

**THE EUROPEAN ECONOMIC  
AND SOCIAL COMMITTEE  
APPOINTMENT PROCEDURES  
IN THE 27 EU MEMBER  
STATES**

François Staedelin Bursary Programme

February 2007

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## **FOREWORD**

This study was made possible thanks to the grant awarded in the framework of the François Staedelin Bursary Programme of the European Economic and Social Committee (EESC). My name was put forward by Group III having in consideration the fact that I work in the European programme of the Italian organisation *CittadinanzAttiva*: Active Citizenship Network.

I wish to thank *CittadinanzAttiva* that provided me with the logistic facilities; to my family and my colleagues for their support; to Jean-Marc Libert from the EESC Archives and Silvia Chromeková from the EESC *Greffe* / Protocol services and to all respondents to my enquiry at national level without whom this study would not be possible.

## SUMMARY

The background of the present report and the departing point of the research is the crisis of representativeness. In this context, the European Economic and Social Committee (EESC) is an interesting case-study as it presents itself as the “house of civil society” and has assumed a legitimate role of representing the organisations of civil society in the European Union as by the EU Treaty mandate.

Though, both representativeness and civil society are complex notions. The first will be dealt with to a larger extent as the discussion on the nature of “civil society” is not the goal of the study. Representativity specifically the representativity of the EESC may be split in several questions (that may be rhetorical rather than scientific): the Committees’ members represent the whole European civil society? Part of the civil society? Or their national civil societies? Where does their legitimacy lay when their appointment is not related to public elections? This question is linked to another relevant issue: accountability.

The answer to these queries might be in the EU Treaty that not only has set up the Committee back in 1958 as it has established the categories to be represented in this institution. One clause of the Treaty specifies that members are accountable only to the European interest. Might not be a precise mandate but is the only limit drawn by the founding text.

The Treaty further specifies that the appointment procedure is an exclusive prerogative of member States. This being the case, we will look thoroughly to the national nomination processes, describing the procedures and the criteria applied by each country to identify their representatives. At the end, we will try to set aggregation models that may summarise the diverse practices into main patterns.

The second objective of this report is to present the results of the analysis of the Committee’s composition since its foundation. Firstly, we will look at the three EESC groups’ history and evolution. Straight after, based on the EU Treaty established categories (that were changed in the 2001) we will examine the evolution of the Committee’s configuration throughout the thirteen mandates. Possibly tracking down any differences before and after the entry into force of the Nice Treaty.

Finally, the overall remarks will be drafted comparing the Committee’s model of appointment and the achieved representativity of civil society in Europe.

## 1. INTRODUCTION

In the broad and global debate regarding democracy, in particular the rethinking and reshaping of the European *demos*, several issues are being considered and discussed: the sphere of representativeness and the sphere of participation; social dialogue and the emergent civil dialogue; the role of the public / governmental institutions and the role of civil society (a concept that does not have a concise nor univocal definition yet), the European Economic and Social Committee (EESC) is an interesting case-study.

The above-mentioned debate lays substantially in the crisis of the representative model of democracy. Indeed, in the 19<sup>th</sup> century when the basis of representative democracy was cast what was at stake was the role and the nature of the arousing structures of representation: political (through the emergent political parties) and socio-economic representation (through trade unions).

Slowly these two institutions started fading away and their function is being challenged by new organisations that are pushing to enter the political system. The representativeness of the political, economical and social spheres is more and more blurred and difficult to analyse. Though is interesting to see how all actors – old and new - are (re)creating their own legitimacy. And what we are looking at is a real struggle for a place in this “reshaping” political system.

What turns this discussion even more fascinating is the context: Europe. For fifty years now Europe is changing, shaping and reshaping time and again, exacerbating even more this struggle for roles and meanings.

What are, then, the role and the place of the EESC in this chess-board? The Committee was created in 1957 in order to involve the representatives of the organised categories of economic and social activities in the establishment of the common market. In this way enabling them to have their say in the Community decision-making process.

The EESC, the “house of civil society”, has assumed a legitimate role of representing these categories and by doing so, representing the Civil Society at European level. It presents itself as “the prime forum in which the organisations of civil society in the European Union can have their views represented and discussed, and it is especially well placed to act as an intermediary between organised civil society and the European institutions”.<sup>1</sup>

Despite its primordial function as advisory body, in the political market if compared to the weight of the Commission or even the Parliament is a low-profile institution. Nonetheless, this fact together with a strong assertion of its role prevented the Committee to be in the spotlight of the discussion of the European democratic space.

However, even if not exposed to an inflamed dispute, it has been questioned. Particularly since the debate on European Governance and consequent discussion on the representativeness of European Civil Society, of which the Committee was an important promoter. The former MEP, Helle Thorning-Schmidt, was perhaps the most critical voice when evaluating the role of the Committee. The Committee was accused of not being representative of civil society anymore and Thorning-Schmidt has even proposed to abolish it<sup>2</sup>.

Already in 1984, Rosemary O’Farrell mentioned the problem of legitimacy of the Committee “for its size, appointment methods, composition, structure and representative

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<sup>1</sup> CESE 1103/2006 rev. FR/HA/GW/vh, point 3 of Preamble

<sup>2</sup> CONV 739/03 - hkm/hm/AV/nlk/BS/io: *Four good reasons to abolish the Economic and Social Committee*, Contribution to the Convention by Helle Thorning-Schmidt, MEP, May 15, 2003: “Furthermore, the civil society is much better organised and new ways of representation have occurred. Neither the civil society organisations nor the social partners seem to rely on the ESC to get their message across. They find more efficient ways to organise themselves and to make the decision-makers aware of their point of views. It is clear, that the civil society still needs a forum to meet and co-ordinate their efforts and messages, however, the ESC does not seem to meet these needs.”

capability”<sup>3</sup>. O’Farrell helped centring the debate of representativeness / legitimacy in the right direction: the nomination process of the EESC members.

Historically, representativity is linked to a process of political representation as an act of delegation, thus to elections. EESC members are not elected, not even indirectly, but appointed. So representativeness *de per sé* seems to be at stake! On the contrary, Stijn Smismans argues that their representativeness is not bond to an election; therefore we are not talking about political representativeness but functional representativeness. He adds that this functional assembly is maybe one of the best ways to answer the present crisis of representativeness of the parliamentary model!<sup>4</sup>

The issue of representation and representativeness is the backbone of this study in political theory terms, and it will not only be looked at on detail on chapter 4 as it will come along within all the report. Though, representativeness may, from a pragmatic point of view, be consubstantiated in the appointment process (which brings about the question of transparency) and the actual composition of the Committee.

For these reasons, this study will follow two parallel research tracks: the nomination procedures and selection criteria applied by each Member State and the analysis of the evolution of the composition of the Committee, mainly in what the socio-economical categories are concerned. This analysis is particularly interesting at the light of the changes of the Treaties and the differences on the nomination procedures.

The acknowledgment of such matters seems to have a current relevance as in the last renewal of the Committee the ex- EESC President asked the member States to ensure “the broadest possible representation of organised civil society at national level”<sup>5</sup>. Furthermore, during my survey I was asked by several persons, and particularly by both the Maltese and Lithuanian responsible for the nomination process, to provide them with the research results as they are now rethinking their national procedures.

The goal of this study is definitely not to answer the question if the European Economic and Social Committee is absolutely representative of the Civil Society in Europe as representativeness, as will be discussed further on, is not an absolute and univocal concept. The purpose is, then, to update and systematize the data on the nomination processes and on its immediate consequences: the socio-economic interests represented in the Committee. This compared information may enable the stakeholders and the decision-makers to better understand the weaknesses and the strengths that challenge the Committee’s role within the European institutional system.

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<sup>3</sup> O’Farrell, Rosemary, *Reforming the European Economic and Social Committee*, College of Europe, 1984 (thesis), p.8

<sup>4</sup> Smismans, Stijn, *The European Economic and Social Committee: towards deliberative democracy via a functional assembly*, European Integration online Papers, Vol. 4 (2000), N° 12, p.1

<sup>5</sup> Mrs. Sigmund had also recommended it during the 11<sup>th</sup> meeting of Liaison Group with European civil society organisations and networks held in September 2006, in CESE 1271/2006 FR/Ho/nm

## 2. METHODOLOGY AND LIMITS OF THE RESEARCH

The research started in September 2006 and lasted until February 2007; and its twofold nature lead to two separate methodological paths.

The first one regards the nomination procedures. In order to have a notion of the overall process and the actors involved I contacted all EESC members (in September 2006, meaning that the Bulgarian and Romanian members were excluded from this process as they came to office in January 2007) by email, using the EESC online database, asking precisely which national institutions were involved in the nomination process and if they had any general information on it.

Despite having a considerable number of undelivered emails I had at least one answer from a member of each Member State (exception made to Luxembourg and Slovenia). And even if the majority had little information on the process by which they were selected and nominated - especially the members that were in their first mandate – it was useful to identify the competent institutions although the majority of the members did not have specific contacts.

Aside the information on the nomination procedures provided by some of the EESC members, it was fundamental to have this data from an institutional source. For this reason, I did a vast research in the Internet looking for the contacts of: the Prime-Minister or the Cabinet; the Permanent Representations to the EU; the national Economic and Social Councils of each member-State (when existing) and the Ministries of Foreign Affairs and / or Departments of European Affairs. I contacted them by email, through their websites and / or by fax. They were asked to provide information on the following points:

- which are the public institutions involved in the nomination of the national members (which ministry or governmental institution) ;
- which are the procedures followed, step by step, until the candidates are chosen (who initiates the selection process, who contributes to the list of candidates, who takes the final decision);
- which are the criteria (in case there are any) to select the candidates;
- is there any legislation or rule regulating this process.

This was a long process (some 500 emails and fax were exchanged) undermined by the following obstacles:

- 1) to have a feedback. I had to send several reminders and underline that I am an EESC bursary-holder otherwise I would not have any information. My opinion is that in many cases this subject (as any subject concerning the governments' jurisdiction) is involved in some secrecy. Some countries took five months to answer me back<sup>6</sup>. I received answers from at least one governmental institution and / or national economic and social council from all member States. Exception made to Austria and Poland. I had the information through the EESC members, in what Poland is concerned, and through the EESC members and the Chamber of Labour in the Austrian case.
- 2) To have the answers by email or even fax. I preferred written communication to phone calls, for example, in order to have the data by writing, even if I understood that mainly the EESC members would have preferred to be interviewed. With the institutions it was even more difficult since member States do not have this procedure normalised, civil servants had to assemble the information and write it down.

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<sup>6</sup> Even if this was not the goal of the present study, some conclusions can be drafted regarding the European governments' effort to increase their interactivity with citizens through ICTs: I did not receive any answer from the national Ministries or Departments that I had contacted through their online enquiries, usually called "Citizens' portal", "Direct enquiry", "direct citizens", etc., from countries like Portugal, Sweden, Germany, Denmark or Slovenia. Maybe language was a problem, even when writing to the Foreign Affairs Ministry.

- 3) Diffuse procedures, disperse information. In many cases, it was difficult to have the complete view of the process as many interlocutors are involved. There was an ongoing “forwarding”. Sometimes there were some discrepancies in the information provided and misleading data. When double-checking, I had to confront the institutions that had sent different versions. This was the case of the Portuguese and Spanish Socio-Economical Councils, where the governments affirmed that they have a role in the selection and the Councils denied it.
- 4) Different levels of depth of information.
- 5) The language: some governments like the Portuguese and the Italian just answered when I wrote them in their national languages. Some institutions (Germany, France, Luxembourg, and Spain) sent their answers in their languages. For many it was difficult to communicate and have the information in English.

In annex you may find a list of all the respondent institutions by country and the EESC members that contributed to this research.

The departing point of this analysis were the historical – and few – studies carried out by the team directed by Joël Rideau<sup>7</sup> and by Wim Van der Voort<sup>8</sup> both in 1997. I was told by a former EESC member that this research was done some three or four years ago, before the accession of the new member States, by the REX section. However, this document can not be found neither in the EESC library or Archives. I wrote to REX asking for this but I had never had any reply.

In what the second point is concerned, i.e., the evolution of the composition of the Committee in terms of Groups distribution and socio-economic categories distribution, things were even harder. In the EESC Archives some material may be found. They are substantially copies of the EEC Official Journals and of the Indexes compiled by the EESC since 1982. The analysis of this material was affected by the following factors:

1. The language: members’ data is in their national language (specifically their functions / national organisation). Translations are only available in some Indexes and for some countries (Greece, for instance). When there was no translation, I used the online dictionaries, double-checked with other information sources or used the Internet research engines (such as *Google*) to search for the English version of the organisations. This fact may affect the accuracy of the information.

2. Unsystematised and non-uniformised information: the lists that are accessible in the Archives differ from one year to the other; they may be the “Index of members” or the Council’s Decision in the EU (or EEC) Official Journal. Moreover, the Indexes changed presentation and contents over the years.

When I started this study I supposed that this information – the lists and the characteristics of the members of the Committee throughout the years – was not difficult to find. I supposed that this information would have been digitalised for the first years and / or available in electronic version for the current years. I asked the EESC “Registry of Documents” for this kind of documentation and I had to wait for more than one month to have an answer (but no documents). In my last attempt, I wrote in French (English is not very common in the EESC) and the lists of the two last mandates (2002/06 and 2006/10) in electronic version were then sent to me.

Given these conditions, such research would have implied long stays in Brussels to be able to better explore the Committee’s Archives. The fact that I do not live in Belgium and that I could not go there as often as I would have needed became one of the barriers that I had to overcome and that may also affect the overall result of this study.

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<sup>7</sup> Rideau, Joël (dir.), *Les États Membres de l’Union Européenne: Adaptations – Mutations – Résistance*, Paris, LGDJ, 1997

<sup>8</sup> Van der Voort, W. J., *In search of a role, the ESC in European Decision-Making*, Ph.D. Thesis, Universiteit van Utrecht, 1997

Anyhow I would like to recommend the EESC to create a database with all members' data or, at least, to digitalise all existent lists of members. To keep the records in a standardised way may be a complex job, as members have changed quite often further to the 4 years' turnover, but doing so is to ensure that the History of Committee will not be lost! As far as I was told by one *Greffe* officer this effort is being done but is far from being accomplished.

3. Lack of information: the lack of information refers, first, to the number of members. In the list below you may find the documental sources for this part of the research with the total number of members in each members' Index. Second, it refers to the lack of information on the national organisations and functions of the members. And third, to the Groups' distribution.

From 1958 to 1974 the documents do not mention the distribution of the members by the three groups (and crossed distribution by group plus country). For this reason, I used the data provided in Fabrizia Baduel Glorioso study in 1993<sup>9</sup> to better understand the groups' composition in those years. However not even Mrs. Glorioso research mentions the precise distribution by group associated with the distribution by country. I learnt this information, but only from 1962 until 1970, from Nadine Bernard's research<sup>10</sup>.

When needed I followed a logical reasoning and established the group affiliation considering the national organisation the members were representing. Though, this reasoning is not 100% reliable as: 1) sometimes members choose groups different from what would seem to be the obvious affiliation; 2) sometimes do not belong to any group; 3) the information on their national organisation may be misleading, or too little and too much in the sense that there are members that state to be affiliated to several organisations and / or institutions and from the lists one can not understand for which specific interest he/she was nominated to represent.

4. Continuous change of the members: this stands both for changes of the individuals, as members changing organisation throughout the mandates and sometimes even changing group affiliation. In order to tackle this problem, the accurate criterion to apply, when more than one list was available, was to employ the first list of the four years. However, usually the first list is the Council's decision on the Official Journal that obviously does not mention the distribution by Group. Moreover several enlargements occurred during the four years' mandate like in 2002-2006. Thus, my criterion was to consider the **first available list with the more complete information**. The data of the 1994-1998 term will be partially used as there is no information for a considerable number of members.

These were the information sources used, by mandate:

Table 1: Documental Sources on members' data

Mandate	Document	Source	Groups' Distribution	N° of documented members
1958/62	Liste des membres	Copy of unknown document, pp. 89-212	No	101
1962/66	Liste des membres	CES 6/ 64, pp. 1- 21 rév.	No	96 (5 lacking)
1966/70	Décision du Conseil	Journal Officiel 67, 14/03/1967, pp.667-682	No	101
1970/74	Décision du Conseil	Journal Officiel C 10, 04/02/1971, pp.17-21	No	101
1974/78	Liste alphabetique des membres	CES 77/76 (Janvier 1976)	Yes	143 (1 lacking)

<sup>9</sup> Glorioso, Fabrizia Baduel, *Il livello di rappresentatività e la composizione del CES negli ultimi esercizi quadriennali e come poter allargare e rafforzare tale rappresentatività*, Roma, 1993

<sup>10</sup> Bernard, Nadine, Laval, Claude, Nys, André, *Le Comité Economique et Social*, Editions de l'Université de Bruxelles, Bruxelles, 1972, p. 74

1978/82	Décision du Conseil	Journal Officiel L 273, 29/09/1978, pp.27-37	No	144
1982/86	Liste des membres	Copy of unknown document, pp. 89-212	Yes	154 (2 lacking)
1986/90	«Index» 1987/1988 (Chap. II)	CES 799/86 rév. 6 (Nov. 87), pp.15-52	Yes	189
1990/94	«Index» 1990/1991	CES 1250/90, pp.13-59	Yes	188 (1 lacking)
1994/98	«Index» 1994/1998	CES 1154/84 (Mars 1995), incomplete	Yes	161 (61 lacking)
1998/02	Décision du Conseil	Journal Officiel L 257, 19/09/1998, pp.38-48	No	222
1998/02	Liste alphabétique des membres par group	CES 1323/98, 10/06/99, pp. 1-5	Yes	222
2002/06	MS Excel Table with members list, September 2006	EESC Courier/ Archives (Greffé)	Yes	317
2006/10	MS Excel Table with members list, February 2007	EESC Courier/ Archives (Greffé)	Yes	344

Although being impossible to track all the changes of members during the 13 mandates, I do believe that members are not always replaced by somebody else from the same socio-economic category and this has an effect on the representativity. Of course it would be a slight variation but it is important to bear it in mind.

When talking about the socio-economic distribution - which seems to be an innovative point of this research as I did not find any extensive study on it - some considerations have to be done regarding the accuracy of the data and consequently of the results of the analysis that is about to be done. As above-mentioned, the definition of the socio-economic category represented by each member depends on the available data. For example, for the Italian members in 2006 only the general affiliation is given. In these cases, but only for the recent years (from 1998 onwards) I searched for more information through Internet. Before that date is quite difficult to find data on the members' organisations or the members themselves.

On the contrary, sometimes more than one category (max: two) may be represented by the same member. The analysis will be divided in net and cumulative breakdown in order to have a complete portrait of the representativity of the members.

### 3. THE EESC WITHIN THE EUROPEAN “CONSTITUTIONAL” FRAMEWORK

As already mentioned the EESC was set up by the 1957 Rome Treaties (articles 193-197 of the Treaty of the European Economic Community and articles 3 and 165-170 of the Treaty establishing the European Atomic Energy Community). In order to understand the light changes that have influenced the three main aspects of this study (the representativeness of members, nomination procedures and number of members) a quick overview of the legal-institutional framework will be provided.

The Single European Act (1986), the Maastricht Treaty (1992), the Amsterdam Treaty (1997) despite having made remarkable modifications related to the enhancement of the advisory role of the Committee, did not add considerable changes to the mentioned three aspects. The Treaty of Nice (2000) instead made some changes that affected the EESC composition. For this reason, we will look in detail to the differences between the founding Treaty(ies) and the Treaty of the European Union.

#### **Treaty of Rome**

- *On representativeness*: art. 193 sets up the Economic and Social Committee and adds that “the Committee shall consist of *representatives of the various categories of economic and social activity, in particular representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations and representatives of the general public.*”

- *Number of members*: art. 194 of the Treaty establishing the European Economic Community and art.166 of the Treaty establishing the European Atomic Energy Community establish that the Committee will consist of 101 members.

- *On nomination/ appointment*: art. 194 of the Treaty of Rome decided that “Members of the ESC are appointed by the Council for a term of four years. (...) The Council consults the Commission regarding the proposals made by the Member States. It may also seek the opinions of European organisations (...).” And finally mentions that members will not be bound by any mandatory instructions.

Article 195 complements: “For the appointment of the Committee, each Member State shall provide the Council with a list containing twice as many candidates as there are seats allotted to its nationals.”

The last comma of this article mentions that “the composition of the Committee shall take account of the need to ensure *adequate representation* of the various categories of economic and social activity”.

#### **Treaty of Nice**

- *On representativeness*: art. 257 changed the wording of art. 193 emphasizing the need for a better representation of civil society organisations and added a new category - consumers: “The Committee shall consist of *representatives of the various economic and social components of organised civil society*, and in particular representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations, *consumers and the general interest.*”

- *Number of members*: after the several enlargements the Committee saw its composition increase, as it will be described hereafter, but art. 258 limits its composition to a maximum number of 350 members.

- *On nomination / appointment*: article 259 maintains the fact that the Council shall consult the Commission and may hear the European bodies, but changed the contents of former art. 195 stating

that “The Council, acting by a qualified majority, shall adopt the list of members drawn up in accordance with the proposals made by each Member State.”

The article 258, comma 3, maintains the initial wording of art. 194 of the Rome Treaty but adds a clause that was already included in the Maastricht Treaty: “They shall be completely independent in the performance of their duties, in the general interest of the Community.” This clause re-affirms the members’ total freedom of act, freedom that may be towards their national governments and / or the national organisations from which they come from.

Back to article 259, it is important to underline the fact that eliminating the double list was to recognise a common practice. The double list was a formality since the Council has always nominated the first candidates. To substitute the need of unanimity by qualified majority seems also aiming at simplifying the nomination process and consequently re-affirming the autonomy given to Member-States in the selection as the Council will not exercise any control on this practice.

One final word on the number of members, which has changed in the wake of successive enlargements of the European Union. In January 1973, in the occasion of the first enlargement (Denmark, Ireland and the United Kingdom), the number was raised from the initial 101 to 144. The second enlargement (Greece), in 1981, entailed the appointment of 12 new members, and in 1986 (the third enlargement including Spain and Portugal), the EESC was supplemented by 33 further members. Following the accession of Austria, Finland and Sweden, which took place in 1995, the EESC comprised 222 members.

The Declaration n.º 20 of the Accession Treaty for the new Member States signed in 2003 provided for a new allocation *per* Member State and from 2004 onwards the Committee counted with 317 members. The last enlargement in January 2007 increased the EESC composition to 344 (respecting art. 12 of the “Act concerning the conditions of accession of the Republic of Bulgaria and Romania” and the Nice Treaty clause limiting the number to 350 members).

#### 4. ON THE REPRESENTATIVENESS OF ECONOMIC AND SOCIAL ACTIVITIES IN EUROPE

“The members of your Committee, whilst representing professional groups, or rather the professional classes, are not delegates from particular interest groups, but are accountable only to themselves and to the European Community. We have high hopes of seeing the natural tensions between social and professional groups eased in your Committee. Your mission is also to discuss our common problems from a technical point of view and you will thus become a group to whom those responsible for implementing the Treaties can talk without having to focus on the specific interests of each nation.”<sup>11</sup>

Since representativeness is the core issue of this study, it will now be thoroughly addressed in its different components.

In Mr. Hallstein 1958’ speech we may identify the main issues at stake when talking about the EESC’ representativeness: the representativity of professional groups; no delegation of particular interest groups and finally a technical mission, making clear that the Committee’s nature will not be political. The Nice Treaty complemented this vision with a more updated and precise wording explaining that the Committee will represent “*the various economic and social components of organised civil society*”.

This conceptualisation, so clear *a priori*, presents some contradictory aspects. Representativeness, as stated in the Introduction, is at first and foremost a question of political legitimacy grounded in a delegation of powers. The fact the Committee does not assume a political role, *stricto sensu*, but seek representativeness makes legitimacy an intricate matter important to work out. The other half of the formula “representative of organised civil society” is even thornier to interpret: what does organised civil society, in Europe, means? The later question will be addressed only to some extent, as it may be a Pandora box. Thus, the two questions that we will be focusing in are: the representativeness of EESC *di per sé* and where does this representativeness lay?

The first conceptual problem may in turn be breakdown in various points. The committee’s members are representative of a European civil society or of the national civil societies in Europe? The Treaty is clear when stating that members are accountable only to the general European interest, swerving the possibility of national representation. In addition, the division of the Committee in three Groups seemed also aimed at avoiding national blocks, therefore national interests to emerge. Though Van der Voort argues exactly the opposite: “In practice, it is the member State which determines the eligibility of interests for a seat in the Committee. As the treaties are less than explicit on the issue, the nationally oriented nomination procedure generally results in the nomination of nationally based interests. Representatives of European organisations are rarely nominated. (...) As such, representativity becomes a reality first and foremost in the national delegations.”<sup>12</sup>

The same remark may be done regarding the national organisations. Members are chosen (be it directly by their governments or appointed by the national socio-economic councils, as we will be analysing afterwards) by the fact that they work or belong, presently or in the past, to a precise organisation. Exception made for some cases of independent consultants and experts that are gradually getting in the Committee composition. Consequently, we may admit that the represented socio-economic category (where the mandate lays) and affiliation organisation match (we may sum it up in a somehow odd formula: members represent the interests represented or advocated by their home organisations in their countries). Obviously members have to respect the Treaty clause on

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<sup>11</sup> Excerpts from the statement made by Walter Hallstein, President of the Commission of the European Economic Community at the inaugural meeting of the Economic and Social Committee held on 19 May 1958. In <http://www.ena.lu/mce.cfm>

<sup>12</sup> Van der Voort, Wim, *op. cit.*, p. 154

independence, but again all these are contradictory and ambiguous directives and representativity is a layer hard to balance.

Agreeing in the fact that members represent socio-economic categories, how does this representation occur? Former article 195 of the Rome Treaty used to vaguely evoke that an adequate representation of the various categories should be guaranteed. Today this clause does not exist anymore. But the question remains: how an adequate representation of each one of the categories listed in the Treaty may be assured? How may this question be addressed in numerical terms: how many workers' representatives are needed to represent all European workers? How many consumers' representatives? Proportional representativity of the different categories is impracticable. Though, to establish a fair *ratio* between the eight precise types, not to mention the category "general interest" or all other components that are not explicit in the Treaty that may be considered components of the organised civil society, like patients, youth, elderly, etc., etc., looks also difficult to achieve.

Paying close attention to the list of categories is obvious that most of them refer to economic and professional interests rather than to social interests. Organised civil society in Europe, today, is far more complex and richer than it was in 1958 and perhaps the Nice Treaty reform was not as ambitious as it could have been. The Committee itself recognises to be partially representative<sup>13</sup> of the civil society. Moreover, the division in three Groups: the first, employers; the second, employees and third, other interests, drives to a tripartite approach to civil society that may not reflect the European civil society anymore.

The limits of EESC representation were already pointed out in the 70s, be it in terms of numerical distribution between the three Groups - that will be dealt with further on - be it in terms of incompatibilities (in the first years some member States had appointed governmental representatives; nowadays, this is no longer possible as it is forbidden by art. 2 of the Members' Statute).

In the 80's the lack of representativity of socio-economic sectors as culture, science and education was also observed. And ten years after, the under-representation or complete non-appearance of the artistic world, the media, co-operatives, foundations, charitable associations, the disabled, the unemployed, women's organisations was still remarked.

However, it is worth mentioning that the efforts made by the Committee's leadership to overcome this obstacle, as the creation of a Liaison Group with Civil Society, the launching of the debate on the representativeness of civil society organisations, the request to member States to look for a bigger representativity of civil society contributed to avoid the crystallisation of this institution that was foreseen by several scholars some years ago<sup>14</sup>.

Furthermore, member States although being usually driven by the tripartite division of the Committee and bond to the standard categories, in the last mandates used the "General interest" category to diversify the representativity of specific interests as environment or gender issues.

We will come back to this issue in the last part of the study completely dedicated to the categories' representation in the Committee since 1958. Nonetheless, to sum up these considerations it is important to underline that a total representation should not be sought. As Stijn Smismans observed, EESC' "initial aim has not been to become representative forum of associative life in Europe. The ESC does not gather all possible associations and NGOs, but only the main

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<sup>13</sup> "The EESC is aware that it only partially reflects the diversity and developments covered by the term «organised civil society», and so it has taken initiatives and implemented reforms to ensure as broad a representation as possible of organised civil society." in EESC, *Draft Opinion of the European Economic and Social Committee on The Representativeness of European civil society organisations in civil dialogue*, SC/023 – CESE 238/2005 fin FR-SV/GW/KH/HR/ET/hn, 2006, p.7

<sup>14</sup> "A body with fixed institutionalised access for certain social-economic categories has the advantage that it can represent weaker groups that would not be heard through pluralist interest group competition. However, it can never be composed of all 'functional groups' in society, and through its fixed character it might not keep up with societal change.", Stijn Smismans, *op. cit.*, p. 11

socio-occupational groups, mostly from industry production, but also of those sectors in which Community action was particularly foreseen.”<sup>15</sup>

Absolute representativity of Civil Society may be impossible to achieve, though given the fact that the EESC is called on a wider range of issues and that the European Union is involved in almost every parcel of the social, economical and political spheres, rethinking the categories to be represented should still be in the European agenda.

Numerical representation is another matter to tackle when talking of representativeness. Numerical proportion is not bond obviously to the number of civil society organisations but to the population of each Member State as in any other European institution. In 1984 Rosemary O’Farrell had already argued that the size of the Committee weakened its representativity<sup>16</sup>. We have calculated the *ratio* between the number of seats and the number of member States in order to be able to understand if this representativity is increasing or decreasing<sup>17</sup>.

The table below shows that if in 1958 there were almost 17 members by member State, nowadays there are not even 13 members *per* member State. The descending curve is inevitable as assemblies’ size is not unlimited. However if in 1984, 156 members was considered to be a limited representation (if compared to the range of socio-economical categories to be represented), which was equivalent to 15,6 members, today the 344 members are as insufficient as twenty-three years ago.

Table 2: *Ratio* between number of seats / number of member States

1958	1962	1966	1970	1974	1978	1982	1986	1990	1994	1998	2002	2006
16,83	16,83	16,83	16,83	16	16	15,6	15,75	15,75	14,8	14,8	12,68	12,74

## Accountability

The second fundamental question to be discussed is accountability: the accountability of the representative towards the represented. The members of the Committee though, due to the fact that are not elected, do not have a specific subject to whom to be accountable to. Only, and again, to the general interest of the Community.

This representation based on a formal transfer of authority and not in accountability towards a defined constituency is extremely controversial as accurately pointed out by Wim van der Voort, “this act of authorisation does not only implicates that members are recognised by member States and EC institutions as representatives, but also that members should be accepted as representatives by the interests they represent. This latter assumption is not necessarily the case. Combined with the notion that members might not have ties with whatever organisation, the personal capacity provision may endanger the acceptance of the representativeness of the ESC as a whole and therefore the performance of its role of representative.”<sup>18</sup>

An opposite reading of the free mandate is offered by Stijn Smismans who, even if admitting that there is a problem of accountability, understands that the clause on the free mandate confers to the members of the EESC a *status* close to the one a parliamentarian<sup>19</sup>.

<sup>15</sup> Stijn Smismans, *op. cit.*, p.6

<sup>16</sup> Rosemary O’Farrell, *op. cit.*, p. 16

<sup>17</sup> A correct calculation would have been to compare with the population. However demographic statistics of each member State from 1958 to 2007, is not accessible not even through Eurostat. Thus, we assume that the different demographic ranges of the several countries that have entered the EU maintained a demographic average.

<sup>18</sup> Wim van der Voort, *op. cit.*, p. 153

<sup>19</sup> “An ESC member is thus no delegate but has to represent an abstract socio-economic category ‘in the general interest of the Community’. The status of ESC members therefore resembles to a certain extent the status of a parliamentarian; i.e. they have to represent a broader abstract interest than the particular interest of the group they originate from (be it an organisation for an ESC member, or a territorial circumscription for a parliamentarian).”, Stijn Smismans, *op. cit.*, p. 7

### **The quality of representation**

Through the systematisation of members' data, two interesting issues related to the quality of representation came about. The question was comprehensively analysed by the already mentioned study carried out by Wim van der Voort (a study that would be worthwhile to update). Only two considerations to be made at this point:

1) what is the role of the member in its home organisation (even bearing in mind the free mandate)? Has s/he a technical or a political role? Are they still active in their organisations or are former members?

2) Turnover: more than 50% of the members stay in office for more than one mandate. Surprisingly, 2,2% have been appointed six, seven, eight or even nine times. France, Germany, Italy and United Kingdom are the member States with more recurring cases. Italy and Luxembourg keep(t) one member for more than nine mandates. Complete information may be found in table 6 in annex.

Table 3: Turnover rates

N° Appoints.	Frequency	Percent
1	516	45,2
2	365	32
3	121	10,6
4	83	7,3
5	31	2,7
6	15	1,3
7	7	0,6
8	1	0,1
9	2	0,2
Total	1141	100

Representativeness is a complex notion unfolded in multiple quandaries, as we hope to have demonstrated. We will now explain how each member State understands representativity when called to nominate their national representatives to the EESC.

## 5. NATIONAL APPOINTMENT PROCEDURES

The national appointment procedures have been pointed out as a criticism of this European institution. The fact that is a deep-rooted practice and an exclusive prerogative of the member States precludes the possibility of adaptation to socio-economic changes. The exclusive national competence to appoint and the formal acceptance of the member States selection by the Council was frequently criticised by European networks and second-level organisations.<sup>20</sup>

One of the objectives of this report is to present updated information on the procedures and criteria applied by each Member State to identify and appoint their representatives to the Committee and shed light on the differences between the selection processes. This data may be used by the diverse European and national stakeholders to confront with the economic and social reality that is to be represented in the European Economic and Social Committee.

As mentioned in the chapter on the methodology, there are two other studies directly focusing on this issue and apparently the EESC' External Relations section had also carried out such a research, albeit not being accessible.

Nevertheless, in the 2006 *Bureau information on the renewal of the Committee* in points four and five we may read that "At national level it is usually the responsibility of the Head of Government to draw up the list (...). In most countries it is generally the Ministry of Labour and Social Affairs that is responsible for preparing the list of candidates and arranging prior consultations with the representative organisations. (...) irrespective of the powers of proposal vested in the ministry responsible for preparation, it is generally the responsibility of the Head of Government to take the final decision, after comparing the cases of the various candidates."<sup>21</sup>

In truth, selection and nomination processes are diversified and a big variety of actors is involved, as may be noticed when requesting information to each member State<sup>22</sup>. The more concise and systematised analysis is the mentioned study conducted by Wim van der Voort, who created a matrix of four different types of procedures referring to the responsibility for interest selection and nomination:<sup>23</sup>

### 1) *Heads of State / Government*

A nomination procedure in which the Head of State or central government holds the main responsibility; procedures with a central position for heads of State or central governments are found in member States with a strong tradition of *étatisme* and centralism.

Countries: France, Greece, Luxembourg

### 2) *Departments / individual ministers*

A nomination procedure in which the responsibility accrues to one or few government departments; it is not the responsibility of the government as a whole.

Countries: Germany, Denmark, UK, Ireland

### 3) *Government and specific departments*

A nomination procedure with elements from the first two nomination procedures: the procedure involves both the government and individual departments. However departments are involved without any decision-making authority.

Countries: Italy, Spain

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<sup>20</sup> Cfr. Sjtjn Smismans, *op. cit.*, p.12 ; Rosemary O'Farrell, *op. cit.*, p.10; Social Platform, *Economic and social committee seeks to reposition itself*, 08/03/2004 in [http://www.socialplatform.org/code/en/pres\\_pict.asp?Page=587](http://www.socialplatform.org/code/en/pres_pict.asp?Page=587)

<sup>21</sup> R/CESE 456/2006 rev. item 5<sup>a</sup>) FR/SS/NT/ml; point 4

<sup>22</sup> *Supra*, p. 6

<sup>23</sup> Adapted from Wim van der Voort, *op. cit.*, pp.154-156

#### 4) *Corporatist bodies*

A nomination procedure in which the responsibility has been delegated to the national corporatist bodies. The delegation of the nomination responsibilities to corporatist bodies is not necessarily equal to a transition of authority to these bodies.

Countries: Netherlands, Belgium, Portugal.

It will be interesting to check if this matrix is still applicable to the 27 member States or if new types have appeared.

As explained in the Methodology the national institutions (and some EESC members have also contributed to the description of the appointment process) were asked to provide information on: the institutions involved; the selection process; selection criteria and if the process is legally institutionalised.

Formerly, selection criteria was not analysed (from the bibliography consulted the only study that mentions criteria is the one from Nadine Bernard *et al*<sup>24</sup>, in 1972) and this was the issue that more controversy arose during the research.

If we refer to Van der Voort classification is in the first case where criteria could easily be disclosed, whereas when more than one actor is involved finding out which are the criteria used in the consequential selection steps becomes more complex.

Although to receive this data from governments was not an easy task. Firstly because in many cases this is not a normalised process (and governments are not accountable on their choice even if in some countries like Italy, Estonia and Sweden nominations have been questioned by excluded civil society organisations, by the departments in charge of the selection and /or by members themselves) but is due principally to the circumstance of exclusive competence of governments. Apparently nomination procedures are not perceived as an issue of public domain. I argue that it is, because we are dealing with representativeness of civil society. Therefore, public criteria (of representativeness) is a significant matter, which concedes transparency to the nomination process and legitimacy to the appointed members.

This have been said, we will now examine each process country by country. When possible comparing the present situation with the information provided by Rideau's and van de Voort' studies.

#### **Austria**

- *Institutions involved and responsibilities ascribed*: the pre-established civil society organisations select (their) candidates; the Federal Government formally nominates.

- *Description of the appointment process*: highly organised process and unchanged<sup>25</sup> since Austria's accession to the EU. The national system of social concertation - "Sozialpartnerschaft" - that represents the main civil society groups and interests in Austria stands behind the nominations to the EESC. The institutions taken part in the "Sozialpartnerschaft" that are asked by the Federal Chancellery to present their candidates for the Austrian 12 members are:

- a) WKÖ (Federal Economic Chamber) – 3 seats

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<sup>24</sup> «Les membres du CES, appelés à classer par ordre d'importance décroissante différents critères qui peuvent influencer le choix des gouvernements lors de l'établissement de la liste à présenter au Conseil, ont estimé que les éléments déterminants du processus de désignation étaient en premier lieu les "relations politiques" du candidat ainsi que la "situation politique interne", intervenaient ensuite la "compétence au niveau européen" du candidat, ainsi que sa "représentativité", l'"exercice de certaines fonctions précises dans le pays", sa "compétence au niveau national" et enfin sa "disponibilité". » In Nadine Bernard *et al*, *op. cit.*, pp. 60-61

<sup>25</sup> Rideau's study confirms the information provided by the Chamber of Labour and ÖGB (cfr. *op. cit.*, p. 54).

- b) ÖGB (Trade Union Confederation) – 3 seats
- c) BAK (Federal Chamber of Labour) – 2 seats
- d) LKÖ (Chamber of Agriculture) – 1 seat
- e) *Raiffeisenverband* (Agricultural cooperatives) – 1 seat
- f) VKI (Consumer Protection Organization) – 1 seat
- g) Free Professions – 1 seat.

The names of the candidates are then sent to the Chancellery - that must inform the National and Federal Councils (*Nationalrat* and *Bundesrat*) - who approves it.

- *Selection criteria*: the only known criterion regarding the candidates, apart from membership in the above-mentioned organisations, is the one followed by the trade union (ÖGB) on the distribution of its three seats: one mandate is nominated by the confederation and the other two are nominated by the two largest ÖGB affiliates - the metal working union and the white collar workers union.

- *Legislation*: Austrian Constitution, Art 23c, Par. 1, 3 and 5; "Europe agreement" signed by the two biggest Austrian political parties in April 1994, this agreement deals with the administrative details concerning EU membership and cover, among others, the role of the social partners' organizations.

## Belgium

- *Institutions involved and responsibilities ascribed*: the Central Economic Council and the National Labour Council select the candidates; the Minister of Labour and Minister of Economy approve them and send the list to the Ministry of Foreign Affairs to be sent to the European Council.

- *Description of the appointment process*: the Belgian nomination process is mainly based on tradition and political consensus. The candidates are selected jointly by the Central Economic Council and the National Labour Council.

These are advisory bodies with a specific vocation to contribute to elaborate positions and proposals related to economic life, welfare, competitiveness and labour relations and are granted by the Belgian Government with full autonomy and independence in designating the candidates. In this process, the Councils ensure that the different components and members of their respective organisations are duly represented.

The list of candidates goes to the Minister of Labour (related to the National Labour Council) and to the Minister of Economy (related to the Central Economic Council) for approval. And it is forwarded to the Minister of Foreign Affairs.<sup>26</sup>

- *Selection criteria*: membership in the organisations belonging to the Councils; candidates must be the representative, legitimate, active and with influence in their socio-economic field.

- *Legislation*: no legislation

## Bulgaria

- *Institutions involved and responsibilities ascribed*: the national Economic and Social Council selects; the Government officially nominates.

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<sup>26</sup> This picture matches with the Corporatist model put forward by Van de Voort. Cf. Wim van der Voort, *op. cit.*, p. 156

- *Description of the appointment process*: taking on from the experience of other countries that proves that the participation of the national Economic and Social Councils (ESC) in the nomination procedure is an efficient way of establishing relationship and successful collaboration between the national ESCs on European level, the Bulgarian candidates are submitted by the Economic and Social Council of Bulgaria. Each of the three Bulgarian ESC groups is entitled to have four representatives.

The list of nominees is submitted to the Government for official nomination.

- *Selection criteria*: for the 2006/10 mandate no criteria are referred, a part from membership in the Economic and Social Council of Bulgaria. Though the Bulgarian ESC decided that the future members of the EESC shall meet the following criteria:
  - a. Previous participation in committees, commissions and other forms of cooperation, established between Bulgaria and European institutions on economic and social issues;
  - b. Current membership in the ESC or in organisations that have nominated representatives in the ESC;
  - c. Awareness of the procedures and practices of the EESC;
  - d. Experience in the area of social and civil dialogue and socio-economic issues;
  - e. The organisations that submitted the nomination are supposed to be members of European organizations;
  - f. Good command of English and/or French.

- *Legislation*: No information

## Cyprus

- *Institutions involved and responsibilities ascribed*: each of the pre-established organisations representing the different socio-economic categories appoints their candidate; the Ministry of Labour and Social Insurance officially nominates them.

- *Description of the appointment process*: like in Austria and Belgium, in Cyprus there is a long tradition of tripartite co-operation, therefore major decisions on labour and social issues are taken after consultations within the Labour Advisory Body (LAB) – a high level Committee chaired by the Minister of Labour and composed by the top representatives of the employers and workers organisations.

Before Cyprus' accession to the EU, in 2004, the LAB discussed on the Cypriot delegation in the EESC and decided that the following organisations would be represented:

I. *Employers Group*: The Cyprus Employers and Industrialists Federation (OEB) and Cyprus Chamber of Commerce and Industry (KEBE);

II. *Employees' Group*: Cyprus Workers Confederation (SEK) and Pancyprian Federation of Labour (PEO);

III. *Various Interests*: Cyprus Farmers Association (EKA) and Cyprus Consumers Association (KSK).

Each organisation nominates its candidate and sends its proposition to the Minister who formally appoints them.

- *Selection criteria*: the criteria followed by the organisations involved, are mainly the suitability of the members and their ability to contribute constructively to the EESC deliberations.

- *Legislation*: no legal framework

## **Czech Republic**

- *Institutions involved and responsibilities ascribed*: the Ministry of Foreign Affairs starts the procedure; the national Economic and Social Council, the Governmental Council for NGOs and the ministries of Labour and Social Affairs, Ministry of Trade and Industry, Ministry of Agriculture, Ministry of Environment, Ministry of Education, Youth and Sport select and appoint the candidates. The interministerial Committee for EU Affairs decides and the Government officially nominates.

- *Description of the appointment process*: the Ministry of Foreign Affairs asks for the proposals of the representative organisations of employers and workers present at the national economic and social council, of the Council of the Government for NGOs and of different ministries.

The nominations for the Groups I (employers) and II (workers) are submitted by the Working Team for EU affairs, one of the sections of the Council of Economic and Social Agreement (the national consultative body with representatives of the employers and workers organisations). The Government does not interfere in this selection.

The nominations for Group III are slightly different. One candidate is nominated by the Council for NGOs (which is a consultative body of the Government for the non-profit sector). The three other candidates are nominated by the competent Ministries: Ministry of Labour and Social Affairs, Ministry of Trade and Industry, Ministry of Agriculture, Ministry of Environment, Ministry of Education, Youth and Sport after consultations with the competent organisations of the organised civil society in the area of their responsibility.

Upon the recommendations submitted by the respective Ministries, the Committee for the EU Affairs (an interministerial body for coordination of the national positions towards the European Union) decides on the whole national delegation nominated to the EESC. The list of nominees is then submitted to the Government.

- *Selection criteria*: no specific and written criteria for selection of the candidates.

- *Legislation*: no legislation.

## **Denmark**

- *Institutions involved and responsibilities ascribed*: the Department for European Policy of the Ministry of Foreign Affairs is in charge of the formal appointment and nomination procedure of the organisations to be represented. The selected organisations appoint their nominees. The Parliamentary Committee on EU Affairs must be informed during the process.

- *Description of the appointment process*: until 2006, the composition of the Danish delegation to the EESC has not changed, therefore the procedure was easy. The Ministry of Foreign Affairs informed the Danish member organisations already in the EESC and asked for personal nominees for the new period of 4 years.

Though this year, consequently to the modifications introduced by the Nice Treaty, the Government and the parliamentary committee in charge of European affairs decided to make some changes and the Danish delegation is now composed by two new organisations.

The two new organisations were chosen following a public hearing of all interested parties, i.e. Danish civil society organisations. The Government has then decided on the organisations to be

represented at the EESC and ask them to provide their personal nominees. The competent parliamentary committee was informed on the final list of nominees and the list sent to the EU Council.

- *Selection criteria*: no information on overall application of criteria, only for the two new organisations. The main emphasis is on relevance for the work and areas covered by the EESC and the widest possible representativeness regarding the main aspects dealt with by Danish civil society organisations.
- *Legislation*: there is no single regulation underpinning the procedure for the nomination and selection of members of the EESC. There is however a regulation regarding the obligatory involvement of the parliamentary committee for European affairs in such matters, stating the need for a parliamentary mandate for the government.

## **Estonia**

- *Institutions involved and responsibilities ascribed*: organisations are chosen by a Working Group coordinated by the Ministry of Social Affairs. Organisations decide on their candidates. Several Ministries are consulted on the list of candidates who are afterwards formally nominated by the Minister of Social Affairs. The final list of members is approved by the Government.
- *Description of the appointment process*: before the Estonian accession to the EU, the Ministry of Social Affairs set up a Working Group chaired by the Minister itself and consisting on representatives of employers' and employees' umbrella organisations, of the major interest groups and of the Ministry of Economic Affairs and Communications' representatives.

The aim of the working group was to work on a permanent nomination procedure and to settle the distribution of the seats between the three groups. Due to time constraints the procedure was not concluded<sup>27</sup>. Though, it had to decide on the organisations to be represented in the Estonian delegation. It was established that six out of the seven Estonian members would come from the organisations that took part in the EESC-Estonia Consultative Committee. In what the seventh candidate is concerned, after some meetings with NGOs one association was chosen.

For the second mandate (2006/10) the seven Estonian members at the time, requested to the competent Ministry if their organisations could continue in office. After a meeting of the Working Group, the same organisations were re-nominated and asked to appoint their candidates.

After the list was completed the Ministry of Social Affairs sent it to the other Ministries for approval. After the official consultation round the Government made the formal decision and sent it to the EU Council.

- *Selection criteria*: the chosen organisations were well-established and representative of different areas of economic and social life. Preference was given to organisations dealing with highly relevant matters in Estonia. Having a well established umbrella organisation was considered as an asset. In addition, the working group took into account individuals' willingness and ability to participate in the Committee.

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<sup>27</sup> Indeed, it seems that the Estonian procedure suffered several vicissitudes. According to one EESC member, due to the fact that a permanent procedure was not worked out, some problems arose in the first mandate (2004) as one of the candidates firstly nominated by the Working group was replaced by a different one chosen by one of the competent Ministries. This arbitrariness together with the lack of an institutionalised procedure seems to result from a deficit of political interest on the EESC in this country.

- *Legislation*: Nomination of the members to the EESC falls under Foreign Relations Act last amended in 2003. Section 7 paragraph 1 (8) of this act stipulates that Government is to solve issues concerning foreign relations that according to the act do not fall under the jurisdiction of the Parliament or the President.

## **Finland**

- *Institutions involved and responsibilities ascribed*: appointment of candidates for the Economic and Social Committee is decided by the Government at the Government's plenary session.

- *Description of the appointment process*: the Prime Minister makes the proposal for appointing the candidates to the Government plenary. Usually the proposal is discussed by the EU Cabinet committee. It usually first prepares the request for various bodies to present candidates. Based on these proposals it then prepares the proposal to the Government plenary, taking into account the legislation on gender equality.<sup>28</sup>

- *Selection criteria*: gender equity.

- *Legislation*: Government Rules of Procedures establishing the government's competence on the nomination but no specific law or norm on how the process should occur.

## **France**

- *Institutions involved and responsibilities ascribed*: the Ministry of Employment coordinates the process; the SGAE (*Secrétariat Général aux affaires européennes*) – an interministerial structure dealing with EU affairs submits the list of candidates to the Prime Minister who has the final decision and responsibility for the nomination.

- *Description of the appointment process*: the Ministry of Employment assembles the candidatures of the employers' organisations and trade unions. The other candidatures (other candidates to Group I – Agriculture - and the Group III) are collected by the competent ministries after consultations with the socio-professional bodies. Traditionally, one representative of the Economic and Social Council of France is selected and the list of represented organisations reflects in a certain way the composition of the French ESC groups. All candidatures are submitted by the SGEA to the Prime Minister's final decision.<sup>29</sup>

- *Selection criteria*: representativity of the civil society organisations; particular attention to gender balance.

- *Legislation*: no legislation. It is a procedure.

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<sup>28</sup> In 1997, according to Rideau, it was the Ministry of Labour who coordinated the process and made the proposal to the Cabinet. Though the information provided by the Prime Minister's Office of Finland did not make any reference to this detail. Cfr. Joël Rideau (dir.), *op. cit.*, p. 198

<sup>29</sup> Wim van der Voort corroborates the practice of selected interests choosing their nominees, however it seems that the responsibility of deciding on the types of socio-economic interests to be represented was a prerogative of the President of the Republic. Cfr. Wim van der Voort, *op. cit.*, pp. 154-155

## Germany

- *Institutions involved and responsibilities ascribed*: the Federal Ministry of Economics coordinates the process; Federal Ministries of Economics and Technology, Labour and Social Affairs, Agriculture, Environment and Ministry for Women, Youth, Families and Elderly collect the representative organisations' selected candidates; the European department of the Ministry of Foreign Affairs accompanies the procedure. The final approval comes from the Federal Cabinet.
- *Description of the appointment process*: several Federal Ministries are involved in the appointment procedure although the coordination is in the hands of the Ministry of Economics. The Federal Ministry of Economics and Technology is in charge of the candidatures coming from areas such as trade, industry, craftsmen; the Federal Ministry of Labour and Social Affairs, of the trade unions and the ministries of Agriculture, Environment and for Women, Youth, Families and Elderly for the other areas, respecting the EESC division in three groups.

The Federal Ministries refer to the different organisations for their nominees without interfering in their decisions. Subsequently, the names are submitted to the Federal Cabinet for consultation and approval.<sup>30</sup>

- *Selection criteria*: no information.
- *Legislation*: regulated procedure, but no law.

## Greece

- *Institutions involved and responsibilities ascribed*: the responsible for the appointment is the Minister of Economy and Finance.
- *Description of the appointment process*<sup>31</sup>: the Ministry of Economy and Finance asks the civil society organisations representing employers' organizations (for Group I), trade unions (for Group II) and professional, farmers, SMEs, consumers and other organisations (for the Group III), to put forward their proposals of members.
- *Selection criteria*: experience in the sector they represent, the knowledge of foreign languages and their current position.
- *Legislation*: no information.

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<sup>30</sup> Cfr. Joël Rideau, *op. cit.*, p. 24; "Germany stands out as an example [of the procedure that involves one or more departments or ministers in drawing up the lists]. The nomination cedes to three departments of which the Department of Economic Affairs is most important. This department consults a stable group of organisations involving employers' organisations, trade unions, SME and consumers. The other two departments are Agricultural Affairs and since 1982 the Department of Environmental Affairs." Wim van der Voort, *op. cit.*, p. 155.

<sup>31</sup> "In Greece the procedure is identical [to France] although the Greek government makes a distinction between four categories of interests: employers, trade unions, sme and consumers. Within these categories, the Greek government requests organisations to put forward their nominees. The government then can reject or accept these nominees." Wim van derVoort, *op. cit.*, p. 155

## Hungary

- *Institutions involved and responsibilities ascribed*: the process is organised by the Ministry of Social Affairs and Employment; the National Council for the Reconciliation of Interests nominates the members for the I and II Group; several Ministries are consulted to choose between a list of candidates for the III Group after a public tender.

- *Description of the appointment process*: the Ministry of Social Affairs and Employment asked the National Council for the Reconciliation of Interests to nominate the members representing the employers and the workers.

In what regards the “Various Interests” Group, the procedure was more complicated since civil society in Hungary was not well organised thus its representatives hard to choose. For this reason, the Ministry decided to make a tender for NGOs with three ladders. To apply the organisations had to fulfil specific criteria (see *infra*). The list of applicant NGOs was sent to all competent ministries asking them to score the organisations working within their jurisdiction. Based on the evaluation of the ministries, a list of twenty-five candidates was drafted.

Finally, all candidates were interviewed by a committee made up of experts from the Ministry of Foreign Affairs, the Prime Minister’s Office and the Ministry of Social Affairs and Employment. The interview was based in a scoring system, described in the next item.

- *Selection criteria*: the public tender launched by the Ministry of Social Affairs for the candidates to the III Group enclosed the following criteria:

- the applicant’s organisation has to work at national level;
- the applicant’s organisation has to work in areas pertaining to the sections of the EESC;
- the applicant have to be competent and with great authority;
- fluent knowledge of English or French (fluent knowledge of German, Italian, Spanish or other European language is advantageous);
- good communication skills (practice of lobbying is advantageous).

The interviews conducted by the special evaluation committee respected a scoring system up to 20 points graduating items such as the nature of the candidate’s organisation; the relation between the candidate’s organisation working field and the EESC working issues; the candidate’s profession, knowledge of foreign languages and communication skills.

- *Legislation*: no information

## Ireland

- *Institutions involved and responsibilities ascribed*: the Prime Minister’s Office coordinates the process and officially appoints the candidates; the four pillars from the Social Partnership submit their candidates; the Ministries of Finance and Foreign Affairs are consulted.

- *Description of the appointment process*: in Ireland “Social Partnership” is composed by four pillars: Employers, Trade Unions, Agriculture, Community & Voluntary. The Department of the *Taoiseach* (Prime Minister), who is the link department between the Government and the Social Partners, invite each pillar to nominate three representatives. The Government gives three seats to the Employers, three to the Unions, two to Agriculture and one to the Community & Voluntary Pillar.

The employers' organisations and the trade unions are asked by the Government to submit six names each from which the Government chooses the appointees. The Government invariably chooses the top three names on the list. The distribution has followed the next distribution:

I. *Employers Group*: two seats to the Irish Business & Employers Confederation (IBEC) and one to the Chambers of Commerce of Ireland;

II. *Employees' Group*: one seat to the Irish Confederation of Trade Unions (SIPTU), one to the largest trade union (ICTU) and ITGWU (Irish Transport and General Workers Union). There is always a nomination from Northern Ireland.

The Government directly nominates the "Various Interests" representatives as two seats are normally assigned to the two main farming organisations (Irish Farmers Association and Irish Creamery and Milk Suppliers Association) and one to the Voluntary organisations.

The Government has absolute discretion in the selection but in practice the names put forward by the four pillars have always been respected.<sup>32</sup>

- *Selection criteria*: the Government's memorandum on the EESC nominations has a clause (art. 4) on gender balance and on the inclusion of a Northern Ireland member. In 2006 two out of the four pillars did not respect the gender balance claiming that the selected persons were "the most appropriate representatives with more experience, knowledge and time to contribute most effectively to the work of the EESC."<sup>33</sup>

- *Legislation*: there is a Partnership Program on the Four Pillars and in 2006 there was a Memorandum for the Government from the Prime Minister Office, "Nomination of Irish members to the European Economic and Social Committee" where the procedure is described and where the Prime Minister asks for the Ministries approval of the final list of candidates.

## Italy

- *Institutions involved and responsibilities ascribed*: the Minister of Economy and the Minister of Labour and Social Affairs identify the representative organisations and ask them to provide their candidates; the Department of EU Affairs of the national Council of Ministers drafts the final list of nominees; the Council of Ministers approves it.

- *Description of the appointment process*<sup>34</sup>: the Italian Council of Ministers asks the Minister of Economy (competent in the areas of the productive activities) and the Minister of Labour and Social Affairs to designate the names to Group I and II plus III, respectively presupposing that these ministries have the necessary data on the level of representativity of the civil society organisations according to their competency field.

The identified organisations are then invited to submit their representatives and respective *curricula*. Each ministry prepares its list of selected candidates with the *curricula* and submit it to the department of European affairs of the Council of Ministers who approves it.

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<sup>32</sup> Differently to the above-described procedure, in 1997, Wim van der Voort mentioned that the nominations were a responsibility of the Ministry of Foreign Affairs and the Ministry of Agriculture, corresponding then to the second cluster of the typology. Wim van der Voort, *op. cit.*, p. 155

<sup>33</sup> In *Nomination of Irish members to the European Economic and Social Committee*, Memorandum for the Government, Department of the *Taoiseach*, 18 July 2006, point 8 (Impact on women).

<sup>34</sup> The procedure remains unchangeable as we may read from Wim van der Voort's words: "In both Italy and Spain, the Department of Foreign Affairs and the Department of Employment draw up the nominations on the basis of names they solicit from selected organisations. The final authorisation of the list is the responsibility of the government." In Van der Voort, *op. cit.*, p. 156

The excluded organisations may appeal to the Court. Indeed this has already happened in several occasions. The last incident was in 2006 when any consumers' organisation was designated to be represented in the Italian delegation<sup>35</sup>.

- *Selection criteria*: size and scope of the organisation's structure; number of members; effective participation in the activities pertaining to the activities listed in the art. 257 of the Nice Treaty; professional experience of the organisation's appointee; language skills and suitability to the function.
- *Legislation*: no laws.

## **Latvia**

- *Institutions involved and responsibilities ascribed*: the Ministry of Foreign Affairs is responsible for coordinating the selection process and the Ministry of Economy, the Ministry of Welfare, the Ministry of Agriculture, the Employers' Confederation and the Free Trade Union Confederation are in charge of nominating the candidates. The Senior Officials Committee for European Union issues (coordinating body among governmental institutions) is consulted on the list; the Cabinet of Ministers has the final word on the nomination.

- *Description of the appointment process*: the Ministry of Foreign Affairs requests the Ministry of Economy, the Ministry of Welfare, the Ministry of Agriculture, the Employers' Confederation of Latvia and the Free Trade Union Confederation of Latvia to nominate the candidates. Though, in order to ensure adequate representation of civil society, the institutions have to involve other interest groups and NGOs in the process of nominating the candidates.

The Ministry of Foreign Affairs collects all nominations and drafts a list to be presented to the Senior Officials Committee which is called to give its advice and to send it to the Cabinet of Ministers. In case no agreement was reached in the Senior Officials Committee it is up to the Cabinet to decide on final contents of the list.

- *Selection criteria*: even if there are no strictly defined criteria, the principle of well-balanced representation of interest groups (employers, employees and representatives of various interest groups) has to be guaranteed. The fact that the organisations, regardless of their working field, perform or not social activities may be used as a criterion for selection.
- *Legislation*: there is no particular law, administrative act or other legal document regulating the selection procedure but only an Order (No. 385) adopted by the Cabinet of Ministers in 2003 conferring the responsibility for the coordination of nomination process to the Ministry of Foreign Affairs.

## **Lithuania**

- *Institutions involved and responsibilities ascribed*: the Ministry of Economy coordinates the process. The Tripartite Council, the Ministry of Social Security and Labour, the Ministry of Justice, the National Consumer Rights Protection Board under the Ministry of Justice, the European Law

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<sup>35</sup> *I consumatori fuori dal CESE, il commento di Anna Bartolini, 19/06/2006 in <http://www.helpconsumatori.it/news.php?id=8313>*

Department of the Ministry of Foreign Affairs are consulted. The Government nominates the candidates.

- *Description of the appointment process*: the Government, particularly the Ministry of Economy, selects the representative organisations. There are five representatives of the trade unions and five representatives of the employer's organisations present at the Tripartite Council. In what the third group is concerned, there are no nominees from NGOs representing the general interest only from consumers' organisations.

Each organisation sends its list of candidates, following their own criteria, to the Tripartite Council. Then the Council sends it to the Government with their comments. The Ministry of Social Security and Labour, the Ministry of Justice, the National Consumer Rights Protection Board, the European Law Department of the Ministry of Foreign Affairs as well as other institutions and organisations are consulted. The Government takes the final decision.

New rules and legislation are being prepared by the Ministry of Economy not only to include the organisations representing the "Various interests" in the consultation and nomination process, but also foreseeing selection criteria.

- *Selection criteria*: no criteria.

- *Legislation*: there are no specific written procedures, only the internal regulations of the Tripartite Council on its duties and rights in the nomination process as well as the article 52 (point 5) of the Law on the Government assigning the nomination responsibility to the government, after consultations with the Tripartite Council.

## **Luxembourg**

- *Institutions involved and responsibilities ascribed*: the Ministry of Foreign Affairs coordinates; the identified organisations appoint the nominees and the Government confirms the nominations.

- *Description of the appointment process*<sup>36</sup>: the Ministry of Foreign Affairs contacts the relevant employers' and labour organisations asking them to submit their respective candidate. Currently these organisations are: the Chamber of Trade, the biggest trade unions - OGB-L, CGFP and LCGB, the Crafts Chamber and the Farmers' Association. They represent the largest organisations taking part at the national Economic and Social Committee. The Luxembourg government confirms the list of candidates.

- *Selection criteria*: no information

- *Legislation*: no official documents.

## **Malta**

- *Institutions involved and responsibilities ascribed*: the Malta Council for Economic and Social Development (MCESD) coordinates the appointment procedures. The Prime Minister takes the final decision.

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<sup>36</sup> There are no significant changes regarding Rideau's nor Van der Voort's studies. Cfr. Joël Rideau, *op cit*, p. 350 and Van der Voort, *op. cit.*, p. 155

- *Description of the appointment process*: the appointment procedure follows two stages. First, the Government asks the Social Partners and Civil Society to put forward their candidatures through the MCESD according to the Groups' distribution (2:2:1). The different employers and trade unions present at the Council and the Council's Civil Society Committee (since NGOs are not directly represented in the Council) agree on twice the number of required nominees. The Council sends the results to the Office of the Prime Minister who may then choose and propose the effective members of each group.
- *Selection criteria*: no information.
- *Legislation*: there is no legal document setting these procedures.

## Netherlands

- *Institutions involved and responsibilities ascribed*: the Ministry of Economic Affairs, on behalf of the Ministry of Foreign Affairs, starts up the procedure. The Social and Economic Council of the Netherlands (SER: *Sociaal Economische Raad*) coordinates the selection process. The Government officially nominates the nominees.
- *Description of the appointment process*<sup>37</sup>: the Ministry of Economic Affairs, in accordance with the Ministry of Foreign Affairs, asks the SER – the institution where the social partners meet to promote the public interest; one third of the seats is occupied by representatives of employers' organisations, one third by representatives of trade unions and one third by independent experts - to make its proposal.

The SER first determines how the seats are to be divided among the various organisations active in the fields described in art. 257 of the European Treaty. Consequently, it establishes which specific organisations are entitled to propose one or more members. It collects each organisation's candidates and drafts its advice that is sent to the Government.

- *Selection criteria*: no information
- *Legislation*: There is no law, administrative act or any other legal document that regulates this procedure.

## Poland

- *Institutions involved and responsibilities ascribed*: the Ministry of Labour and Social Policy starts up and coordinates the procedure. The Tripartite Commission for Economic and Social Affairs and the Public Benefit Council coordinate the selection of the candidates. The National Parliament's Committee for EU Affairs must issue its opinion on the list of candidates. The Prime Minister approves the final list.
- *Description of the appointment process*: the Ministry of Labour and Social Policy starts up the selection procedure establishing deadlines for each stage.

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<sup>37</sup> Compared to Van der Voort research, the only difference is that he mentions that the final authority rests with the Ministry of Economic Affairs. The information provided from the SER did not mention this fact, but it may probably still be true. Cfr. Wim van der Voort, *op. cit.*, p. 156 and Rideau, *op. cit.*, p. 376

The distribution of seats follows the EESC division in three groups. The allocation of the workers and employers representatives' seats was agreed by the trade union organisations and employers' organisations represented in the Tripartite Commission for Economic and Social Affairs (the tripartite social dialogue body). The Public Benefit Council - where only registered organisations of public interest seat – decides on the distribution of seats for the third Group.

The employers' organisations and the trade unions send the names of their nominees to the Department of Dialogue and Social Partnership of the Ministry of Labour and Social Policy. Group III nominations are sent by different NGOs to the Department of Public Interest also within the Ministry of Labour and Social Policy.

The Ministry of Labour is in charge of drafting the final list and sends it to the Polish Council of Ministers. In turn, the Cabinet submits the list of candidates to the National Parliament's Committee for EU Affairs. The Committee has 21 days to express its opinion. The list is then forwarded to the Prime Minister's Office. Both the Parliament's Committee and the Prime Minister may reject the list. However, this would mean the all process to be restarted as new consultations would have to be done.

- *Selection criteria*: fluent knowledge of Polish; proved advanced knowledge of at least one foreign language (English, French or German); higher education (university level, M.A. or equivalent) and at least two-years' experience in organisations active in the social and economic spheres.
- *Legislation*: there is an administrative document called “Procedure ECO-SOC” drafted by the Ministry of Labour launching the process and stating what kind of documents should be sent for the nomination to be valid. There is also a document regulating the cooperation between the Cabinet and the Parliament Cameras in what regards the EU issues where is written that the EU Parliamentary Committee must issue an opinion on the candidates to the EESC. And an information document issued by the Labour and Social Affairs proposing the above-mentioned criteria, though without any legal character.

## **Portugal**

- *Institutions involved and responsibilities ascribed*: the Prime Minister has the responsibility for the selection and official nomination of the Portuguese members. The Ministry of Labour and Social Affairs, the national Economic and Social Council and other civil society stakeholders are consulted on the list of candidates. The EU Department of the Ministry of Foreign Affairs coordinates the information flux between the EU Sub-Secretary of Foreign Affairs of that Ministry and the EU Department of the Prime Minister's Office.
- *Description of the appointment process*: the selection and nomination process is coordinated by the EU Department of the Prime Minister's Office together with the EU Department of the Ministry of Foreign Affairs. Civil society organisations may present their candidates to the function of EESC member directly to the Prime Minister's Office or the Ministry of Foreign Affairs or may be invited to do it. The competent Ministries, in particular the Ministry of Labour and Social Affairs and the different sectors of civil society are consulted. The entire consultation and selection process is carried out in cooperation with the national Economic and Social Committee where the majority of the invited organisations seat. The final decision on the selected candidates is taken directly by the Prime Minister.<sup>38</sup>

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<sup>38</sup> In what regards the Portuguese case there was some confusion in what concerns the national economic and social council's role. The Prime Minister's Office affirmed that it had at least a consultative role. The Council denied it. Looking back at Van der Voort book, the national Council not only was consulted as it drafted the list of candidates.

- *Selection criteria*: more than criteria the Prime Minister's decision obeys to three principles – to assure the representation of the main social partners with acknowledged national representativity; the representation of the biggest number of relevant sectors within the socio-economical spheres according to the EU Treaty and the turnover of the organisations over the years.
- *Legislation*: no legislation. It is a procedure only bond to the EU Treaty directives.

## Romania

- *Institutions involved and responsibilities ascribed*: the European Affairs Secretariat of the Prime Minister Office coordinates the selection process. The organisations represented in the Economic and Social Council of Romania (ESC) were asked to put forward their candidates. The Government appointed the members of the third group and approved the final list of candidates.
- *Description of the appointment process*: the Government asked the Economic and Social Council to submit its proposals for the candidates representing the trade unions and the employers (other civil society organisations are not part of the ESC yet). Due to the fact that the Council had not started its new mandate, the Government made a direct request to the representatives of the trade unions and employers' confederations represented in the Council to present their candidates.

The Permanent Secretariat for European Affairs of the Prime Minister's Chancellery was in charge of coordinating the process, assembling the proposals and the candidates' CVs. These proposals were the result of an internal scrutiny of each institution: the candidates with more votes were designated. The Government did not interfere in the selection process.

The representatives of the third group were directly appointed by the Government who also took the final decision on the complete list of candidates.

In the future terms the Economic and Social Council will make proposals for the Romanian candidates for the 3rd group and will have a consultative role.

- *Selection criteria*: personal competence and actual involvement in their specific field of activity and representativeness of the candidate's organisation within the Economic and Social Council of Romania. In what regards the third group, the social partners recommended that the nominees should represent five out of the six fields approved in the ESC' Plenary: academic and professional associations, consumer protection, human rights, health, social services, environment and rural middle-sized organisations.
- *Legislation*: there are no rules or legislation regulating this process.

## Slovakia

- *Institutions involved and responsibilities ascribed*: the Government delegates the selection in two socio-economic bodies; the Ministry of Social Affairs drafts the list of candidates and the Government nominates the members.

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Apparently this is not the case anymore. In Rideau's instead only its consultative role is underlined. Cfr. Wim van der Voort, *op. cit.*, p 156 and Joël Rideau, *op. cit.*, p. 399. In any case the nomination process does not seem to be institutionalised, in the sense that the actors involved changed. According to one Portuguese EESC member, in the last mandate the selection and nomination was coordinated and decided by the Minister of the Treasury.

- *Description of the appointment process*: the Government asks two bodies to put forward their proposals: the “Triparta” (composed by Government’s, employees’ and employers’ representatives) and the Economic and Social Council of Slovakia. Each institution sends its proposal to the Minister of Social Affairs who submits the final list to the Government.
- *Selection criteria*: the Economic and Social council looks for a fair representation of the three socio-economic groups and takes into consideration the personal quality of the candidates.
- *Legislation*: no rules or legislation.

## **Slovenia**

- *Institutions involved and responsibilities ascribed*: the Government decides on the allocation of seats and takes the final decision on the nominees; the selected organisations appoint their candidates and the Government’s Office for Foreign Affairs coordinates the procedure.
- *Description of the appointment process*: the Government bearing in mind the EESC composition decided that for:
  - a) Group I – the Slovenian Economic and Social Council may submit two candidates;
  - b) Group II – the Slovenian Economic and Social Council may submit three candidates;
  - c) Group III – the Chamber of Agriculture and Forestry may submit one candidate and the Centre of non-governmental organisations another one.

The three organisations have their own internal selection procedures and the Government does not interfere. They submit their candidates to the Government’s Office for European Affairs who coordinates the procedure. The Government makes the official nomination.

- *Selection criteria*: the only available information regards the Centre for NGOs procedures. The selection process has been tricky and highly discussed within the Centre as NGOs as some organisations do not agree with representativeness criteria. In any case the process is transparent and respects the principle of equal opportunities. The candidatures are submitted to internal voting and the recommended criteria are the personal skills and knowledge of the candidates.
- *Legislation*: there is no law or legal document regulating these procedures.

## **Spain**

- *Institutions involved and responsibilities ascribed*: the Ministry of Labour and Social Affairs coordinates the selection process; the organisations identified as the most representative appoint their nominees and the Government approves the final list. The Ministry of Agriculture, Fisheries and Consumers is consulted.
- *Description of the appointment process*: the Ministry of Labour and Social Affairs (*Secretaría General Técnica*) asks the more representative national and regional trade unions, employers’ organisations to designate their candidates. In what concerns the third group the Ministry turns to the Ministry of Agriculture and Fisheries that shall contact the most representatives organisations within its scope of action. The Ministry of Social Affairs contacts directly the organisations of

social economy (cooperatives), consumers and disable people to point out their nominees. The Ministry accepts the candidates and the list is then approved by the Government.<sup>39</sup>

- *Selection criteria*: each organisation selects their members according to internal criteria that do not have necessarily to follow a specific regulation. Though especially in what regards the trade unions these organisations are considered to be representative according to their number of affiliates and in order to be selected they have to be affiliated in the European Confederation of Trade Unions (EUCT).
- *Legislation*: no regulation.

## Sweden

- *Institutions involved and responsibilities ascribed*: the nomination of the Swedish representatives is the responsibility of the Ministry for Enterprise.
- *Description of the appointment process*: the nomination procedure is initiated by the responsible official (in the last procedure the coordination laid in a Ministry of Industry, Employment and Communications officer) who after consulting different Ministries decides on which organisations to invite to propose candidates to the EESC. The Swedish government tries to find representatives from those organisations which are most involved or affected by EU regulations, and who are willing to nominate representatives and the decision has a sound political background.

The list of candidates is put together on the basis of the names given by each organisation. Once completed, the list is adopted by the Government.

- *Selection criteria*: the organisations are chosen to reflect the areas of responsibility of the EESC and also the three groups within the Committee. The government also encourages gender equality, asking the interested organisations to take this aspect into account in their nominations<sup>40</sup>. Though, there are no specific criteria set by the Government and is thus the responsibility of the organisations to propose suitable candidates.
- *Legislation*: there is no specific regulation or formal procedure.

## United Kingdom

- *Institutions involved and responsibilities ascribed*: the Foreign Secretary has overall responsibility for the selection and nomination of the UK delegation to the EESC and the Foreign and Commonwealth Office (FCO) co-ordinates the procedure together with Department for Trade and Industry (DTI).

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<sup>39</sup> Like in the Portuguese case, there was some data on the national economic and social council referring it as the body who presented the list of candidates. Though, the Council itself explained that it does not have any role in the selection process even if some of the organisations contacted by the Ministry of Labour and Social Affairs coincide with the organisations represented in that body.

Moreover Van der Voort version, in 1997, confirms that is the Ministry of Employment (today Labour) who draws up the nominations based on the names put forward by the selected organisations. Cfr. Van der Voort, *op. cit.*, p. 156

<sup>40</sup> However this has been a contentious principle: the Government usually asks each organisation to propose one man and one woman for every seat in the Committee. According to some EESC Swedish members, in the last mandate there were two cases where women realised that their names had been submitted as a mere formality (when the first name was a man and the second a woman) and resigned.

- *Description of the appointment process*: due to the nature of the three EESC groups, the process was split between the FCO and the DTI. The FCO has responsibility for receiving and assessing applications for group III and the DTI looks after groups I and II.

All Government departments and Devolved Administrations are asked to advertise for suitable applicants for the EESC. Some departments already have a list of interested candidates while some advertised in industry *media* or through stakeholder forums. There is an application form that has to be filled in by the candidates within an established deadline.

Afterwards a sifting panel made up of three officials assesses the applications against set criteria (*infra*). The two departments select the candidates and the nominations are considered by the European Policy Committee and agreed by the Foreign Secretary. Finally the list of nominated persons is granted final approval by the Prime Minister and a Parliamentary Written Statement is issued to inform the Parliament.<sup>41</sup>

- *Selection criteria*: the guidelines for applications, guidelines for the selection panel and the application form state as criteria

- a) relevant experience in the EESC areas [manufacturing industries; services sectors, including financial services; small business (of all types); research, innovation, new technologies; agriculture; public services, including transport; consumers interests; environment; youth issues; exclusion from the labour market; social exclusion; charitable interests; human resource experiences, including training and skills];
- b) professional qualifications;
- c) personal motivation;
- d) any proven research and communication skills;
- e) candidates need to have enough time available to prepare for and attend meetings;
- f) candidates should be representative of the UK population, in what regards gender, ethnicity and disability;
- g) familiarity with EU institutions and decision-making processes, knowledge of a foreign language and familiarity with basic IT applications are advantageous.

The selection process follows the “Guidance on Promoting Equality of Opportunity” in public appointments.

- *Legislation*: there is no legal act regulating the nomination process.

## Outline

We may have a faster reading of the information regarding the 27 member States procedures looking at the table below that not only summarises the most important data as applies the typology developed by Wim van der Voort to each country.

However some notes have to be done:

1 – in order to simplify, “selection” refers only to the selection of the organisations not the selection of the specific individuals;

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<sup>41</sup> According to one UK EESC member, this procedure might change as the Government is considering reforming it. Comparing to Rideau’s study the procedure changed since 1997. Rideau mentions that is the State Secretary of Environment who choose the UK representatives. Cfr. Rideau, *op. cit.*, p. 416. Whereas in van der Voort also in 1997 states that: “In the UK the nomination procedure involves three departments. Every department should draw up a list of nominees for a “functional group” in the Committee (discussed shortly). The department of Trade and Industry selects employers’ interests, the Department of Employment nominates trade union interests and the Department of Foreign Affairs administers the rest of the list. It differs from the German procedure in that the three separate lists are coordinated in a cabinet committee.” In Van der Voort, *op. cit.*, p. 155. In whichever case, UK still suits the second type of procedure.

2 – “Nomination” implies decision-making whereas “formal nomination” refers to the approval of a decision already taken;

3 – the numbers refer to the clusters described in pages 17 and 18; a new typology was created and will be explained below.

Table 4: Government; Individual Ministries and National Councils’ Role in the selection and nomination

	<b>Government's role</b>	<b>Individual Ministries role</b>	<b>National Economic and Social Council / or NGOs council role</b>	<b>Types</b>
Austria	Formal nomination			5
Belgium		Minister of Labour; Minister of Economy; nomination	Selection	2
Bulgaria	Formal nomination		Selection	4
Cyprus		Ministry of Labour and Social Insurance: formal nomination	Selection	5
Czech Republic	Formal nomination	Several ministries: selection (group III)	Selection (groups I and II)	2+4
Denmark		Ministry of Foreign Affairs full responsibility		2
Estonia	Consultation and formal nomination	Ministry of Social Affairs: selection		2
Finland	Selection and nomination			1
France	Nomination	Ministry of Employment: coordination of selection		1
Germany	Nomination	Five ministries: selection		3
Greece		Minister of Economy and Finance: nomination		2
Hungary		Selection (group III)	Selection (groups I and II)	lack info
Ireland	Coordination, selection and nomination	Ministries of Finance and Foreign Affairs: consultation		3
Italy	Nomination	Minister of Economy; Minister of Labour and Social Affairs: selection		3
Latvia	Nomination	Ministry of Foreign Affairs: coordination; three ministries: selection		3
Lithuania	Nomination	Ministry of Economy: coordination and selection; three ministries: consultation	Consultation	3
Luxembourg	Nomination	Ministry of Foreign Affairs: coordination		3
Malta	Nomination		Selection	4
Netherlands	Formal nomination		Selection	4
Poland	Nomination	Ministry of Labour and Social Policy: coordination	Selection	1+4
Portugal	Nomination	Ministry of Foreign Affairs: coordination; several ministries: consultation	Consultation	1

Romania (2006 procedure)	Selection and nomination			1
Slovakia	Formal nomination	Ministry of Social Affairs: coordination	Selection	4
Slovenia	Formal nomination		Selection	4
Spain	Formal nomination	Ministry of Labour and Social Affairs: selection and coordination		2
Sweden	Formal nomination	Ministry for Enterprise: selection and coordination; several ministries: consultation		2
UK	Formal nomination	Foreign Secretary: selection and nomination; Foreign and Commonwealth Office and Department for Trade and Industry: selection		2

Analysing type by type, we may conclude that:

- type # 1 – centralised decision-making in the Prime-Minister or government as a whole (i.e., the Council of Ministers) – there are four cases plus one hybrid (Poland). It is characteristic of the old member States, exception made to Romania even if the Romanian procedure will change towards the fourth model.

- type # 2 – the responsibility and decision-making lays in one or more ministries, what means an effective delegation of powers in the ministries. There are seven cases, plus the hybrid case of the Czech Republic where the ESC has also a selection role. It is also typical of the old member States, exception made to Estonia and the Czech Republic.

- type # 3 – the selection is carried out by several ministries but the Prime Minister or the Government as a whole have the final word, i.e., there is a delegation of powers on the selection, but centralised decision-making. There are six cases: four old member States, two new member States.

- type # 4 – the selection was delegated in the national economic and social councils. There are five cases plus the two above hybrid cases: Poland and Czech Republic. In most cases, the ESC decisions on the selection correspond to the final ones, but in what Malta and Poland are concerned the Government has the final word.

- type # 5 – Austria and Cyprus represent this category. This type is similar to type 4, the difference being that the organisations who sent representatives to the EESC are pre-established and do not change through the years. Luxembourg and Ireland resemble this typology as there are also pre-established organisations, though in general they fit in the Van der Voort categorisation.

Hungary may correspond to case number 2 or three but we do not know which is the role of the Prime Minister / government.

In sum, the second and the fourth types are the most common, what may be understood as a delegation from the government in the institutions that are recognised as the most representative or the most qualified to decide the national representatives to be. The differences may also be explained through the diversity of government approaches: more or less centralised. Interesting to notice that just in few cases the Parliament is informed and / or consulted. What underlines again the total command of governments in this issue.

It is worth mentioning the role of the national ESC (be it socio-economic or NGOs councils). In twelve countries the Councils are pivotal institutions: in ten cases they are in charge of the entire or partial selection of the representatives and in two cases they assume only a consultative role. This happens in seven new member States and in five old member States.

A final comment on the evolution of the cases of five member States in the last ten years when compared to Van der Voort's research:

- Germany – the fact that today the ministries involved in the nomination process do not have decision-making powers and it is the Cabinet who nominates shifts Germany from type two to type three;
- Greece – as full responsibility of the process falls in only one ministry, the Greek case matches with the second type instead of the first;
- Ireland – as for the German case, Ireland does not fit the second type but the third;
- Luxembourg – has evolved from type one to type three, as apparently the government has the final word but the process is carried out by the Ministry of Foreign Affairs;
- Spain – nowadays the Government's role seems to be of mere approval of the Ministry of Labour decision, thus instead of type three, Spain corresponds now to type number two.

### **Selection Criteria**

The data on the selection criteria is summarised on the table 7 in annex. There is no information from five member States. From the analysis of the data coming from the other twenty-two countries we learn that only in two countries there are no identifiable criteria and in twenty instead criteria or principles may be found. It is worth mentioning that sometimes the respondents answer that there are no criteria in their countries but in the description of the selection process some criteria emerged.

The criteria may be classified as specific (fifteen cases) or general criteria. The former classification was applied to the cases stating as criteria: "personal quality or suitability of the candidate" or "equal distribution between groups or categories". Some countries present both types. Specific criteria, in turn, may be applicable to the selection of the organisations and successively to the selection of the individuals. The most current criteria are then:

- I. *for selecting the organisations*
  - a) Representativity of the national civil society (7 cases)
  - b) Working field pertaining to the EESC scope (7 cases)
  
- II. *for selecting the individuals*
  - a) Experience / current position (7 cases)
  - b) Language skills (fluency in the national and / or foreign languages) (6 cases)
  - c) Gender balance (5 cases)
  - d) Knowledge of EU/EESC praxis and willingness and / or time availability (3 cases)

### **Legislation**

In what legislation is concerned, there is no information for 11% in cases. Preponderantly there is no national legislation or regulation (55,5%), many respondents answering that this procedure abides only with the EU Treaty. 33,3% of the member States have some kind of regulation, usually proclaiming the competent body and not regulating the entire procedure. Constitution; administrative acts, internal government documents are some of the examples of existing regulation.

The fact that the procedure is not regulated at a legal level in many member States may signify a certain degree of uncertainty on the data supplied. However, it may be understandable since it is a government's prerogative and this may even favour the adaptation to socio-economic changes. Indeed, comparison with Van der Voort analysis in 1997 showed that even if apparently the procedure is an institutionalised praxis in some the member States - five out of the twelve examined countries - some adjustments were made.

Nonetheless, this absence may also lead to the lack of transparency towards the multiplicity of actors at stake when talking of civil society. Symptomatic of the lack of directives is the

disorientation of the inquiries that often had only a partial view of the process. Even more intriguing is the fact that some EESC members do not know how they were selected and nominated.

As above-mentioned the national appointment procedures were criticised and some proposals were made over the years. In 1972 Nadine Bernard's *et all* interviewed the EESC members of the, then, six member States who made two suggestions:

- direct submission of the candidates from the professional organisations to the EU Council but not directly by the national organisations and
- an effective role of the national councils in the appointment of the candidates rather to the ministries intervention<sup>42</sup>.

Stijn Smismans recommendations instead regard not the national level but the European decision-making instance: the nominations should be submitted to the European Parliament as an alternative to the EU Council, supposing that the Parliament would be "less reluctant than the Council to intervene in the choices made by the Member States"<sup>43</sup> and therefore granting more legitimacy to the EESC members.

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<sup>42</sup> Cfr. Nadine Bernard *et all*, *op. cit.*, p. 63

<sup>43</sup> Stijn Smismans, *op. cit.*, p. 14

## 6. EVOLUTION OF THE COMMITTEE'S COMPOSITION

In this section we will examine the evolution of the Committee's composition throughout the thirteen mandates. Firstly we will go through the groups' history and evolution. Afterwards we will look at the evolution in terms of the distribution of the categories enunciated in the Treaties and try to track down any differences in the composition matching with the *ex* and *post*-EU Treaty changes.

The following analysis can also be interesting at the light of the national procedures above described.

### The EESC Groups

The EU Treaty does not mention how the socio-economic categories listed in art. 257 should be distributed and eliminated the article recommending an "adequate representation" of such categories. Though the Committee, since the very beginning, is divided in three groups. In truth, this division was decided in 1958 exactly to put in practice the principle of adequate representation.

An inter-governmental working team composed by the permanent representatives to the EEC / EAEC of the six member States decided to divide equally employers (and /or entrepreneurs) and workers and create a third group with a balance' role and needed to obtain majorities (*ratio* 31:31:39). Fact that was at the origin of some polemic on the way members choose to adhere to each group.

The organisation of groups according to professional and / or social cleavages was soon institutionalised in the Committee's Rules of Procedure (currently in Rule 27<sup>44</sup>). Affiliation to the groups is based on the voluntary will of the member, but is "subject to the approval of their eligibility to the members of that group"<sup>45</sup>. As a matter of fact, affiliation to the groups does not follow any criteria creating a blurred situation that will be discussed hereafter. However this clause seems to have been created exactly to avoid similar intricacy.

The groups bring together members representing: the employers, the employees and various interests. Group I, historically the less numerous, gathers employers from the industrial, transportation, trade and agriculture sectors; Group II, trade unions and in Group III we usually find the representatives of interests that do not fit in Group I and II straightforwardly. Hence we may find representatives from agriculture (that may also be found in group I), crafts, SMEs (that are also employers), "cadres" (that may also take part in Group II), cooperatives, transportation, banks and trade (also traceable in Group I), liberal professionals, public enterprises, public benefit associations, consumers associations, etc.. The lack of clear binding criteria forced this group to assert its legitimacy<sup>46</sup>. Maybe it is not a coincidence that in the EESC website its page stands out as the most richly described.

### Critics on unbalanced distribution

Through Nadine Bernard (and colleagues)' interviews to the EESC members carried out in 1972, we learn that the critics on the Groups' distribution have started soon in the past. The main problem signed by the members was the fact that the third group had to many employers and few representatives of «cadres» and consumers.<sup>47</sup> In fact, in 1984, O'Farrell also pointed out that Group II accused employers of being over-represented (the argument was based on the sum of the total members of Group I with the members of Group III definable as employers)<sup>48</sup>.

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<sup>44</sup> EESC, *Rules of Procedures*, CESE 1103/2006 rev. FR/HA/GW/vh

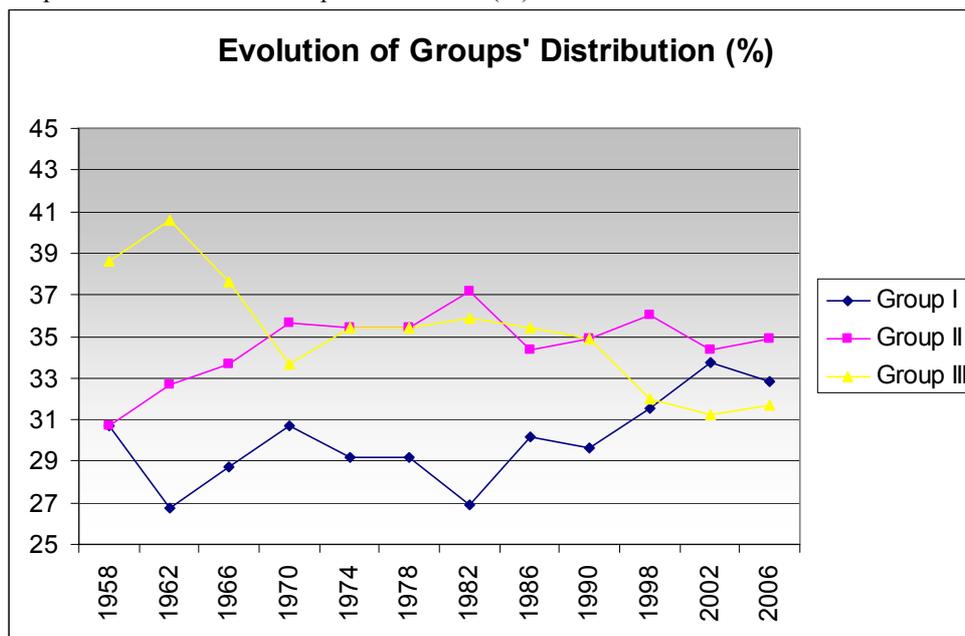
<sup>45</sup> Idem, *ibidem*, comma 12

<sup>46</sup> « En raison de son hétérogénéité, ce group s'est constitué avec difficulté, et surtout en réaction contre le rassemblement opéré par les travailleurs d'une part, et les employeurs d'autre part. Ce n'est donc pas une communauté d'intérêts qui a poussé les membres du 3eme groupe à s'unir mais plutôt la nécessité de former une entité face aux deux autres groupes. » Bernard, Nadine *et all*, *op. cit.*, p. 81.

<sup>47</sup> Idem, *ibidem*, p. 69

<sup>48</sup> Rosemary O'Farrell, *op. cit.*, p.13

Graphic 1: Evolution of Groups' distribution (%)



The above graphic provides a general picture of the evolution on the groups' evolution<sup>49</sup>. Indeed, Group I saw its representation decline over the years, only in 1986 the curve started following an inverse course and nowadays its number is just 2% less than Group II. Group II took the lead in 1970 being surpassed by Group III only in 1986. Since that year is the group better represented. At last, Group III whose weighing scale' arm role foreseen by the intergovernmental committee in 1958 has slightly been shrinking. Compared to the other two groups is declining since the 60's and stands today as the under-represented group. What may be interpreted as the rectification asked by Group II in what regards a correct affiliation of employers strictly to Group I.

The difficulty on categorising members<sup>50</sup> is due, first, to a non-automatic match between Groups and the categories listed in the Treaty and second to the odd nature of the division (albeit being more and more current in the national economic and social councils): on the one hand socio-economic, labour based, obeying to the historical dichotomy employers / employees where social partnership grounds and "various interests" on the other, where many of the represented interests may also be present in the other two groups, as already mentioned.

Above all, quoting Rosemary O'Farrell "the question still remains whether the way in which these sectors were incorporated into the structure of the Committee is, in fact, the most appropriate one. (...) In truth, other groups could had been created."<sup>51</sup> O'Farrell also advocates for a more transparent categorisation, in some way similar to the French Economic council where specific rather than general interests are represented. Though, EESC members gather round specific sections that are pertaining to the EESC jurisdiction and that reflect essentially the same issues of the French Council. And under Rule 28 of the EESC internal rules of procedure members may also "on a voluntary basis, form categories representing the various economic and social interests of organised civil society in the European Union." Presently there are four categories: farmers; consumer &

<sup>49</sup> The rate was calculated dividing the number of Groups' affiliates by the total number of members. Note that there are some members that do not belong to any group. Last remark to underline that this representation refers to the four years' overall mandate. Only an annual assessment capturing every modification carried out during the mandates (members' replacement and / or members changing group) would give a precise idea of the evolution.

<sup>50</sup> Highlighted both by O'Farrell, *op. cit.*, pp. 13-15 and Stjin Smismans, *op. cit.*, p.2. This blurred feature represented a considerable methodological challenge in the analysis of the categories' distribution that will be described in the next chapter.

<sup>51</sup> Rosemary O'Farrell, *op. cit.*, pp. 15-16

environment; SMEs, craft sector and the professions and social economy. Nonetheless, these categories are not formed across groups but only under Group III.

In any case, crossed representation be it institutionalised or not – by groups and by socio-economic categories – may enrich the Committees’ nature and avoid the consolidation of well-defined interests. Ambiguity in this case may be considered as an advantage. Besides, this division is accepted and borne in mind by member States when allocating their assigned seats. (When answering to my survey thirteen out of the twenty seven member States’ representatives stated clearly that the distribution of their members respected the Committees’ division into three groups.)

### **Evolution of socio-economic categories’ distribution**

In order to understand how representative the EESC is and has been over the years, we will now analyse the members distribution according to the nine categories listed in the EU Treaty (“general interest” – former “general public” – and “consumers”, the new category added by the Nice Treaty were applied even to the years preceding the Treaty).

As already stated examining the categories distribution was perhaps the biggest challenge of this study and this is due to many factors that we will now point out:

- there is no automatic match between the Treaty categories and Groups’ specification; e.g., “Employers”. Many are the cases where members come from the national “Employers Confederation”. Problem is employers may correspond to different socio-economic categories: producers, dealers, etc.. We tackled this problem by considering employers equal to producers when no more specific data is provided.
- Actually it was not possible to find out which are the criteria behind this categorisation; the distinction is blurred and equivocal. If not let us scrutinise the term “Workers”. Where is the borderline between workers, craftsmen and professional occupations? Moreover, modern trade unions represent also professional occupations (intellectual professions, skilled workers, etc.) but still affiliate in group II, whereas professional occupations *stricto sensu* affiliate in Group III. This argument illustrates how dated this categorisation is, workers understood as blue collars is more and more unsuitable to the socio-economic reality.
- Do the different governments have the same interpretation of these categories?
- Last remark goes to the depth of information provided by the lists of members (which is totally arbitrary). This point was already stated in the Methodology but is worth highlight that the accuracy of the analysis is completely dependent on the extent of available data, more than on any other of the previous factors.

When attributing a given category to each member according to her/his national organisation, I realised that each socio-economic category could be split into specific fields of activity. Thus, I proceeded with a second categorisation following 47 new categories / activity fields that had emerged both for its increasing number and /or its specificity:

Table 5: Distribution EU Treaty Categories / specific fields of activity

<b>Carriers</b>	Transport (General)	
	Road transport (public transportation; long distance)	
	Shipping	
	Train	
<b>Consumers</b>	Consumers	
<b>Craftsmen</b>	Craftsmen (including bakers and fisherman)	
<b>Dealers</b>	Trade (General)	
	Retail trade / distribution	
	Entrepreneurship (business)	

	SME	
	Finance (including bank and insurance)	
	Tourism	
<b>Farmers</b>	Agriculture (when in group III)	
<b>General Interest</b>	Health (when general)	
	Cooperatives	
	Public Services Companies	
	Middle Classes	
	Government (includes also members presidents, etc. of national ESC)	
	Social Economy (fair trade)	
	Scientific (University Professors; Social and Natural Sciences; Research Centres; think tank)	
	Environment	
	Community Dev.	Community Dev. General
		Democracy and Citizenship
		Gender
		Disable / blind
		Family
		Youth / Children
		Local Government
		Cooperation; peace issues; humanitarian relief
		Religion
<b>Producers</b>	Industry (general)	
	Building industry (Engineering)	
	Power energy (Oil, carbon, gas)	
	Food / drink industry	
	Nuclear industry	
	Chemical industry	
	Textiles	
	Agriculture (when in Group I)	
	Employers	
<b>Prof. Occup.</b>	Prof. Occup. General (includes lawyers, lobbyists, journalists)	
	Consultants / economy experts (includes all types of consultants and advisers, though the majority is economic)	
	Health (doctors, nurses, vets and pharmacists)	
	<i>Cadres</i> (when in Group III)	
<b>Workers</b>	Trade Union (General)	
	Civil Servants	
	Chamber of Labour (Austrian atypical Trade union)	
	<i>Cadres</i> (when in Group II)	
	Independent (Italian case)	

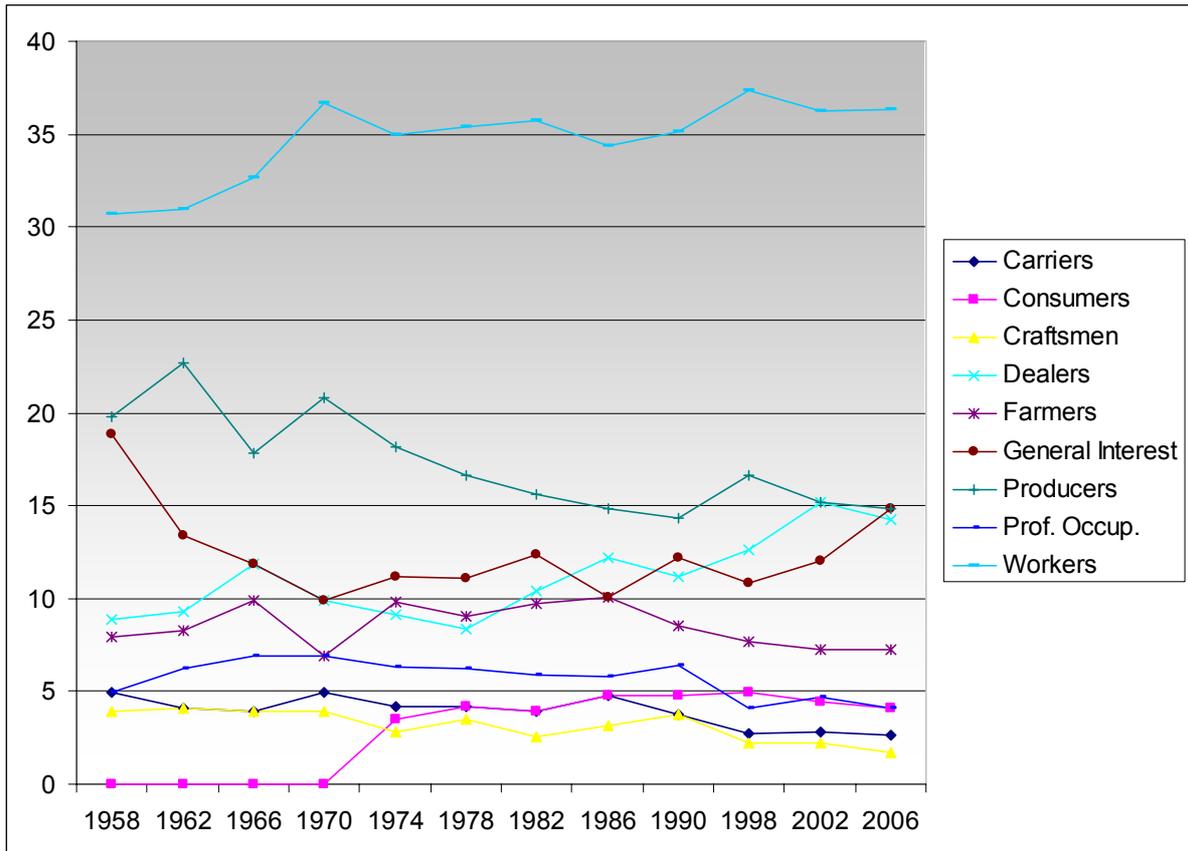
Also in this case, some methodological problems had to be dealt with. Again the level of specification given by the material; for example, in what trade unions are concerned just in some cases we know which is the specific sector of the person (metallurgy rather than school teachers). Thus they were considered generally. Though there are two specific cases: the Austrian chambers of Labour and the Italian independent and regional trade unions.

In other cases, such as “cadres” and agriculture that could be considered professional occupations or workers and producers or farmers respectively, the Group affiliation served as distinctive factor. The only exception where affiliation in more than one group was not taken into

account were German civil servants. As a rule German members corresponding to this category affiliate in Group III, though I considered them as “Workers”.

To finish the methodology remarks, is important to say that 1141 members were analysed of which for five cases it was impossible to precise which category they represent (not to mention the data of 1994 that is not relatable). As mentioned, members were classified according to two typologies: “Treaty categories” and activity fields. Given the case that some members could be doubly classified (e.g., members of Trade and Industry Chambers, or entrepreneurs members of third sector organisations), two analyses were realized: net and cumulative. The last one may offer a view of the complete representativity of the Assembly.

Graphic 2: Evolution by “Treaty categories” (% net distribution)

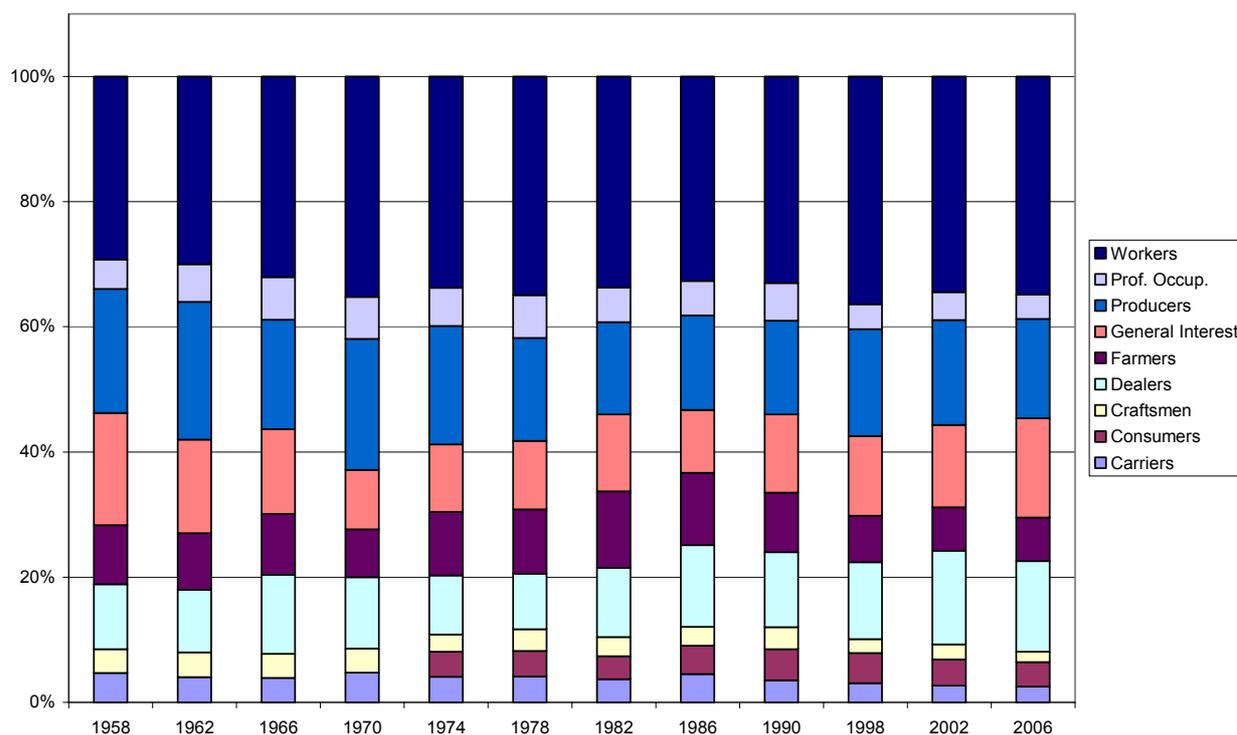


The graphic shows that Workers have always been the category better represented followed at a 10% distance by Producers. Dealers and general interest have an increased representation after the 90's. Nonetheless, this last category in 1958 was very on top at a rate that has not recuperated yet. Fact is that general interest corresponds largely to Group III. The fact that this Group dimension is falling down may have contributed to the decrease of this category.

Consumers, even before being stated in the Treaty were already represented in the Committee and its number is more or less steady. Craftsmen and carriers were more present in the first terms and in the last two mandates are the categories less represented and almost disappearing. Farmers and the professional occupations show also a decreasing curve though still ahead consumers, for instance. Note that professional occupations may be represented by specific trade unions but are here counted as workers.

The cumulative results provide slight different patterns: dealers, consumers, farmers, producers and general interest see their representativity rise and the distribution is as follows:

Graphic 3: Evolution by “Treaty categories” (% cumulative distribution)



The analysis of the distribution by country shows a great heterogeneity. This is due not only to the differences on the social-economic spheres of each country and to the number of allowed seats in the Committee but probably also to the type of nomination procedure applied.

As the systematisation of the data of such a big number of members is almost unworkable, we decided to establish an interval of twelve years that enables the identification of the variations in the long run. Therefore the considered years were 1962; 1974; 1986; 1998; 2006 plus 2002 to recognize changes on the countries’ delegations that may be associated to the modifications made by the Nice Treaty. Let us examine case by case:

*Austria* – workers representatives increased in 2006; producers, farmers and dealers remain steady; professional occupations and carriers appear for the first time in 2006. Though, consumers and general interest have no representation. Since Austria has a pre-established model of selection this picture was expected.

*Belgium* – workers representatives are increasing since 1998, when there was a balanced representativity of professional occupations, producers and general interest. Since then general interest decreased and dealers and farmers increased. There is no representation of consumers, carriers or craftsmen.

*Bulgaria* – there is a balanced representation of five categories with workers and producers on top. Carriers, consumers, craftsmen and professional occupations are excluded.

*Cyprus* – workers and producers are on top; producers are ascending, while dealers disappeared. There is equal representation of consumers and farmers. In 2006 only four categories are represented (note that the Cypriot delegation is quite small).

*Czech Republic* – concentrates its representation in producers, workers and general interest. The Czech as well as the Bulgarian members are selected by the national economic and social council. There may be some correlation between this fact and the concise and precise composition of these countries’ delegations.

*Denmark* – the Danish delegations’ nature has changed to some extent throughout the years, even if the appointment procedure would have predicted the contrary. Workers were increasing until 2006. In the last mandate professional occupations together with carriers were substituted by

general interests. There were consumers representatives in their first delegations and this category is still present.

*Estonia* – the delegation is concentrated in dealers, farmers and producers (all with the same percentage). Workers and general interest are the better represented.

*Finland* – the Finish delegation in the first terms was very restricted: only three categories. In 2006, four categories are represented and producers were reduced to give place to consumers' representatives.

*France* – from the French delegation just one category had been excluded until 2006: consumers, that has then taken the place of craftsmen. Carriers, producers and professional occupations are the less represented, all other categories have similar rates and at the top: workers.

*Germany* – with a delegation as big as the French one, Germany presents a more heterogeneous evolution. In 1958 consumers were the excluded category; today farmers are. In 2002, all categories were present in the German group. Workers have been stably represented. Producers and consumers saw their numbers decrease whereas professional occupations and general interest have increased.

*Greece* – workers and dealers are on the top, then equal representation for carriers (always represented), consumers (that started only in 2006), farmers, general interest and producers. Professional occupations are not present.

*Hungary* – the Hungarian delegation did not change in the two mandates: workers first, producers and general interest second post *ex-equo* and finally dealers and consumers.

*Ireland* – workers representation is steady, the one of producers was reducing until its total vanishing in 2006. Dealers instead increased. General interest remained the same and consumers can not be found. Ireland has also a stable model of nomination, thus a stable representativity with farmers always very well represented.

*Italy* – the Italian delegation presents an assorted development. Together with Austria, Luxembourg, Malta, Slovenia and the Netherlands shows the higher rates of workers' representation (from 40 to 50%). Farmers and producers slowly diminish and dealers' representation waved over the mandates. Today, producers and general interest are equally represented. Carriers have never take part of the Italian delegation and consumers spottily.

*Latvia* – workers and dealers have the same rates, even if the former have decreased if compared to 2004. Secondly, we find professional occupations, general interests and farmers. Consumers are not represented.

*Lithuania* – the delegation is roughly the same in 2004 and 2006. Only general interest representatives have replaced farmers in the present term, where dealers and producers are represented in the equal proportion. The same is applicable to consumers and general interest.

*Luxembourg* – with a small seats' allocation, Luxembourg' delegates represent workers, craftsmen, dealers and farmers.

*Malta* – also with few members, Malta's delegation shows no changes: 40% workers and dealers, producers and general interested sharing the same rates.

*Netherlands* – also did not suffer considerable changes (again the national council has a preponderant role in the selection). Workers are always on top; carriers, consumers (represented since 1986), farmers, general interest and producers are represented in an equal basis; dealers twice as much. Farmers and producers also fluttered but are decreasing.

*Poland* – carriers and professional occupations are not represented. In 2006, consumers declined, farmers on the contrary went up, though the best represented category is workers.

*Portugal* – workers have a steady delegation. In 2006, producers and professional categories were equally ranked in second place. Dealers, consumers (always represented), farmers (that have decreased) and general interest share the same rate of 8,3%.

*Romania* – workers are on top; producers and general interest in second, followed by dealers and professional occupations. There are no consumers' representatives.

*Slovakia* – General interest together with workers are the better represented. General interest has switch representation with consumers that are no longer found.

*Slovenia* – like all other member States, Slovenia best represented interest is “workers”. Producers, general interest, farmers and craftsmen present an identical share. No consumers.

*Spain* – workers and dealers have increased, producers decreased (today at the same level as general interest and carriers) and professional occupations disappeared. Consumers have always been well represented.

*Sweden* – workers’ category is steady; dealers rose while producers vanished. Consumers have always been present and general interests have a good representation.

*United Kingdom* – the UK has a large delegation however has always excluded craftsmen, and for some years carriers and farmers. In 2006 workers are at the top with 33% of the total seats, followed by professional occupations and general interest. We found dealers straight after. Consumers were always present in the British delegation exception made to the current term.

The complete data on the countries evolution as well as graphic picturing the categories distribution in 2006 (2007 data) may be found in the final annexes.

At this point some comments arise. First of all, the heterogeneity: as already mentioned, it is difficult to find patterns. The differences observed appear to be more correlated to the size of the delegations rather than to the nomination processes. Taking France and Germany as examples we deduce that for different appointment procedures the results coincide. While France presents a centralised procedure, Germany through a dispersed process achieves the same result: a heterogeneous delegation. In common they have the large number of seats.

Even if we do not have a clear picture of the social and economic background of each member State, some inferences may be made. For example, carriers (shipping) are always present in the Greek and Spanish delegations while having a low profile in almost every member State. Or the Irish case where farmers have the biggest representation when compared to the other twenty-six delegations. Outstanding is the overrepresentation of workers that remained unchangeable over the years.

Looking for the differences *ex* and *post* EU Treaty we notice that despite few exceptions, all member States have consumers’ representatives in their delegations. The ones that until 2006 did not have it, started including it. Last remark goes to the fact that new member States, more than old member States, apparently pay particular attention to the representation of general interests regardless of their delegation size.

These conclusions may be refined through the analysis by activity field. As stated such activity fields may cross group division and categories’ representation. This type of analysis even if enclosing general items as trade unions and specific as gender will however provide a portrait of the diversification of the representation.

In tables ten to fifteen in annex we have aggregated the total number of representatives of each activity field net and cumulative applying the same reasoning as to the “Treaty categories”. By the extent of each list we realise that since 1962 more specific activities are present at the Committee. In 1962 retail trade, SME and tourism were the less represented whereas some government representatives may still be found. The stable number of government representatives during almost every mandate in actual fact refers to the several presidents and / or vice-presidents of the national socio-economic councils that were gathered in this group.

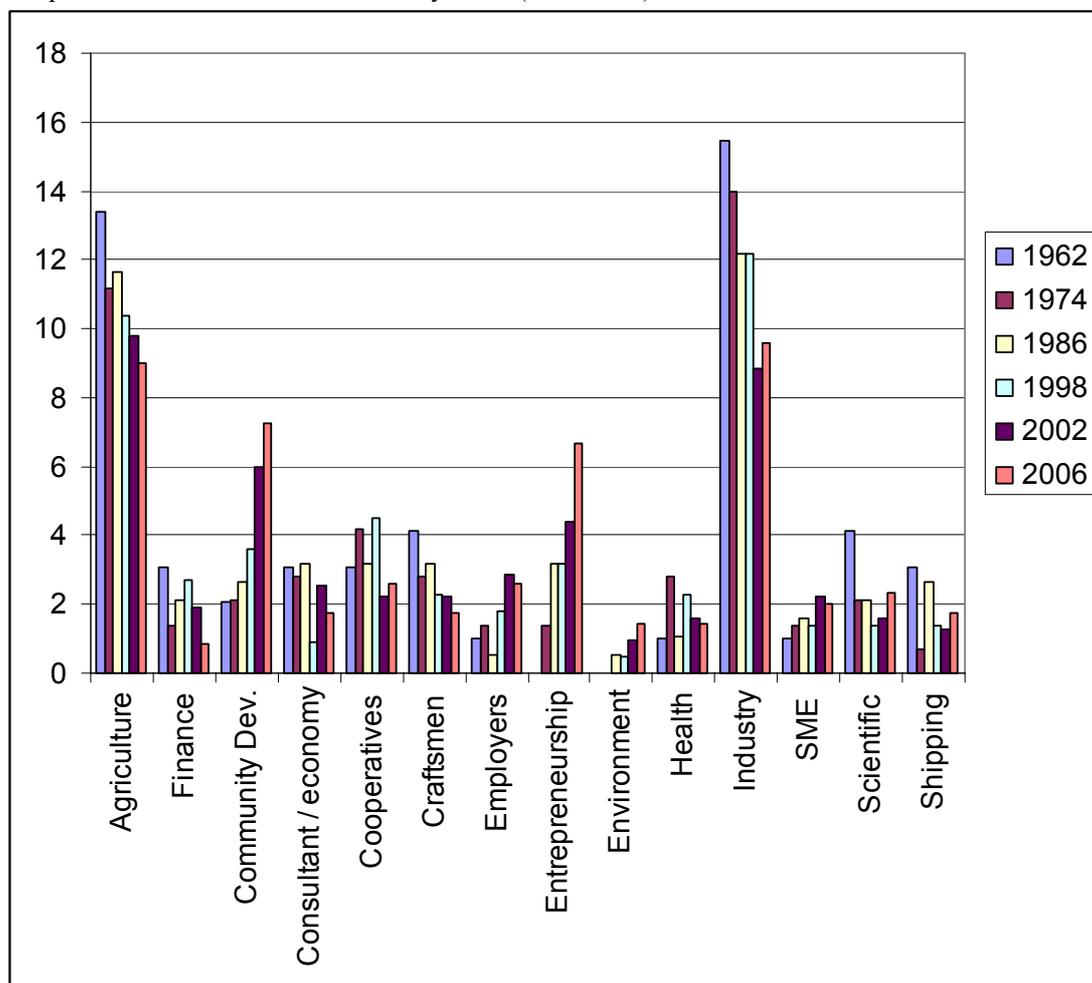
In 1974 SME, trade and cooperatives hinder the previous trend and start increasing. Since 1998 we may found more elements representing community development organisations and for the first time we have representatives of Youth and disable people organisations. Gender, instead was already represented in 1986.

2002 was the year where trade, consumers and employers grew and textiles and finance started dropping off. Trade unions stayed always on top (average: 30%) followed by agriculture until 2006, when was surpassed by industry. In the current term, entrepreneurship, trade,

cooperatives and consumers together represent 18,6% of EESC composition. Science, community development and professional occupations are also better represented with rates ranging from 2 to 4 per cent. Tourism and health have always been underrepresented and culture and *media* (only two representatives of communication and publicity were found in all thirteen terms and they were included in prof. occup) remain outsiders.

Graphic four compares some activity fields, some more traditional or well-established within the Committee (agriculture, industry, craftsmen, shipping) and others that may be considered as “new entries” like environment, finance, consultants, science or organisations dealing with different issues pertaining to community development. The rates refer to the cumulative number of representatives of each activity field. Exception made to industry and community development where all sub-activities (nuclear, chemical industry for instance or gender, democracy, disability in what concerns community development) were sum up.

Graphic 4: Evolution of selected activity fields (1962-2006)



Agriculture and industry are historically rooted activity fields however have slowly give space to new fields to come about. Indeed entrepreneurship, community development and consultants (including economic but also political consultants) are more and more important inside the Committee. Science and health have always been represented though at small rates. Environment is the most underrepresented field (and present in the EESC only since 1984). Cooperatives maintain their average representation and in the last terms some – few – social economy representatives (understood as social enterprises and fair trade) could be traced. Shipping had a breakdown but continues with its (law) figures. Crafts and finance, two important subjects in 1958, have shrunk significantly.

## 7. CONCLUSIONS

Our departing point was - and the entire discussion has turned around - the theme of representativeness in general and the representativeness of the Committee in particular.

After analysing in depth the nomination procedures (that concedes the legitimacy to the members at national level: how they are appointed, how transparently, according to which criteria) we have realised that there is a vast heterogeneity within the twenty seven member States. However Van der Voort's typology is still applicable, even if two member States show a particular version of type 4, i.e., the national economic council are preponderant in the selection of the candidates and respective organisations but the selected organisations do not change over the years.

The selection procedure usually follows two paths: first organisations are selected according to the interest they represent, afterwards each organisation points out its candidate. If this candidate will be the appointee it depends on the degree of autonomy given to the organisation itself or the "second level" filter (that may be the national socio-economic council or the Ministry in charge of the selection). In the majority of cases the final layer of decision (be it a Ministry, the Prime Minister or the Government as a whole in the instance of the Council of Ministers) interferes more in the choice of the organisation rather than in the individual. Still, only in eleven States the decision-making is in the Prime Minister's hands.

The issue of representativeness does not appear to be in the governments' agenda with the same blaze as it is discussed in the European arena, in particular regarding the civil society organisations. As a matter of fact, when asked about selection criteria, many interlocutors mentioned that appointed organisations / individuals were the ones considered to be representative regardless of how representativeness is measured. Representativeness seems consequently to be taken as granted. In fact, well-established national platforms, be it trade unions or employers confederations, are unquestionably considered as the representatives of such national socio-economic categories.

As a means to assure representativeness, many governments have delegated the selection in the national economic and social councils (plus NGOs councils when social issues gathered in the so-called third sector are not represented in the traditional bodies).

If there is an internal dispute on representative organisations, we do not know. Exception made to Italy where some cases of legal actions have been taken. Though, some EESC members referred that the appointment procedures are to some extent discussed in the assembly and some discontent arise. Indeed, Estonia and Sweden are known cases of internal disagreement on the nomination processes.

It would also be interesting to survey to which extent EESC membership is relevant to governments. Is undoubtedly important to the national organisations as it means to be present in the European arena, that is progressively becoming determinant when considered the impact in the national public policies. Again, Van der Voort's study remains a milestone on the analysis of the meaning of EESC membership to national organisations.

The importance of EESC can also be measured by the level of bargaining of European platforms to be represented in that institution. Even if not a common practice, in many members data affiliation to European umbrellas is sometimes mentioned. What signifies that if European organisations are not directly appointed they are indirectly represented. Moreover, some member States mentioned affiliation to European confederations as a requisite in order the organisation to be selected.

National appointment procedures, contrarily to the initial thesis probably do not have a determinant influence in the delegations' composition. Obviously national delegations mirror the government's choice but this choice is narrowed by the Treaty directives (the main legal boundary for the procedure to the majority of member States) and the number of allocated seats.

We have seen that regardless of the type of procedure (centralised or not) the final results may be the same. If pre-established patterns such as the Austrian lead to steady represented

interests, in other cases such as the Danish one, change may arise depending on the government's will.

In this sense, the diversification of the Committee's composition is fully in the governments' hands. Member States with more seats are for certain the ones with more opportunities to influence on the richness of the Committee configuration as small countries will continue on sending traditional representatives.

The fact that Governments bond the organisations selection to the three Groups labels (employers, workers and various interests) more than to the Treaty categories may also limit the variety of selected interests.

General interest and professional occupations are the only categories where "imagination" can be used and indeed, new member States make use of the first category to appoint organisations representing disable or youth. In the past general interest representatives were foremost individuals with an organisational background in cooperatives, research institutions or government (understood both as public officials as high ranks of the national economic and social councils that usually seat in the third Group). Nowadays general interest is mainly composed by consultants and community development / third sector organisations.

These observations confirm that evolution is occurring. Despite of the accusations targeting at the EESC inadaptability some factors indicate a progressive adjustment to the changing productive structure at European scale.

Agriculture and industry in the one hand and workers on the other remain the most rooted interests represented in the Committee as these are historically the core issues of the European Union. The EU as a full-fledged economic, social and political actor is a recent accomplishment. However is worth mentioning that this preponderance did not hamper the emergence of new interests associated to the services economic model. Such changes are structural; these adjustments to influence the Committee's structure require a prior assimilation by member States.

In any case, consultancy, entrepreneurship, finance, science, professional occupations are rising within the Committee's formation. Science, for instance, in the first decades was mostly linked to nuclear research (related to EAEC) and nowadays is more connected to economic and political investigation. As above-underlined even the category "workers" includes trade unions representing teachers, bank workers, "cadres" and other categories labelled as "intellectual professions". Development is taken place, at a slow pace though and sometimes entailing the disappearing of categories such as craftsmen.

To speed the necessary adjustments firstly stakeholders must meet on what a fair and comprehensive representation of the European civil society means. Secondly, bearing in mind that the selection is primarily tied to the Treaty<sup>52</sup>, the compulsory categories could be amended on the basis of defined and shared criteria, preferably broadening the scope of the interests to be represented in the EESC. Thirdly, the governments' jurisdiction on the appointment procedures could be boosted by a real monitoring by the EU Parliament, for instance, like suggested by Stjin Smismans as is clearly understood that the EU Council will not question a decision taken by the same elements that compose the Council.

Concluding, we may affirm that in the context of "crisis of representativeness", the EESC apart from its limits expected from any democratic institution (particularly at such a large scale), still embodies the essence of the representation.

As highlighted by Stjin Smismans the EESC presents several strong points: is an additional forum of deliberation to the Parliament; is a functional assembly with a (relatively) transparent

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<sup>52</sup> "(...) The result is that interests mentioned in the treaties will have an advantage over interests which are not mentioned. The latter will be underrepresented in most delegations. Notorious examples of overrepresented interests, being mentioned in the treaties and considered important by the whole range of member States, are employers, trade unions and in particular agricultural interests. Environmental groups, women's organisations, organisations for the aged, SMEs and liberal professions, to give a few examples, are underrepresented." Van der Voort, *op. cit.*, p. 154

model that is more able to represent weaker groups, if compared with other forms of functional participation and pluralist interest group competition as lobbying. Finally its internal structure and the links with civil society make so as the Committee to represent more than particular interests of groups.<sup>53</sup>

We would like to finish this report with the wise words of Prof. Beate Kohler-Koch pronounced in the conference promoted by the European Economic and Social Committee in 2004 in the framework of the European Convention:

“In order to be provocative, I want to call for a thorough reflection of the functional position of the EESC in today’s institutional architecture of the European Union. Such a reflection might end up in a redefinition of its traditional role. The EESC is an institution that, in two main aspects, is reflecting a historic mission that is outdated.

Firstly, it is representing functional interests with an emphasis on the social partners. This is a reflection of the past when the European Union was still an economic enterprise and the capital-labour conflict was the main "fault line" in all Member States. Today, the European Union is more encompassing in scope and additional and different "fault lines" are relevant for the political process within an individual Member State.

Secondly, the membership and the selection procedure reflect an “international” approach, since Committee members are appointed by the Council on a proposal from Member State governments, and represent national organisations only. In the past, this formula contributed to enhance cooperation and integration of social actors. But it does not reflect the level of social integration of today. (...)

If the EESC intends to structure civil dialogue and to become a mediator or an activator of participatory democracy, it should be understood that this would have an effect on the functioning of the tripartite structure. (...)

Last, not least, the relation between participatory democracy and representative democracy has to be thought about in depth. This is not just a debate about abstract concepts, but has immediate institutional relevance. It touches upon the relationship between the European Economic and Social Committee and the European Parliament and the future role of both institutions.”<sup>54</sup>

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<sup>53</sup> Adapted from Stjin Smismans, *op. cit.*, p. 11

<sup>54</sup> Conference on "Participatory democracy: current situation and opportunities provided by the European Constitution", by Prof. Beate KOHLER-KOCH: 8-9 March 2004, no ref., pp. 11-14

## ANNEX

Table 6: Number of repetitive appointments by country (1958-2006)

Number of appoint	Austria	Belgium	Bulgaria	Cyprus	Czech Re	Denmark	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuani	Luxembou	Malta	Netherla	Poland	Portugal	Romania	Slovakia	Slovenia	Spain	Sweden	UK	Total
1	9	30	12	6	8	20	0	4	62	49	33	0	16	52	2	4	10	0	34	12	13	15	12	2	23	15	73	516
2	8	18	0	3	8	10	7	7	37	46	11	12	10	42	6	7	9	5	23	15	8	0	3	6	17	6	41	365
3	2	7	0	0	0	3	0	1	19	17	3	0	7	21	0	0	7	0	9	0	1	0	0	0	9	2	13	121
4	4	8	0	0	0	5	0	3	14	15	2	0	2	9	0	0	1	0	5	0	7	0	0	0	4	3	1	83
5	0	3	0	0	0	1	0	0	8	4	0	0	3	8	0	0	0	0	1	0	2	0	0	0	1	0	0	31
6	0	2	0	0	0	0	0	0	3	3	0	0	0	1	0	0	1	0	1	0	0	0	0	0	3	0	1	15
7	0	1	0	0	0	0	0	0	2	1	0	0	2	0	0	0	0	0	1	0	0	0	0	0	0	0	0	7
8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
9	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	2
<b>Total</b>	<b>23</b>	<b>69</b>	<b>12</b>	<b>9</b>	<b>16</b>	<b>39</b>	<b>7</b>	<b>15</b>	<b>143</b>	<b>136</b>	<b>50</b>	<b>12</b>	<b>38</b>	<b>136</b>	<b>8</b>	<b>11</b>	<b>29</b>	<b>5</b>	<b>75</b>	<b>27</b>	<b>31</b>	<b>15</b>	<b>15</b>	<b>8</b>	<b>57</b>	<b>26</b>	<b>129</b>	<b>1141</b>

Table 7: Selection criteria applied by member States

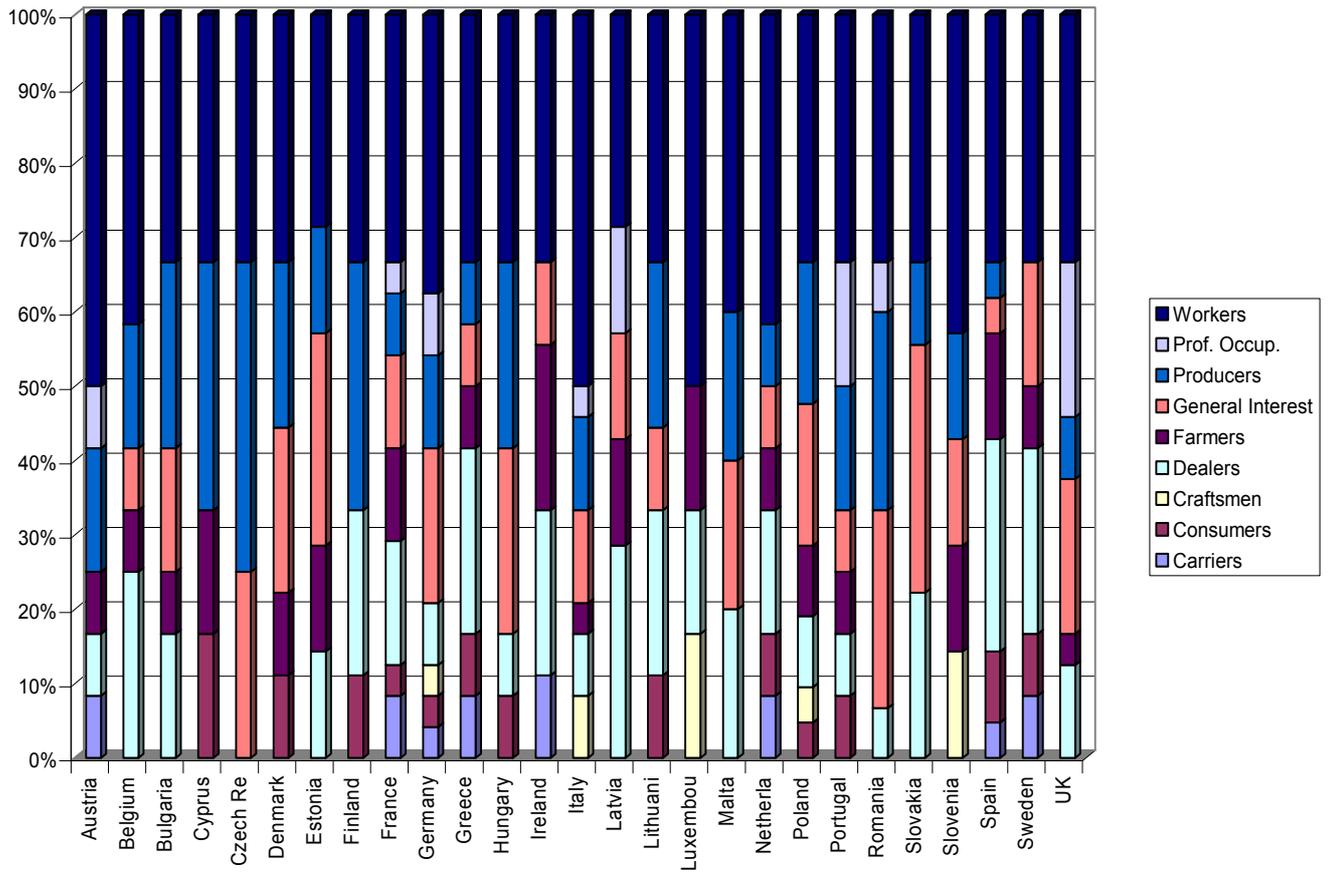
	Data	Criteria for Organisations				Criteria for Individuals																							
		Representat ivity of national civil society	Membersh ip European umbrellas	Work field pertainin g to EESC	Scope (territori al or numeri cal)	Experienc e / current position	Active in their field	Influenc e	Educatio n level	Know ledge EESC / EU	Langua ge skills	Commun ication skills	Willin gness / time availa bility	Gender balanc e	Personal motivatio n														
Austria	ND																												
Belgium		X						X	X																				
Bulgaria			X														X	X											
Cyprus	GC																												
Czech Republic	NC																												
Denmark		X		X																									
Estonia		X	X																						X				
Finland																											X		
France		X																									X		
Germany	ND																												
Greece						X													X										
Hungary	*	X		X	X	X			X								X		X	X									
Ireland						X												X						X	X				
Italy	GC			X	X	X													X										
Latvia	GC																			X									
Lithuania	NC																												
Luxembourg	ND																												
Malta	ND																												
Netherlands	ND																												
Poland												X							X										
Portugal	GC	X		X																									
Romania		X		X																									
Slovakia	GC																												
Slovenia	*											X																	
Spain		X	X		X																								
Sweden					X																						X		
UK					X				X									X	X	X	X	X	X	X	X	X	X	X	X
<b>Total</b>		<b>7</b>	<b>3</b>	<b>7</b>	<b>3</b>	<b>7</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>6</b>	<b>2</b>	<b>3</b>	<b>5</b>	<b>1</b>														

NC: no criteria	
ND: no data	
GC: general criteria	
* only for III Group representatives	

Table 8: Group Distribution (1958-2006)

	1958	1962	1966	1970	1974	1978	1982	1986	1990	1998	2002	2006
Group I	31	27	29	31	42	42	42	57	56	70	107	113
Group II	31	33	34	36	51	51	58	65	66	80	109	120
Group III	39	41	38	34	51	51	56	67	66	71	99	109
Non affiliated									1	1	2	2
<b>Total</b>	<b>101</b>	<b>101</b>	<b>101</b>	<b>101</b>	<b>144</b>	<b>144</b>	<b>156</b>	<b>189</b>	<b>189</b>	<b>222</b>	<b>317</b>	<b>344</b>

Graphic 5: Categories distribution by member States (2007)



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