described in the case studies is far more complex.

*Emerging elements of identification process*

*Definition of rules, standards and criteria.* In all the case studies, rules define the participation in policy making not as a citizens' organizations' rights, but rather as a institutions' prerogative or privilege. Though the rules are in fact more or less binding upon institutions, participation in policy making is still not a right. In all the case studies as well, different criteria coexist. In some cases, it emerged that, in relation to the distinction between policy formation and implementation, two different sets of criteria are established and used. In two cases, politicians' and officials' high degree of discretion is explicitly reported. In one case, the criteria of past relations between officials and citizens organizations was mentioned. Only one case reported that citizens' organizations participate in the definition of criteria.

*Tools and procedures.* Some institutions have established guidelines or codes of conduct, which include criteria for the identification of citizens' organizations. Others have established a "distribution list" open to all citizens' organizations interested in being chosen. In one case the tool of the institution of committees was widespread, though no precise criteria for their formation seem to be in place.

*Intervening variables and hidden criteria.* During the implementation of the identification process, the following unexpected variables emerged: diversity in

the application of criteria according to the individuals or departments in charge; arbitrariness and lack of transparency in the choice of organizations allowed to participate in policy making; informal relations giving an advantage to well-established organizations; identification based on partisan criteria; priority given to organizations' lobbying ability rather than to the real expression of people's interests and rights; public officials' reliance on institutional traditions and habits rather than the content of rules and laws. Among the intervening variables, the following must also be pointed out: the huge influence of political and institutional culture, attitudes and relationships over the identification of citizens' organizations; the relevance of organizational and logistical matters, such as the length of notice, the time and place of the meeting, as well as the possible existence of forms of support to citizens' organizations to enable them to be physically present; civic NGOs' own lack of time, human resources and competences, as well as their power deficit in the face of public institutions; the existence of cognitive divergences between politicians and public officials on one side and citizens' organizations on the other. The lack of assessment of the fulfillment of the criteria and the difficulty to make real use of the results of consultation were mentioned as well. Among the effects of these intervening variables is the fact that participating organizations are not always the most representative ones. The exclusion of less organized or small organizations and the privileging of "capital city" organizations were also reported.

*Success factors.* The case studies also pointed out some actual or potential success factors in the process of the definition and application of criteria for citizens organizations' participation in policy making. The following actual success factors were indicated: use of the official website in order to make the process transparent; cooperation of citizens' organizations in the definition of the criteria; use of public hearings as a tool for consultation; rules that are not too rigid, in order to avoid any risk of formalism; integration of "representative" committees with local groups; reduction of public officials' discretion; more space to networks; institution of a civic NGOs database.

#### *1.4. Findings coming from partner organizations' evaluation of existing criteria*

The Position Papers of partner organizations enabled us to give value to their critical opinions and proposals, as a "citizens' organizations jury," active in a process of deliberative democracy. As for the partners' opinions on existing criteria, two kinds of data must be mentioned.



*Criteria pros & cons*

The first regards the arguments that were voiced most frequently by the partners, in favor or against particular criteria. The list that follows sets forth those arguments made by at least 3 partners, starting from the most recurrent.

- Written criteria have the disadvantage of privileging limited number of better-equipped organizations, and can limit the participation of small, new, less experienced, grassroots or politically-uncomfortable ones. (7 partners)
- Unwritten criteria have the disadvantage of favoring well-established, well-known and/or well-connected organizations, and tend to disadvantage new and innovative organizations. (6 partners)
- The objective criterion of resources has the disadvantage of favoring large, wealthy, well-established NGOs, while excluding smaller and younger ones. (5 partners)
- Financial support has the advantage of helping NGOs and minority groups to meet the criteria in the first place or otherwise facilitating participation. (5 partners)
- The objective criterion of territorial scope has the disadvantage of wrongly excluding such organizations as: grassroots, highly specialized, small, local or regional NGOs. (4 partners)
- The objective criterion of stability has the disadvantage of functioning as a barrier to newcomers. (4 partners)
- The evaluative criterion of trust has the disadvantage of favoring established organizations. (4 partners)
- Identification on the exclusive basis of institutional assessment has the disadvantage of endangering the independence of NGOs. (4 partners)
- Written criteria have the advantage of enhancing transparency. (4 partners)
- The evaluative criterion of expertise has the advantage of being important (4 partners), but it must be grounded on or combined with practical experience. (3 partners, out of the 4 above)
- Written criteria have the advantage of increasing accountability. (3 partners)
- The objective criterion of size has the disadvantage of favoring large and wealthy NGOs, while excluding smaller, but still valuable, ones. (3 partners)
- Publicity by direct invitation has the disadvantage of excluding newcomers. (3 partners).
- Facilitation by giving organizations enough time has the advantage of enabling organizations to succeed in the process. (3 partners)

What is so striking about this list is that a total of 8 out of the 9 disadvantage arguments all make the same point: the factor in question tends to favor “strong” organizations, variously referred to as wealthier, bigger, national, older, better-connected, better-equipped, and to inhibit weaker ones (poorer, smaller, local,

newer, more isolated, etc.). This is even more striking (and challenging) if we consider just the top two arguments: both written *and* unwritten criteria can discriminate against the weak in favor of the strong. Partners' overriding concern is that both clear written criteria, and the lack thereof, can entrench the status quo, keeping out newcomers and minorities.

*Consensus Index*

The second piece of information comes from a "consensus index," built using a simple algebraic summation to illustrate the level of consensus surrounding the value of individual criteria. The consensus value attaching to each criterion was calculated by taking the number of partners making one or more argument in favor, and subtracting this by the number of partners making one or more argument against. The consensus values can be interpreted as follows:

- Low consensus: +1 to -1
- Medium consensus: +3 to +2, -2 to -3
- High consensus: >+4, <-4

As for the Status and Scope of criteria, the result is the following:

*Tab. 5.2 - Consensus Index of Status and Scope of criteria*

Criteria	Consensus Value
- POSITIVE CRITERIA	
* Written: general	2
* Written: laws	1
* Written: policy	0
* Unwritten	-7
- NON-POSITIVE CRITERIA	
* Open procedure	-5
* Flexible process	1
* Arbitrary	-4
- SCOPE	
* General	-1
* Sectoral	3

The partners manifest a deep ambivalence over the value of written criteria as such. 10 partners highlighted the value of written criteria, the strongest overall expression of support to emerge from this analysis. And yet 8 partners, in fact many of the same ones, also underscored the possible disadvantages of written criteria. Viewing this together with the partners' top concerns, we recall that 7 out of these 8 made the substantially the same argument, namely that written criteria can privilege better-situated organizations while disadvantaging less powerful or newer ones. This result is confirmed by the very high consensus (the highest one registered here) against unwritten criteria. Only one partner spoke out in favor of unwritten criteria, for the consistent reason that they enable greater flexibility.

As for the Kinds of criteria, the value of Consensus Index is as follows:

Tab. 5.3 – Consensus Index for Kinds of criteria

Criteria	Consensus Value
- OBJECTIVE CRITERIA	
* Organization	
- Size	-1
- Territorial scope	0
- Degree	1
- Stability	-3
- Resources	-4
- Trans. Account.	2
* Org.'s Activity	
- Field of operation	-1
- EVALUATION CRITERIA	
* Organization	
- Experience	-2
- Expertise	3
- Reputation	-3
- Independence	-2
- Trust	-3
- Networking	-
- Internal org.	-
- Specific interests	-1
- General interests	-
* Org.s' Activity	
- Past Results	-3
- Project	-

*Objective criteria.* The most common criticism, leveled against 5 out of the 7 objective criteria discussed here, is that they wrongly exclude otherwise qualified or relevant organizations, especially smaller, newer and weaker ones. This criticism befell the resource criterion most heavily (high negative consensus value of -4), then stability (-3), size (-1) and field of operation (-1). This criticism also underlies the ultimately low consensus (0) on territorial scope. Partners also provided sound arguments in favor of these objective criteria. This suggests that while there might be many good reasons to adopt them, this should be combined with some kind of mechanism to make them more sensitive to the kinds of organizations that they would otherwise be likely to exclude.

*Evaluative criteria.* With respect to the evaluative criteria as well as to the objective ones, partners worried that specific criteria, especially trust (-3), but also reputation (-3) and experience (-2), might disadvantage newcomers. By the same token, past results also attracted a medium negative consensus (-3), mainly for the same reason of disadvantaging newcomers. Expertise attracted a medium positive consensus making it stand out as a particularly favored criterion overall.

Finally, the value of Consensus Index for the application of criteria has given the following results:

Tab. 5.4 – Consensus Index for Application of criteria

Criteria	Consensus Value
- Formal Prereq.'s	-4
- Actors	
* Institutional Asses.	-5
* Org. self-appt.	1
* Peer review	-1
* Hybrid bodies	1
- Publicity	
* Internet	0
* Official gazette	-1
* Direct invitation	-2
* Network org.	-
- Facilitation	
* Support	5
* Time	2
* Inclusion of weak	-

*Formal prerequisites.* In commenting on existing criteria, partners expressed only a negative evaluation of formal prerequisites. Here too, their most pressing concern was the ultimately arbitrary discouragement or effective exclusion of less privileged organizations.

*Actors in the identification process.* Partners found institutional assessment to be the most problematic, giving it a high consensus value of -5. Also disfavored, though much less so, was identification by peer recommendation (-1). Self-appointment and identification by hybrid bodies received lukewarm support.

*Publicity.* Some partners did insist on the general importance of the publication of criteria for improving their effectiveness and avoiding authorities' interpretation of the criteria to suit themselves. Direct invitation, which makes publicity dependent on institutional initiative, raised the most concern, and attracted a negative value (-2) for the familiar reason that it particularly risks excluding small, newer, less well-known organizations.

*Facilitation.* Partners spoke out strongly in favor of forms of facilitation, especially the advantages of financial support to enable organizations' participation.

1.5. *Findings coming from partner organizations' proposals*

In their position papers, 25 partner organizations submitted their proposals either of reform of existing criteria and their implementation modalities, or of introduction of new ones.

*Single proposals*

The single proposals supported by at least 4 partners are:

- Transparent procedures (8 partners);
- The existence of written criteria (5 partners);
- The existence of a general legal framework (5 partners);
- The definition of criteria according to the policy phases (5 partners);
- The accessibility and public availability of criteria (5 partners);
- The criteria of experience (4 partners);
- The flexibility of criteria (4 partners);
- To avoid a process based on personal contacts (4 partners).

The most important item for the partners is not a specific criterion, but the transparency of the procedure itself. The second and third proposals both regard the existence of written criteria, even if the third one is much more precise and restrictive than the second one. The partners' statements demonstrate that the high ranking of these proposals is linked to two main considerations: first, the request for a right to participate and the possibility to demand a court for its respect; second, the need for the transparency and accessibility of the criteria, which is better guaranteed by written than by unwritten criteria.

The preference for the definition of criteria according to the different policy phases indicates that most partners think that the criteria for participation in the definition of policies (consultation) should be different from those applying to the implementation of policies, which often imply the provision of services and/or the access to public funds. Partners often advocate broad or open access (see data on open procedures) in the first case and more selective procedures in the second one. The accessibility and public availability of criteria is an important condition for a fair process. This is very much linked to the demand for written criteria. The organization's experience is the only criterion mentioned by more than 4 partners.

This seems to confirm that, more than the criteria themselves, what matters most is the way in which they are publicized and applied. The flexibility of criteria reveals in particular a concern for their adaptability to the diversity and the rapid evolution of civic organizations. This does not contradict the demand for written criteria, since many partners supported the existence of a general legal

framework; flexibility can be guaranteed by a policy for the application of the criteria. Several partners criticized the fact that in their countries, processes were based on personal contacts, and as a result, newcomers and organizations expressing dissenting voices were often excluded.

### *Families*

Starting from those with the highest consensus, the "families" of proposals supported by at least 6 partners are those pertaining to:

- the publicity of the criteria (12 partners);
- the specific scope of the criteria (8 partners)
- the criteria of experience and its various applications (8 partners);
- the criteria of expertise and its various applications (8 partners);
- transparent procedures (8 partners);
- the legal status of criteria (6 partners);
- the criteria of transparency (6 partners);
- open procedures (6 partners).

The proposals dedicated to the best ways to publicize the criteria are far more numerous than the other ones. It seems to indicate that many organizations feel *de facto* excluded from the participation processes because they don't know about the opportunities and the criteria they must fulfill to take part in the process. The dissemination of information is thus a vital factor of success of the process. As regards the specific scope of criteria, it reflects both the preference of partners for criteria defined according to the different policy phases and for sectoral criteria, rather than general ones. However, sectoral criteria are not incompatible with a general framework supported by many proposals, the principles of which can be specified, interpreted and adapted by every minister or department. Experience and expertise are the first two categories of criteria mentioned by the partners. Both are qualitative criteria and it is noticeable that no quantitative criteria appears among the most quoted proposals. They are both considered as especially important in the implementation phase and expertise is mentioned as obviously necessary in the case of expert consultations involving NGOs. It is also interesting that one partner supported expertise, but only combined with practical experience in the field. The criteria of transparency mainly refers to the organizations' accounting and it is proposed in particular with reference to the implementation of the policies, since it often involves the managing of public funds by civic organizations. Finally, 6 partners have supported the open procedures of identification but most of them limit this proposal to the consultation, considered as a democratic forum in which all organizations should be able to participate.

The ranking of these proposals confirms the main concerns of civic organizations: the risk of exclusion of small, weak and new organizations (even if open procedures doesn't necessarily appear as the best remedy), the fear for influence / control of the state over the civic NGOs and the distrust in the fair application of the criteria by the institutions.

## 2. *Conclusive remarks*

### 2.1. *General remarks on the results of the research*

The purpose of this research was to identify, describe and analyze the phenomenon of the existing criteria for the identification of representative civic NGOs as actors in the policy making process and to bring together citizens' organizations information, opinions and proposals for the change or better use of such criteria - thus illuminating the concrete side of the issue of representativeness of citizens' organizations. Bearing in mind this purpose, we can state what follows.

*Public institutions interacting with citizens' organizations at the national, supranational and international levels generally seem to use criteria for identifying those to be involved. These criteria can be positively stated or not, general or sectoral, objective or evaluative, focused on the organization itself or on its activity. They may explicitly or implicitly leave a relevant space for open procedures of consultation. Criteria differ markedly between the policy formation and policy implementation dimensions. In the formation of policies criteria refer mainly to organizations' concrete relationship with the targets of policies, as well as to the relevance of their membership and constituencies; the application of such criteria is not the exclusive responsibility of institutions, since a role for the organizations themselves and other actors is often established. In the implementation phase, by contrast, criteria are focused on the operational skills and financial accountability of the organizations, they are usually explicit. Criteria relating to the organizations' activity are very important, and the application of such criteria is a monopoly of institutions. In both dimensions, sectoral criteria prevail over general ones, evaluative criteria are much more frequently mentioned than objective criteria, formal prerequisites govern threshold access and Internet is the prevailing means of publicizing the criteria.*

Passing from official declarations to what really happens, *a big gap* emerges. *Different identification criteria are often overlapped and used at the same time; a significant degree of divergence in the application of criteria, as well as arbitrariness and partisan spirit are common. The influence of hidden criteria (such as previous*

or informal relations of an organization with public officials) and the *lack of publicity and transparency* characterize the implementation of process as well. Not even such tools as codes of conduct or distribution lists seem able to assure certainty and fairness in the identification of citizens' organizations.

*This divergence between official statements and reality has a paradoxical, perverse effect: while rules would theoretically ensure equality in citizens organizations' access to the policy making process and in their treatment by institutions, what happens in reality is that these rules favor strong and well-established organizations, to the detriment of small, new, local or specialized ones. The practical implementation of criteria produces the opposite effect from the one that the definition of those criteria aims to achieve: instead of ensuring certainty, equality and fairness, it can also be associated with uncertainty, arbitrariness and partiality. In other words, the effects of the use of criteria is the opposite of what one would like to achieve establishing them.*

This situation has produced a marked *syndrome of distrust* on the part of citizens' organizations interacting with institutions on public issues. Most of the partner organizations' (conceived as a jury in a deliberative democracy process) critical remarks regard the fact that the process makes the strong stronger and the weak weaker. It follows that *what is of crucial importance is the way that the criteria, whatever they are, are applied*. Moreover, looking at the specific critical remarks of partner organizations with regard to individual criteria, their mainstream view is that *existing criteria are hardly able to recognize the very nature and specific role of the plural and multiform phenomenon of civic activism in the public sphere*.

There is no doubt that this situation is damaging to the development of civic activism and also risky for institutions. It is *damaging for citizens' organizations* since it hinders the evolution of civic activism towards forms and operational patterns consistent with the growing responsibilities of citizens in contemporary democracies. It is *risky for institutions* because the support of citizens' organizations (or horizontal subsidiarity), both in terms of information and "social license to operate," and in terms of practical skills and operational cooperation, is a vital resource for the future of governance.

*Positive elements* can be highlighted as well. A general *awareness of public institutions* of the issue of criteria for the identification of representative citizens' organizations as partners in policy making clearly emerged from the research and can be considered as a basis for an enhancement. The *sensibility, commitment and competence shown by partner organizations* in taking a position and defining precise proposals is a resource to highlight. If combined, these two elements can be a point of strength for a new policy, able to meet the present and future needs of democracies.



### 3. *A framework for the identification of the civic NGOs to be involved in policy making*

Thanks to the discussion held on the draft report during the Brussels conference, proposals for a new way to identify civic NGOs to be involved in policy making can be put forward. We have divided these proposals into five themes .

#### 3.1. *Warnings*

Our proposal assumes some fundamental elements of democratic life, which are worth reiterating here in order to avoid misinterpretations of it:

- Citizens' participation in policy making is completely different from political parties' activity in democratic institutions, however we define "participatory democracy"
- Citizens, as individuals and as organizations, have the right to participate in shaping democratic life and addressing public problems, both through elections and belonging to political parties, and by getting together and building self-organized associations and movements; and this activity does not require institutional permission or selection
- The issue of representativeness arises with regard to a specific feature of citizens' participation in democratic life: the formation or the implementation of government programs aimed at addressing public problems.

#### 3.2. *Starting points*

The framework we propose starts from an objective situation which can be summarized as follows:

- While citizens' organizations are actors in public policy making even when they are not recognized by public institutions, sometimes there is a close collaboration between these organizations and institutions (as in the case of development programs in Latin America funded by international institutions and development banks)
- Often, the representativeness of citizens' organizations is made by institutions as a condition for partnership, though without any precise or shared definition of "representative" (as in the case of art. 46 of the EU Constitutional Treaty)
- In any case, public institutions that involve citizens' organizations in their policy making activities do identify those that consider to be more representative (in the sense of the ability to "stand for" and/or to "act for" someone or something else)

- Very often the process of identification is implicit, unconscious or even arbitrary or informal, so that the process itself risks being unfair, privileging the stronger and more well-established organizations
- Citizens' organizations tend to claim having voice and participating in policy making, declaring their ability to "act for" and to "stand for" people, situations, denied rights, etc.
- Whenever citizens' organizations participate in the policy making process, at least one criterion for their identification is operating. Even when it is explicitly declared that no criteria is applied, some criteria are operating
- The best thing to do, therefore, is to establish criteria and procedures able to guarantee the fairness, equity and transparency of the process itself and to avoid the perverse effect we have noticed above.

### 3.3. *From representativeness to relevance*

In order to overcome any possible ambiguity and to give a more precise name to the fact and the problem we are dealing with, we propose a shift from the term "representativeness" to the term "relevance" of civic NGOs.

We can define relevance in general as the specific importance of a fact compared with its achieved or achievable effects. In the case of civic NGOs, we can mean for relevance the fact that they can make a difference in the policy making process, thanks to one or more of their characteristics (skills, track record, territorial diffusion, experience and expertise, ability to give voice, etc.).

Thanks to the concept of relevance, the issue of the representativeness of civic NGOs can be conceived as a matter of ability rather than a matter of essence. While the concept of representativeness appears an absolute concept, relevance is a relative and pragmatic one. It means that an organization's relevance depends on particular needs and situations. Relevance is contextual; a citizens' organization cannot be relevant in itself.

We think that when institutions require the "representativeness" of civic NGOs, and when citizens' organizations themselves claim to be "representative", they both refer to a feature that could be better defined as relevance.

### 3.4. *Seven basic principles*

On the basis of the rich amount of data and information coming from the research, a set of statements regarding the criteria for the identification of

relevant civic NGOs can be put forward. This can be considered as a premise of a general proposal and policy program related to this issue.

*Right, not discretion.* It must be recognized that all citizens' organizations have the right to be identified as partners in the policy making process on an equal basis and without any arbitrary discrimination. Public institutions cannot consider the involvement of civic NGOs as a prerogative or a privilege, to be granted if and when they consider it timely, useful or innocuous.

*Publicly stated rules and criteria.* Criteria for the identification of relevant citizens' organizations must be established in a public way and in advance, and the rules for their application must be well-known to concerned actors and applied in a fully transparent way. It is natural that criteria do include some organizations and exclude others, according to the situations and policy phases and programs; but this must happen in a way that does not leave any doubt or suspicion surrounding the process of identification and the reasons behind its outcomes.

*Mixed criteria.* Criteria for the identification of relevant civic NGOs must be both general and specific. They must be general, since citizens' involvement in policy making is supposed to be a general policy of public institutions; sectoral, because it is necessary to take into account both the differences between the policy fields and between the phases of formation and implementation. Criteria must also be both objective and evaluative, in order to avoid bureaucratization on the one hand and arbitrariness on the other.

*Flexible norms.* Criteria and rules must be flexible and thus able to take into account both the different situations and the nature of the citizens' organizations involved. This implies the exercise of a high level of responsibility on the part of policy makers and public officials. "Men without rules" can cause unfair choices, but "rules without men" can cause blindness.

*Priority to procedures.* Concrete procedures for the application of criteria have emerged as the sore point of the present situation. No good rule or criterion can be successful without equal attention to the definition and implementation of fair, rational, public, transparent and effective procedures.

*Accompany norms with policies.* The definition of criteria and procedures for the identification of relevant citizens' organizations must be accompanied by a public policy aimed at creating the conditions for the access of civic NGOs to the process. This policy should encompass measures regarding information, communication, material support and capacity building in favor of the civic partners of governments. It thus implies deep changes in the way governments work.

*Involve civic NGOs in the definition of criteria.* Last but not least, civic NGOs must be called upon to participate in the discussion and definition of criteria, procedures and policies. This is necessary not only to obtain their preventive consensus to limit future problems, but also to learn from their very unique experience and competence.

### 3.5. *Operational guidelines*

Together with these basic principles, a set of operational principles for the identification of relevant civic NGOs should be stated. What follows is a tentative set of guidelines.

- Criteria of relevance should be selected case by case on the basis of the concrete situation to be dealt with
- The process of choosing the pertinent criteria should be implemented through an open and public procedure.
- Citizens' organizations should be invited to participate in the definition of the criteria
- Chosen criteria should be communicated and publicly used to evaluate the relevance of civic NGOs in specific situations
- The assessment of which organizations fulfill the criteria should involve citizens' organizations, for example through the use of mixed bodies
- The conclusion of the process and the reasons for the identification of some organizations as more relevant should be formalized and publicized
- The possibility of appealing against the result of the process to a third party should be granted to excluded organizations. The third party should act as a conflict manager rather than as a court.

## **“Participation in policy making: criteria for the selection of civic NGOs”**

Brussels, 16-17 September 2004

### **Conference Conclusions**

On the 16th and 17th of September 2004, 21 partner organizations from 23 European countries and 3 organizations from Latin America met to discuss the conclusions of the research and propose a new paradigm of selection criteria of Civic NGOs in the whole cycle of policy making in the final conference of the present project. There were also present 22 representatives of European and International institutions and other stakeholders.

The discussions during the conference focus mainly on the following key concepts: “selection criteria” and “representativeness.”

#### *1. Questions regarding the concept of “representativeness” – Representative democracy versus participatory democracy*

A. A general reflection on the tricky relationship between State and civil society organizations

A long debate arose on the concept of “Representativeness”. Some members of NGOs and governmental institutions were contrary to the use of this expression. Generally, all agreed that representativeness is not the major issue any longer. The modern democracy profile is one of participation and participation excludes representativeness understood as the “participation of the few”.

Representatives from civic NGOs advocate that the participation of civil society should not be representative. Since representative democracy and participatory democracy are two different approaches of democracy which should not be confused. The audience sustained that the role of civil society is not necessarily to be representative since that is the role of the Parliaments.

However, they mentioned that with the reducing of the roles of public institutions, civic organizations have been called on to carry out these tasks. As a consequence, NGOs that only deliver services (even if focus on common goods) find themselves very dependent on the State. This could be considered the “institutionalisation” of civil society and should be avoided. It is important that

civic organizations should not be conditioned by the State neither by imposing participation rules nor in financial terms.

Some participants proposed that civil society should not replace the State but collaborate with it since State and civil society do not have the same responsibilities, capacity or resources. And by these means civil society organisations may remain free to act, which is one of their important features.

The controversy around the issue of representiveness is due to the existence of new paradigms inside a political system 200 years' old. The emergence of new actors and new demands urges the redefinition of roles and concepts that come closer to the reality of today. One example is the absence of a definition for "representative organizations" in the European Treaty (art. 47<sup>o</sup>).

Other examples given were:

- 1) In Italy, during the recent emergency concerning Iraq, even though NGOs specifically asked to be included in the discussion on whether to send troops or not, they were not represented. And the government did not hear their opinion.
- 2) In Latvia, NGOs are not considered as representative nor as legitimate bodies by the government.

For all these reasons, representativeness is seen with suspicion by civic organizations as it is usually used as a pretext for the exclusion of NGOs, as a "killer-argument".

B. Representative towards whom? The government or their constituency?

Another key-issue is the one of the representativeness of whom. Even if the debate concentrated especially on representativeness as the recognition of NGOs' value and work by public institutions (at the national and international level), some also mentioned it should include the recognition of NGOs by their own constituency.

Someone initiated the debate on the controversial question on whether NGOs can be considered representative of society, if they are not democratic or participative in the functions of their own organization. How can a NGO be seen as representative by the government when it excludes its' own members participation? How do we confront the difficulty in assuring the participation when there are a large number of members?

C. Latin America case

The members of Latin American NGOs and experts attending the conference, pointed out that issue of representativeness and the role of civil society in this

region is much more complex than the European situation due to the fact many countries have just underwent a transition to a democratic state and for many this means only a “formal democracy”.

The recent history of authoritarian regimes brought up the issue regarding the balance of power. On the one hand, NGOs developed a clientelistic relation with the State, nourished by the use of arbitrary and complicated selection criteria. On the other hand, they suffer from the lack of an institutionalised policy concerning civil society, which means that when governments change, the policy towards civil society changes.

D. Alternative concepts to “representativeness” presented during the conference:

- Legitimacy in the stakeholders view can be seen in diverse ways. On the one hand it can be measured by institutional sustainability, impact, track record and past performance or what can be referred to as legitimacy that comes from relevance, not from representativeness. While on the other hand it may come from the sharing of their values, ideas or points-of-view.
- Expertise, competence and capacity of expression are more relevant than representativeness.
- Participation.

## 2. “Selection criteria” – critics

Another controversial expression was “selection criteria”, or the criteria for the identification of relevant NGOs. Some participants identified a basic dilemma: if we talk about selection criteria, it is implicit a choice done by a public institution and choice is perceived as an automatic exclusion. Contrary to this idea, they argued that participation shall imply not a choice but a dialogue, an open social negotiation, rather than institutions choosing their interlocutors. Although, it was stressed that a process of selection does exist in any case.

Some problems were identified:

- Selection criteria have to be justified, insofar as they do limit participation;
- A focus on selection criteria assumes the existence of well-functioning, democratic institutions. This doesn’t make sense, for instance, in the Latin American context.
- Any criteria bureaucratises the procedure. One must focus on what happens in each instance. What is more important is the procedure than the actual criteria.
- Criteria vary from one field to another.

There were several proposals for replacing “selection criteria” by “framework for citizens’ engagement in public policy formation” or “framework for the engagement of NGOs”.

### *3. Feed-back on the Research: reflection on the status, scope and kinds of Criteria*

Participants expressed their pros and cons on the value of the research. Two general considerations were made. On the one hand, the recognition of its innovative value. On the other hand, the difficulty to make definitive conclusions from the data shown.

Afterwards, for each part of the research some specific remarks were made:

#### 1) Status and Scope of Criteria

- There is no need for the distinction between positive and non-positive criteria.
- It will be important to have a higher consultation phase not only at the sectorial level but as a legal framework.
- There should not be criteria at the general level.

#### 2) Kinds of Criteria

- Objective criteria should rarely be used.
- Evaluative criteria can be more problematic in transition countries.
- Trust and reputation are difficult arguments because everyone should be heard because this is the heart of civil society.

#### 3) Policy-making phases

- Consultation: one of the major weakness of consultation process is that it usually works well only with NGOs that are already used to participating therefore this doesn’t favour the inclusion of new NGOs; another weakness regards the feed-back given: NGOs usually are not updated on the use and/or the results of consultation, nor if their input was taken into consideration in the actual policy formulation. However, this aspect was not dealt with in the survey.
- Implementation: something to watch out for in this phase is that if the criteria of access are too rigid we may actually facilitate a “statalisation” of the civil society, once the civic organizations remain dependent of the public institutions.

From the point of view of the public institutions, who face the responsibility of managing public funds, a representative from the European Commission brought up the difficulty of having limited resources for the consultation process and the need for strict criteria to allocate public money. Not only the Commission mentioned this problem. Though there are no defined criteria for



selection of NGOs within the Commission's framework, the Commission recognizes the participation of NGOs only in two steps of the policy making process: "formation" phase (consultation) and implementation phase. There are minimum standards for every consultation. The target of consultation depends on the issue (such as consumers, environmental issues, etc.). Objective criteria are used in order to know if an organization can implement the project. Evaluation criteria are used to evaluate the proposal and its quality.

The research data lead the participants to the following conclusions:

- There are no clear criteria either in Europe or in Latin America, i.e., we are dealing with "mutual trust" between governments and civic organizations.
- Government practices, the application of formal, informal, arbitrary and hidden criteria can have the effect of benefiting some and disadvantaging others, or benefiting or harming all in general.

#### *4. Proposals and guidelines*

Many proposals were put forward but despite the diverse suggestions, the most important to all is the existence of performance standards, which give a sense a transparency both to civic organizations and public institutions.

To stimulate the debate ACN proposed a set of 7 principles to be discussed:

1. Right to fair selection procedures
2. Public, known, transparent criteria
3. General and sectoral criteria
4. Flexible criteria
5. Concrete procedures for their application.
6. Policies to enable access defined with the participation of civic organizations
7. Pertinence and relevance criteria; pertinence means that in some cases what matters is the quality of the work, expertise, ability.

In other cases, quantity may be important, we should not exclude quantitative criteria on the whole. When we talk about NGOs representing very specific issues, we can not be asked about numbers. When the protection of rights is at risk we should not be asked how many we are.

These principles were discussed and the debate was enriched with other remarks and proposals made by the participants.

#### 1) Regarding the Identification Criteria and the Selection Process

- Making the selection process more fair through a "free market approach" regulated by a general framework.

- A “general framework for civic participation” instead of “selection criteria” establishing mechanisms of equal opportunity that should also be inclusive. Therefore the identification criteria will necessarily vary according to the state of civil society, the public policy in consideration and government’s openness to participation.

- Different criteria for different policy phases
- Flexible criteria instead of exclusion criteria due to the nature of the non-profit sector.
- Experience and expertise as main criteria.
- Criteria should guarantee access to small, new, and weaker organizations.
- Transparency and accountability - by governments and by controls inside organisations (being accountable to its constituency). For instance, establishing lobby laws which allows one to know who is trying to influence who.
- NGOs must participate in other policy’ steps and in new fields such as: public administration, consumers’ advocacy.
- Participative decision-making - the decision-making through participation even if more long means more efficiency and more democracy.
- Methodology and procedures: method (how institutions select) is more important than criteria.
- Open Procedure at general level and in the consultation phase. Some participants had reservations regarding this proposal because they consider having no criteria also a risk. However there should be a minimum level of formalization to guarantee transparency of the process without its bureaucratization.
- Participating in consultation has a cost, consequently many organizations may be excluded.

## 2) Regarding the Project Follow-up

- To promote capacity building activities for smaller organizations.
  - To make a list of good practices in public administration, regarding civic NGOs select. Examples of Best Practices presented during the Conference
- 1) The Convention of Aarhus of 1988 that defines three pillars for accessing information, decision making and justice in the environment protection: rights for NGOs and citizens.
  - 2) UK’ Guidelines of open procedure: NGOs were very involved in consultation and formulation. Even if some more than others.
  - 3) In Slovenia, representative NGOs are chosen by NGOs.

### *Conference Conclusions*

- 1) Representativeness is a very hot topic both to NGOs and public institutions.
- 2) There was a unanimous agreement to not use the word representativeness and that it could be replaced by the concepts of pertinence and relevance, which may be more precise. And instead of using the selection or identification criteria, it would be better to use “framework for identification”.
- 3) Participation is a right of all civic organizations. Therefore, the framework should serve to protect this right through the regulation of the “market” of civic organizations not necessarily by rigid rules, mediation or soft regulation. We have to include the excluded. In case this right is not considered we should have the right to appeal.  
Some organizations can be relevant even if they do not succeed in making their voice heard on the “market”.
- 4) Methodology and procedures are more important than criteria themselves. We can have principles like:
  - 1 - joint definition of the framework and evaluation
  - 2 - transparency of the whole procedure
  - 3 - objective and evaluative criteria should be used altogether.
- 5) Open procedure even if more inclusive needs a mechanism to guarantee equal opportunities of access and this can be done supporting weaker organizations through capacity building, publication of the opportunities of participation, etc. It is especially relevant in the fields where NGOs have a strong voice, as shown by the report
- 6) Follow-up - there are four activities to be done:
  - 1 - integrate in the final report the discussion and conclusions of the conference and also a collection of best practices;
  - 2 - diffusion of the results and promote local discussions involving both institutions and local civic NGOs;
  - 3 - experiment our proposals in very practical examples, identify criteria that could be applied specifically;
  - 4 - capacity-building.