



Avatud Eesti Fond
Open Estonia Foundation



A EUROPEAN FRAMEWORK AGREEMENT WITH CIVIL SOCIETY FOR A LESS DISTANT EUROPEAN UNION?

A comparison of national compacts.

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Preview

The Irish ‘no’ vote of 12 June 2008 provided renewed confirmation of the gap that has emerged between the European Union and its citizens. It was the reason we decided to publish this report, stressing the importance of an approach that is much more connected with reality and therefore better able to take civil society into account.

The Lamassoure Report, submitted by French MEP Alain Lamassoure to the French President, Nicolas Sarkozy, before the start of the French Presidency of the EU, went in this direction, pointing out that 85% of European citizens have not even heard of European citizenship. Alain Lamassoure writes that “the European Union has tended to generate dreams rather than plans, plans rather than laws, and laws rather than tangible outcomes,” and it is therefore time, he argues, to reverse the trend and “start from reality on the ground to design better laws, even if this means revising plans and dreams.”

The title of the last chapter of the report puts the cards on the table: “In the beginning there will be the citizen.” It describes how people feel that Brussels is so out-of-touch with their lives. Associations, however, have a special relationship with the European institutions, but these relationships are informal or short-lived. Moreover, the fabric of civil society in Europe extends far beyond the associations that already have a presence in Brussels.

Dialogue with Brussels-based associations is not structured and an appropriate framework therefore needs to be found to give it greater legitimacy and visibility. Such a framework would mean that dialogue could be turned into a genuine partnership with the whole of civil society and hence with the network of associations in all their diversity and at all levels of decision-making, whether European, national or local, as decentralised as possible in line with the principle of subsidiarity.

There have already been several proposals and projects attempting to create a structure for relations between civil society and the European institutions. There was the July 2001 White Paper on European Governance, for example, and the December 2002 Minimum Consultation Standards. The most recent initiatives include the European Parliament’s ‘Citizen Agora’ created upon the initiative of French MEP Gérard Onesta, which has already been held on two occasions, attended each time by some 500 civil society representatives. Then there was the “Active European Citizens Group” set up by DG Culture and Education at the Commission, with a highly restricted membership to discuss one specific issue. In addition, as part of the European Transparency Initiative launched with the 3 May 2006 Green Paper, the Commission recently set up a register where associations and interest groups should declare the amount of money they invest in lobbying the European Union annually. This is an interesting first move in the formal recognition of such actors as official interlocutors but that is as far as the initiative goes.

However, many European initiatives come from European Institutions or European associations and ‘Brussels issues’ rather than being created out of practices at regional and national level, which are complete and innovative.

In order to build the right framework for relations between civil society and the European Union, useful lessons could be learned from the compacts or 'framework agreements' signed between civil society and certain authorities in the Member States, in which both sides make commitments to the other. These partnerships move beyond mere recognition, committing all parties to make better use of the strengths of civil society in the drawing up of policy.

In this paper, we will compare and contrast the various compacts with a view to fostering greater understanding of these types of agreement, examining good practice that could be used to establish a European compact between the EU institutions and civil society in Europe.

With the recession, the role of governments in the economy becomes quite important. It is certain that the current crisis and the need in the medium term to reduce public expenditure will have an impact on relations between governments and non-profit organisations which deliver services. We can foresee this type of agreement specifically with all their advantages but also their risks for example for the independence of associations.

Introduction: Defining Civil Society

There are a multitude of words used to describe what we will here call ‘civil society’ in its broadest form. A selection of widely differing terms are used in the English translations of the various national agreements between public authorities and civil society. A full list can be found in the annex at the end of this paper.

This diversity often reflects national differences in the composition of the sector itself. In some countries, England for example, it is voluntary and community work that is promoted in the notion of the “Voluntary/Community Sector”. The voluntary sector is made up of hundreds of tiny, often highly localised, associations, most of which cover specific communities. Other terms are used to highlight the impact of the work carried out by the sector, like the “Public Benefit Organisations” in Poland. These differences of vocabulary are symptomatic of differences in perception and circumstances.

There are several general alternatives to the term ‘civil society’ itself. There is the “Third Sector” as opposed to the public sector and the private sector; “non profit-making associations” or “charities” which highlight their distinctive nature vis-à-vis the private sector; the “Voluntary Sector” that stresses the ability to mobilise volunteers to work for the general good; and finally “Organised Civil Society,” a term which is intended to highlight the group’s formally structured nature. We have decided to use the term “Civil Society” in this paper as the most all-encompassing and neutral of the various terms.

When it comes to the organisations that make up civil society, we find terms like NGO, associations (non profit-making, non-governmental, charities, volunteer groups and so on) and other organisations. In this study, we use the English word ‘association’ to translate the original French word ‘association’ that is used to describe civil society at its widest and most diverse. It is the most neutral term we could find, as it can designate both large and small structures and applies to all sectors of activity.

Although the civil society phenomenon is difficult to discern and describe, it is fast becoming a crucial player and interlocutor in the world of politics. As we see in this paper, many compacts have been signed over the past ten years between the authorities and civil society. This amounts to recognition of the role that civil society can play (sometimes following on from recognition of the historic role played by civil society in helping democracy develop, particularly in the countries of the former Soviet bloc) and hence the role it should play in the drawing up of policy. For the signing of such agreements, it is important to gain better understanding of the sector. To this end, the research carried out by Lester Salomon of John Hopkins University is of particular interest. In his view, the sector has considerable economic weight that can be measured in the same way as the private sector, contrary to the practices that tend to be used by statistical bodies. He has been able to measure the value-added generated by the civil society sector. The results are convincing. He demonstrates that the sector is a considerable economic force, generating on average 5% of the

GDP of the countries examined¹, approximately equivalent, he says, to the contribution of the financial industry. In addition, it is growing at a rate of 8.1% although the economy in general is growing by 4.1% on average. Investment in this sector can have a genuine economic impact. It is this same civil society that should be covered by a European compact in the form of an EU framework agreement.

Greater account should therefore be taken of civil society from both the economic and the political point of view. This goes both ways – for their part, governments will have to gain greater understanding of civil society in this process.

¹ These figures have been compiled using satellite accounts drawn up in eight countries to measure the economic weight of civil society (Canada, the United States, Japan, Belgium, New Zealand, Australia, France and the Czech Republic).

Part I: Compacts with civil society in Europe

Description of the agreements

In our descriptions of the agreements introduced in Europe, we will highlight good practice that could be used in drawing up a European agreement.

England: “Compact on Relations between the Government and the Voluntary and Community Sector in England”

The “Compact on Relations between Government and the Voluntary and Community Sector in England” was the first to be adopted in Europe and has had a significant ripple effect. It was signed in November 1998 by the government, represented by the Prime Minister, Tony Blair, Home Secretary Jack Straw, and Sir Kenneth Stowe, Chair of the voluntary and community sector Working Group on Government Relations.

The compact comprises a memorandum and five related codes of practice – funding and accountability, policy development and consultation, issues relating to black and ethnic minorities, volunteering and one on community groups.

The compact takes the form of a memorandum that is not legally binding but is designed to serve as a framework for dialogue between the government and civil society in England. The document lists common principles, including recognition of the importance of the voluntary and community sector and the added value of civil society and the government working in partnership towards common aims. Both parties to the agreement make a series of undertakings. The government, for example, undertakes to respect the independence of the voluntary and community sector, to expand advisory work, to develop a code of good practice on good funding, to take account positively of the specific needs of minority groups, and promote effective working relationships, particularly where cross-departmental issues are concerned.

The compact framework document mentions the resolution of disagreements, noting that “As far as possible, disagreements over the application of the framework should be resolved between the parties. To assist this process, where both parties agree, mediation may be a useful way to try to reach agreement, including seeking the view of a mediator. The Government will, in the light of experience, consider whether there is a need to strengthen the complaints and redress process in relation to the Compact.”

The memorandum states that “the Compact, as a framework document, is a starting point, not a conclusion” and its application and effectiveness will be developed over the course of time. “As part of the process of making the Compact work, there will be an annual meeting between the Government and representatives of the voluntary and community sector to review the operation of the Compact and its development. The report of that meeting will be published.” The government encourages other public bodies and local governments to adopt and adapt the Compact to suit their relationship with the voluntary and community sector.

A “Compact Advocacy Program” has been set up by NCVO (The National Council for Voluntary Organisations) to help associations make use of the Compact. The programme helps small structures defend themselves against any failure by government to meet its commitments under the Compact.

In the Government, a group of ministers chaired by the Home Secretary is responsible for implementation of the Compact.

While the Compact itself is not legally binding in law, the commitments made by the Government under the Compact can be used as an argument in the defence of associations. The NCVO website explains that it has helped “hundreds of associations” to ensure application of points from the Compact in the case of failure to consult, failure to provide information or other problems. It should be noted though that it tends to be the least powerful groups that benefit the most from this type of agreement. The NCVO ensures application of the Compact and is the main advocate for associations.

A vast campaign based on a guide on how to set up local compacts has led to many local compacts being introduced. According to the Compact website, all 100% of the local areas have their own compact. This means that there is a national compact alongside local and regional compacts. London, Greenwich and Westminster each have their own compact. A prize is awarded to the best compact each year.

Scotland: The Scottish Compact

The Scottish Compact was set up in 1998 and signed by the Prime Minister and the Convenor of SCVO (the Scottish Council for Voluntary Organisations). The Scottish Executive hopes the Scottish Parliament will either sign the compact itself or use it to create its own version.

The shared values in the Scottish Compact are: a democratic society, active citizenship, pluralism, human rights, equal opportunities, quality services, cross-sectoral working and sustainable development.

The layout is unusual, taking the form of two columns setting out the commitments of each party side by side.

The Scottish Compact is more of a “partnership” and “effective dialogue” with umbrella groups and intermediary associations playing a key role.

An inspection and evaluation framework will be set up by the two parties, including umbrella groups and intermediary associations. The Scottish Compact is highly ambitious, wanting to bring about a genuine culture change.

The “Implementation Guidance to Voluntary Organisations” explains that in a poll in 2001, while most Executive respondees were positive about the relationship, “the majority of small organisations had not even heard of the Compact”. The Scottish Executive and SCVO set up a “Compact Review Group,” which recommended a

three-year review strategy, along with regular surveys of awareness of the compact. When the three years were up, the compact was updated and a very detailed timetable for its application was established. It was recommended that Parliament should be sent regular reports on implementation of the compact. The main problems arose from communication issues. The report's authors also noted that the implementation of the compact should not be over-burdened by documents, procedures, bureaucracy and red tape, that would run the risk of weighing down, and therefore hindering the growing relationship.

The Compact Review Group reports that a large number of local authorities have adopted local compacts with the help of SCVO and the guides prepared for them in advance by the Scottish Convention of Local Authorities.

Northern Ireland: Building Real Partnership: Compact between Government and the voluntary and community sector in Northern Ireland

“Building Real Partnership: Compact between Government and the voluntary and community sector in Northern Ireland” was signed by the Secretary of State for Northern Ireland, Marjorie Mowlam; the Chair of the Northern Ireland Council for Voluntary Action; and the British Prime Minister, Tony Blair, in 1998.

It aims to be a partnership between Government and associations, like the partnership with the social partners. It is based on shared values: accountability, active citizenship, community, democracy, equality, partnership, pluralism and social justice; and the common principles of inter-dependence, cooperation, participation, representation and best practice. There are commitments from either side on various points concerning the promotion of common values and principles, informing and consulting associations on issues concerning them, consultation methods, the allocation of public funding and the role of associations' advisors, as seen in the compacts described above.

Monitoring implementation of the compact will be carried out jointly by both parties at an annual meeting. A document in support of the compact was compiled by the government in consultation with the voluntary and community sector for application of the compact.

Wales: Voluntary Sector Scheme

Unlike the other British compacts, the Welsh “Voluntary Sector Scheme,” signed in December 2000, put the compact's commitments under a statutory footing under Section 114 of the Government of Wales Act 1998. It has therefore been adopted by the Welsh Assembly and is accompanied by a Strategic Action Plan and a Code of Practice on Funding the Voluntary Sector. The Strategic Action Plan includes a detailed study of the voluntary sector in Wales and a very detailed timetable for implementing the measures set out in the compact.

The Welsh Assembly designated the First Secretary to have overall responsibility for the compact, the Assembly Secretary to have specific responsibility for the interests of the voluntary sector, and the Welsh Assembly to have responsibility for promoting the voluntary sector's specific interests. It then set out the common values, similar to those described above, and laid down the parties' commitments. These commitments are binding, formalising the role of the voluntary sector in formulating and delivering public policy.

For example, to resolve conflicts between the voluntary sector and the Welsh Assembly, the voluntary sector must report its complaint through the Assembly's complaints procedure. This is different from a mediation procedure in that complaints are incorporated into an existing dispute settlement system.

In the Welsh compact, "voluntary sector" has a broader meaning than in the other British compacts. Unlike the other compacts, the Welsh Voluntary Scheme defines the partners in question as "volunteer organisations, community groups, volunteers, self-help groups, community cooperatives and enterprises, religious organisations and other not-for-profit organisations of benefit to communities and people of Wales". The originality here lies in the fact that faith organisations are explicitly mentioned and that volunteers are recognised as full partners in their own right, rather than simply as members of volunteer organisations. Also, enterprises are mentioned for the first time. The criterion for membership of the compact has therefore changed from being non-profit to "being involved in society's welfare". All the same, the Code of Good Practice on Funding the Voluntary Sector stipulates that it applies to associations which do not distribute profits.

The Welsh compact lays particular emphasis on consultation, encouraging volunteering and promoting the development of communities. Unlike the English Compact, it does not mention black and other ethnic minority groups. The Welsh Compact aims to promote community regeneration, tackle social exclusion, build viable communities and promote a culture of lifelong learning.

The Welsh compact also involves setting up a "genuine partnership". One of the originalities of this compact is that it gives several definitions of partnership and explains how they apply to the compact, thereby explaining the relationship between the two parties in more detail. Implementation of the compact will be revised on an annual basis, with a report being sent to the Welsh Assembly. A Voluntary Sector Partnership Council has been set up, comprising members of both parties. Most initiatives, however, are taken by the Welsh Assembly and this means the compact may be considered more "asymmetrical".

Croatia: Program of Cooperation between the Government of the Republic of Croatia and the non-government, non-for profit sector in the Republic of Croatia

The "Program of Cooperation between the Government of the Republic of Croatia and the non-government, non-for profit sector in the Republic of Croatia" was signed in December 2000. It arose from an initiative by the "Croatian Government

Bureau for Cooperation with Associations”² following joint work over the course of several months. In the introduction, the Government recognises that the sector is an arena [...] where human and social potential meet and are developed, and become full part of the political and social system and a recommended pathway in the democratisation of relations with the public and the community’s political and economic life. The document was written for the public authorities but it notes that “the designing of local and regional programs of cooperation on the local level will commence” when the document has been approved. Unlike the other national agreements, local partnerships will not be independent here. Their characteristics will be included and coordinated with the national Program of Cooperation.

Two documents accompany the Program. There is a “Code of Good Practice, Standards and Benchmarks of NGOs for the Allocation of Grants for Programmes and Project,” in the establishment of the “National Strategy for the Creation of a More Encouraging Environment for the Development of Civil Society from 2006 to 2011”³ adopted by the Croatian government on 12 July 2006. There is also a “Proposal for a Code of Good Practice for Holding Consultations with Interested Parties involved in Procedures to Adopt and Apply Laws and other Regulations or Administrative Acts,”⁴ adopted by the Croatian Parliament on 2 February 2007. The Program was then submitted for consultation and suggestions from the sector in question and also from any citizen wishing to express their opinion online. The main document states that laws will follow on associations, foundations, local taxation, local administration and self-management.

It is stated that the Program is only a starting point. In addition to other documents that will gradually be added, the Program will be analysed and revised every year at a meeting of representatives of both sides, where a report will be published.

The document describes the agreement as a partnership where associations are consulted during the legislative process and when drawing up the National Government Programme, and also participate in government action in all domains, supporting the sector’s work, particularly the socially responsible economic sector, while the Government pledges to fully or partly fund associations’ activities.

The following principles of cooperation are listed: “partnership; transparency of activities of the Government and the Sector’s activities; liability for the utilisation of public resources; promotion of equal opportunities for all [...]; a positive practice code and improvement of the quality of action; subsidiarity principle as the foundation of the partnership [...]; quality NGO action code; promotion of non-violence and active acceptance of diversities, and building social capital”. Here we note that particular importance is given to the principle of subsidiarity and the focus on improving the quality of both partners’ activities.

The Program of Cooperation recognises the sharing of common values connected with modern democracy and civic initiative, namely civic exchanges, social justice, transparency, personal responsibility and competence, involvement in the formulation of decisions, respect of character, independent organisation, paying heed to diversity

² Our translation.

³ Idem.

⁴ Idem.

in organisation and lifelong learning, and the vocation of creating effective mechanisms that will improve communication between Government and the sector⁵.

In the draft Code of Good Practice on Consultation, we note the broad concept of interested public, including in addition to civil society organisations, citizens, community representatives, chambers, public institutions and “any other legal body providing public services or services which may be affected by laws or any other regulation or administrative act that might be adopted”. This code applies to the government, parliament and other public institutions in Croatia. All organisations concerned with application of the code must submit a report at the end of the year to the Bureau for Cooperation with Associations, which forwards it to the government. The Code of Practice on Funding was voted through by government and has statutory force.

Finally, we note that local compacts also exist in Croatia, like the compact for the city of Rijeka adopted on 26 November 2004, the first local compact to be signed.

Estonia: EKAK

The “Estonian Civil Society Development Concept” (EKAK) was adopted by the Estonian Parliament on 12 December 2002.

After recognising the historical role played by civic initiative in shaping democracy in Estonia, the document stresses that today “the citizens’ associations are necessary for ensuring the continuation of democratic process in Estonia which involves the population”. The document notes: “In decision-making, the public sector must consider the special interest, values and goals of the members of the society, and their associations, and take them seriously, also in cases where they form a numerical minority.” EKAK states that the agreement’s commitments are compulsory. The document is more than a pledge of good will.

In addition to the values generally subscribed to in the other compacts, EKAK specifically recognises the role that citizens can play in all stages of developing public policy and defending the interests of citizens who are not sufficiently represented or not sufficiently well-informed. By citizen, EKAK understands any individual residing legally in Estonia, a broader definition of the usual concept of citizenship.

EKAK’s shared principles and values are citizen action, participation, respect, partnership, responsibility and accountability, political independence, civic initiative, avoiding corruption (not given much attention in other compacts), balanced and sustainable development and equal treatment. The document recognises the representativity and the role of umbrella groups.

In its implementation, EKAK recognises issues like the development and systemising of statistics. The Parliament is responsible for revising the agreement in the form of deliberation that should be of the scale of any other national instrument. Unlike other compacts, there is no mention of civil society being involved in the review.

⁵ Idem.

The compact is accompanied by a “Code of Ethics of Estonian Nonprofit Associations” (2002) and a code of “Good Practices of the Involvement” (2005), which is also quite original. It is interesting to note that the tackling of injustice detected in legislation has been made a duty. The social code explains the principles civil society’s involvement in drawing up public policy. It also recognises the legitimacy of interest groups. This framework agreement provides wide scope for associations to be heard and exert influence. It does not only cover sectors where associations are involved, unlike the compacts discussed above. Later on, it is explained that documents setting out the consultation criteria should be drafted and these should define the stakeholders involved in the consultation.

Denmark: “The Charter for Interaction between the Volunteer Denmark/Associations Denmark and the Public Sector”

The “Charter for Interaction between the Volunteer Denmark/Associations Denmark and the Public Sector” was signed in December 2001 by the Danish housing and cities minister, the social affairs minister, the culture minister, the health minister, the education minister and civil society representatives. It was prepared by both sides. Like the Estonian compact, it recognises the historic role played by associations in the building of democracy and the welfare state in Denmark.

The Charter explains: “The public sector cannot ensure that Denmark has a broad range of active associations and other volunteer organisations – only the volunteers themselves can do that. However, the public sector has a duty to help see to it that volunteer efforts are not made unnecessarily difficult.”

The Danish compact does not introduce any specific review procedures or applications. The Government and the working group that was behind the Charter call for “continuing dialogue on values, parameters and concrete opportunities for interaction”. Note that there is no mention of partnership.

Hungary: “Strategy Paper of the Government of Hungary on Civil Society”

The “Strategy Paper of the Government of Hungary on Civil Society” was signed on 22 October 2002. While the period of little of democracy (1948-1989) did not lead to the disappearance of civil society, it did weaken it and not enough time has elapsed since the change of regime to enable the sector to fully develop. Above all, the document is designed as government aid for the development and recognition of civil society in Hungary. It stresses a desire to “eradicate associations’ political dependence”. The considerations for Hungary are therefore different from the previous compacts.

The government pledges to hugely increase the subsidies provided for associations and provide aid for small associations to help them apply for funding. The document commits associations to get involved in the drawing up of public policy, find representatives and draw up a code of ethics for the sector and ensuring it is respected.

The Government and, in the future, representatives of associations should help create a “civic public body”.

France: La charte d'engagements réciproques entre l'Etat et les associations regroupées au sein de la CPCA (conférence permanente des coordinations associatives) – Charter of Mutual Commitments by the State and CPCA Associations (Standing Conference of Association Coordinations)

“La Charte d’engagements réciproques entre l’Etat et les associations regroupées au sein de la CPCA” (Charter of Mutual Commitments by the State and CPCA Associations, our translation) was signed on 1 July 2001 during celebrations for the 100th anniversary of the “1901 Law” that defines the legal status of associations. This very old law is believed to be very liberal and makes it very easy to create an association in France, which has helped ensure a dynamic civil society in the country. The Charter was signed by Prime Minister Lionel Jospin and the Chair of the “Conférence Permanente des Coordinations Associatives” (Standing Conference of Association Coordinations), one of the biggest umbrella groups of associations in France.

The French charter took an unusual turn with the avowed aim of ensuring “the market economy does not degenerate into a market society”. This opposition between society and the economy is not mentioned in any of the other documents. The French charter is similar to others, however, in stating that it applies at both national and regional level.

The charter’s shared values are trust, partnership, contracts, permanence, transparency, evaluation, volunteering, democracy and associations’ contribution to the development of the economic, social and cultural fabric of France. It expressly mentions the “economic role of associations,” linking in with and backing the research carried out by Lester Salomon of John Hopkins University. The charter says that by promoting the role of associations, a “new, more human, concept of wealth” is being provided.

The French charter makes several very tangible suggestions for developing a partnership with associations. It also develops the idea of promoting the values of the 1901 Law at European level, which is an innovation compared with the other compacts.

The Charter seems to be a well-designed compact but does not include an action plan, although it notes that it should be evaluated every three years and is an agreement without statutory value, like the British compacts. In France, 2001 was a year for celebrating associations but unfortunately it was followed by a presidential campaign in 2002 when priorities changed. The French charter fell by the wayside and the window of opportunity was closed.

Sweden: Agreement between the Swedish Government, national idea-based organisations in the social sphere and the Swedish associations of local authorities and regions

Sweden has a new agreement, decided jointly by the government and the part of civil society which deals with social questions. This is an original type of agreement which concerns only one aspect of the work of civil society. The intention however is to extend this type of agreement to other sectors, such as migration.

The agreement recently signed, like others, codifies the responsibilities of both sides. The government is committed to recognizing and strengthening the voluntary sector, by guaranteeing its independence and “voice” in society and by enabling a favourable environment for developing the social economy. The voluntary sector is committed to clarifying its independence.

The common principles on which the text is based are: independence, dialogue, quality, continuity, transparency and diversity. These are spelt out and accompanied by precise activities.

This agreement was the result of a working group composed of members of the voluntary sector working in the social sector including two large platforms of associations: “forum for voluntary social sector in Sweden” and Fauna and representatives of the government coming from the ministry of integration and equal opportunities and the ministry of social affairs. Consultations began in September 2007. After the drafting of a first text, a wider consultation took place, before being submitted to the government for signature. Civil society participation in drawing up the text was in two stages: drafting by a small “elected” group and the correction by all.

An interesting aspect of the agreement is that it is open for signature by any interested organisation, so that it is not necessary to have participated in drawing it up. After being signed by the government, the text will be debated in the parliament. The agreement will concern the executive and the legislature. Here too, it is foreseen that the implementation of the text will lead to local agreements.

The history and construction of the welfare state must be taken into account to understand the origins of the Swedish agreement between the government and civil society in the social sector. In Sweden, the relations between the Government and the voluntary sector are good, and are established by practice rather than legislation. They range from consultation, to smaller working groups, and to the delegation of tasks by the government to the social sector. However, these relations were different in the social sector. This is explained by the fact that with the creation of the welfare state, the public sector’s role was to respond to all social needs of society. Over time, the social part of civil society achieved a certain recognition, with the result that a kind of double system emerged in Sweden concerning the attribution of funds and consultation.

Fifteen years of cuts in budgets changed the role of associations in the social sector which became more and more involved in service provision. As a result, a coalition of associations lobbied for better recognition of their role by the government and for the signature of an agreement between the social sector and the government.

In 2006, the election of a new government in Sweden which spoke out in favour of closer links with civil society created a window of opportunity to put a group in place to take the initiative.

The special case of the Swedish model shows again that if other models, particularly the UK model, can be used, it is important that each country builds its own to be effective, taking into account national characteristics of the structures and needs of civil society, existing practices and measures already taken by the government.

Poland: “Act of Law of April 2003 on Public Benefit and Volunteer Work”

The “Act of Law of April 2003 on Public Benefit and Volunteer Work” mentions “public benefit”, referring to any activity in the public interest carried out by associations.

The Act of Law was passed on 24 April 2003 and is therefore legally binding. The document has broad scope because it foresees making associations responsible for carrying out public work.

A “Council of Work for Public Benefit” has been set up, half of whose members are public servants, with the other half representing the voluntary sector.

Other initiatives in Europe

Other European countries have attempted or are in the process of setting up compacts between the public authorities and civil society.

- In the Czech Republic, the minister of human rights and minorities is trying to introduce a compact.
- Slovenia is expected to introduce a compact-like agreement. With encouragement, associations are believed capable of creating many jobs in order to help solve the country’s economic problems. With the change in government the process will be unblocked.
- In Austria, there is a long tradition of informal partnership between the associations and the Government.
- In Sweden, a “Spelregler” agreement was supposed to be adopted at the end of 2008 by associations and the Government but problems arose when formulating it because the structure of the Swedish voluntary and community sector is too highly determined by the individual issues covered.

Compacts outside the European Union

- There is a compact at the United Nations which is interesting for our purposes. It concerns an international organisation and therefore demonstrates that this type of agreement is also possible at supra-national level. It has a wholly different aim, being for companies, although it remains open to associations as

far as possible. It aims to get companies to commit to human rights, the environment, high ethical standards (anti-corruption), etc.

- The Canadian compact stretches far and wide. It was signed on 5 December 2001, is non-binding, and is accompanied by two codes of practice, one on funding and other on consultation.
- Two other compacts exist. In the Philippines there is “Memorandum Order No. 45” and in Egypt there is Law 84/2002 on aid in the form of funding for associations and non-governmental organisations.

Comparative Study of European Compacts

Pros and Cons

Compacts between public authorities and civil society all have one thing in common, recognition of civil society's role in society at large, often carrying out a task for the public benefit. This recognition takes various forms, ranging from gratitude for the historic role played by associations in the past to concern to ensure associations are able to survive and awareness of the important economic contribution they can make to the nation.

In the compacts, governments tend to agree on two main issues:

- Giving organisations a secure status, including through favourable funding criteria.
- Getting associations involved in drawing up public policy. Either at a specific stage in the process or across the board.

Compacts can be concluded at state level by the government, head of state, a minister, an assembly or a mixture of the preceding. At civil society level, interlocutors may be appointed that sign the compact and share in drawing it up. In this case, it may be the biggest umbrella group in the country, which tends to be cross-departmental, or a working group set up for this purpose. Sometimes (and usually in the case of a law) civil society is not represented. The widest view is taken of civil society in this case with a very open compact. The Scottish and Northern Ireland compacts make specific mention of active citizenship and this is the key issue at stake here. In other words, taking innovative account of a form of citizenship that is expressed in a wider sense than simply voting in an election.

Most compacts are decided at national level and also apply to decentralised levels of the state. Sometimes, the creation of compacts at regional level is encouraged, particularly for towns and cities, as is seen in the United Kingdom and Croatia. We have also seen that compacts can be made at supra-national level. One of the main benefits of compacts is that they are flexible in scale and can be adapted to suit specific needs. We shall see how compacts could apply at EU level in line with the principle of subsidiarity.

As we have seen, compacts come in a very wide range of forms and related documents. They may or may not be legally binding, but this does not mean that they do not work, as is seen in England, where the compact has served a very practical purpose in restoring justice in conflicts over public funding. Everything depends on the culture of the country in question and the nature of the relationship with associations. The Scottish Compact notes very wisely that it does not cover all the associations that exist in Scotland: "It is accepted that not all voluntary organisations will have an interest in seeking partnership with the Executive." Compacts must remain open and respect associations' freedom of choice. Likewise, compacts must not demand exclusivity (in the way that social dialogue is restricted to employers and trade unions) because they cover all associations in receipt of public funding or which have a relationship with the authorities.

The compact itself may be accompanied by codes of practice. The most common codes are on funding and consultation but there are also codes on volunteering, communities, policy assessment, and ethnic minorities. Codes of conduct on ethnic minorities can be seen as separate agreements for a specific section of the population. As we have seen, partnerships have varying degrees of intensity. Some simply state that there should be consultation, while the English Compact notes that various types of consultation should be used. Likewise for funding rules, which can be highly detailed or simply mentioned in passing.

Compacts naturally reflect the fabric of social society of the country concerned. The English Compact, for example, highlights the status of ethnic minorities because community organisations and associations already exist in the country for specific ethnic minorities.

In the same vein, we would like to highlight the very interesting nature of the codes of conduct for minorities that are mentioned in several compacts. This is also an approach fostered to deal with the problem of integration. Like immigrant groups, minorities often form associations and if their associations are given special access to Government, greater account will be taken of them in government policy and alongside this, the decisions taken will certainly be better accepted by the community. The English Code of Good Practice for Ethnic Communities calls for associations to encourage ethnic communities to get involved in social life, “take control wherever possible” and “foster consortiums and partnerships among the various ethnic and religious groups” Here, the compact becomes a way of tackling racism and discrimination, tackling a special problem in England today that is also a genuine problem at European level. This highlights the flexible nature of compacts.

Finally, the review and evaluation process also comes in varying formats. It is usually included in the compact because such agreements are a general framework that changes over time. The review and evaluation process may take place every year or at intervals of up to three years. It can be carried out by a public authority, a mixed body, the voluntary and community sector or, as in England, by a special Community Sector Coalition.

While the Hungarian agreement stresses that civil society should not be influenced by politics and election timings, we can see from reading the various compacts that a window of political opportunity is required for them to be decided upon. For example, the compacts of countries formerly under Soviet occupation tended to emerge to help the community and voluntary sector rebuild after the difficulties of the Soviet years. We note increased interest in agreements, like the English Compact, ten years after their launch. In the case of England, we see that this reflects a desire to ensure continuity if the government changes in the forthcoming elections. The window of opportunity must also remain open for as long as possible because the implementation period will take a long time. Implementation does and should take a long time because a change in mindset is required, which requires effort and is a long, slow process before a change of mentality is fully accepted. This is noted in the Scottish Compact, which wants to be part of everyday culture.

The Scottish Compact also states that political commitment and visible leadership are an absolute necessity for compacts. This rule seems to apply to all the compacts studied here and this should be borne in mind.

Some agreements (like the English and Scottish compacts) lay great emphasis on raising awareness about the compact on both sides in order to enhance the relationship between Government and civil society. An agreement that few people have ever heard of would be a waste of time and effort.

Part II A European Compact

Compacts, also known as “framework agreements,” are the favoured and most modern form of partnership between the public authorities and civil society. We have looked at their main characteristics. We have seen that they are quite flexible and vary in line with a number of criteria, like the way associations have been viewed by the authorities in the past, the role associations have played in the history of the nation, the social fabric of the country and the structure of the State.

We will now examine how such an agreement could be adapted to suit the specific nature of the European Union rather than a individual nation.

The feasibility of a compact-type framework agreement at EU level

First of all, it is important to note that compacts (also known as framework agreements) tend to emerge during a window of political opportunity where political will corresponds to a desire expressed by society in general. In the case of the European Union, we note that the desire is certainly present, on the part of civil society at least. We will now examine what is already in place.

There have been many initiatives to ensure the relationship between civil society and the European institutions is recognised and structured. Lobbying by interest groups at the European institutions is a fact. While it is impossible in practice to calculate how many people and organisations carry out lobbying work in Brussels, there are estimated to be some 15,000 separate lobby groups. Some of these organisations want to be given greater access to the European institutions and recognition of the legitimacy of their work, the utility of their expertise and their understanding of the situation on the ground, along the lines of trade unions in social dialogue. This is developed in research by Andrew Crook for ECAS in his paper “Listening to Civil Society: What relationship between the European Commission and NGOs?”⁶ in 2001. More recent studies and initiatives have been made by the EU Civil Society Contact Group.

Recognising civil society as a special interlocutor involved in drawing up EU policies and drafting EU legislation would also give the action of EU institutions greater legitimacy and counter the image of the infamous “Brussels ivory tower”. It would also make EU action more transparent. By clearly identifying the communications chain it would use for interaction with civil society, the European Union would remove suspicions about lobbying that people sometimes see as acting against the interests of society in general.

There are initiatives to structure the relationship between Government and civil society but they are one-off or fragmentary. The White Paper on Governance, adopted on 27 July 2001, stipulates that the European Union should pledge to “establish a more systematic dialogue at an early stage of policy formulation with

6

http://www.mju.gov.si/fileadmin/mju.gov.si/pageuploads/nevladne_organizacije/LISTENING.pdf

representatives of local and regional authorities through national and European associations” and “set up partnerships extending beyond the minimum standards in certain domains; it therefore pledges to consult more widely, in return for guarantees of openness and representativity from the consulted organisations”.

The European Commission Communication COM(2002)704 of 11 December 2002 “Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultations of interested parties by the Commission”⁷ laid down the consultation standards that have been followed since then. These consultations are motivated by the grand principles of “participation, openness, responsibility, efficiency and coherence”. The standards provide for clear documentation, ensuring the interested parties “have the option of expressing their views, ensuring there is suitable publicity about the consultation, set participation time-spans and announce that contributions must always be published on the web once the consultation process has closed.”

These standards are an important initial guarantee for associations, but are often felt to be insufficient. The main accusation made of them is that once their contributions have been published, associations have no guarantee that they will be listened to. Even if their contribution is taken up by the Commission, there is no obligation on the Commission to inform the association of the aspects of the contribution that have been taken into account and to what extent.

This form of consultation, using the Internet and the sending of written contributions is not the only type of consultation possible, as is explained in the “Consultation and Policy Appraisal Code of Good Practice” for the English Compact. It draws readers’ attention to the fact that several consultation methods are available and it not the case that because something has worked once that it will always work. It is important to choose the method that best fits the aims of the consultation, the nature of the people consulted and the agenda. The focus is on written contributions but the document also mentions other consultation methods like opinion polls, meetings, focus groups and user panels.

In addition to the consultation rules applying to the various Commission offices, there have been several other initiatives by various stakeholders to get civil society involved in various forms. Among the most recent are the “Active European Citizens Group” set up by DG Education and Culture at the European Commission, in the form of meetings attended by members of the DG and a limited number of members of civil society; or the “Agora Citoyenne” (Citizens’ Forum, our translation) set up by French MEP Gérard Onesta, which held its second meeting on 12 and 13 June 2008, attended by around 500 representatives of civil society to discuss a common theme. Proposals are then jointly formulated by members of parliament and members of civil society. This initiative is still at an experimental stage.

The most recent of these initiatives was by the European Commission in its “Green Paper on the European Transparency Initiative” adopted on 3 May 2006, and the “Follow-up to the Green Paper on the European Transparency Initiative” of 21 March 2007, a communication published on 27 May 2008 that contains a code of conduct for lobbyists, followed by a voluntary register opened on 23 June 2008 where associations have the option of registering, declaring their income and the proportion

⁷ http://eur-lex.europa.eu/LexUriServ/site/en/com/2002/com2002_0704en01.pdf

of their work involved in lobbying EU institutions. At the time of writing this paper, only 274 organisations had registered, which is not very many of the total number of organisations likely to be involved in lobbying the EU institutions. While this most recent initiative should be praised for helping increase transparency in the relationship between the Commission and civil society, it is not without fault. Some consultants, associations and think tanks believe the code is too feeble and the register only covers voluntary groups. It is said that it had not been given the necessary publicity. Finally, it only covers the Commission, ignoring the other EU institutions.

There are many other advisory committees at the European Commission on questions like health, consumer issues and the environment. By their nature, these committees are never trans-departmental. They are not covered by the consultation rules and in the same way, would also not be covered by a European compact with civil society. This is a gaping gap that needs to be filled in participation on broad issues.

Hence although a number of initiatives can be mentioned, none of them are broad enough or large enough to claim to structure relations between the European institutions and civil society. There does not, at present, appear to be sufficient political will to launch a framework-agreement of the type examined above. ECAS, however, hopes that the June 2009 European elections and the new European Commission that takes office in November 2009 will provide the necessary impulse.

Alongside the above considerations, we would like to draw attention to the work of researcher Lester Salomon of John Hopkins University mentioned in the introduction. Lester Salomon is engaged in a wide campaign to draw the attention of leaders to the considerable economic contribution made by civil society. He has developed a new statistical calculation method that is better designed for measuring the value-added of civil society. Some of the results are worth mentioning here. He demonstrates that the sector contributes an average of 5% of GDP of the countries investigated⁸, which according to this study is the equivalent of the financial industry. The civil society sector is growing by 8.1% while the economy in general is growing by 4.1% on average. Investment in civil society can therefore be very beneficial to the economy. In the light of such figures, it would make sense for the EU authorities to take greater account of the sector, including through a framework-agreement based first and foremost on recognition of civil society's importance and legitimacy. We will now examine what form such a compact/framework-agreement might take at EU level.

A suitable format for a European Compact

As we have seen, a compact or framework-agreement covering all EU institutions and European civil society in the broad sense looks to be an appropriate solution to the problem of recognition and inclusion of civil society in the EU decision-making process. We will now examine the specific format such a compact should have at the level of the European Union.

⁸ These figures are drawn up based on satellite accounts drawn up to measure the economic weight of civil society in eight countries: Canada, the United States, Japan, Belgium, New Zealand, Australia, France and the Czech Republic.

How might a European Compact with Civil Society be established

The primary characteristic of a compact/framework-agreement between EU institutions and civil society is that it should be open and flexible. The Commission should be praised for avoiding the introduction of over-restrictive consultation systems reserved for initiates through selective accreditation systems. A European framework-agreement could avoid this trap by allowing a partnership of the greatest number of people, involving not only organised civil society but also citizens.

Framework-agreements are comprehensive agreements, which is a considerable benefit in the sense that the existing relations between civil society and Member States are sector-specific. A European framework-agreement should make it possible to cover all areas and provide value-added in the relationship between civil society and the European institutions.

It is important that both parties commit to specific issues based on common principles, as often occurs in national agreements. It is far from ECAS' role to prescribe what the content of any European framework-agreement should focus on. As we have seen with the national compacts, the Croatian program, for example, a long period of dialogue between the authorities and civil society may precede the formulation of an agreement and codes of practice. We believe that this period of joint formulation is crucial. It allows both interlocutors to get to know each other better, find a common language and hence increase the likelihood of the agreement being a success in that it would be better accepted by both parties and therefore applied with greater enthusiasm. We believe this period of time should not be rushed. The European Union already has instruments which could serve in the initial stages before dialogue proper is launched, instruments like the "Agora Citoyenne". That said, that does not stop us expressing our opinion on what a European framework-agreement between the European institutions and civil society should cover.

Type of structure

A framework-agreement with civil society would provide three forms of flexibility that are ideally adapted to the European level. Firstly, as we have seen, a wide range of different types of institution can sign such an agreement. Agreements can be drawn up at various levels of decision-making and, finally, very general topics like funding or much more specific issues like specific codes of practice can be discussed using such an agreement to underpin discussion.

- **Flexibility in the selection of institutions**

As we saw in the comparative study above, agreements can be signed by executive and legislative institutions alike. We believe it would be a good idea for an agreement to be decided jointly by both the European Commission and the European Parliament and for it so cover both institutions. As we have seen, none of the previous attempts to involve civil society actually covered both the Commission and the Parliament. We believe such a partnership would only be viable if it involves both. Other institutions should also be involved in the agreement – firstly the EU Council of Ministers but also the European Economic and Social Committee and the Committee of the Regions.

A range of different types of civil society signatories have been observed in the various countries studied. The signatories can be umbrella groups of national associations, large sector-wide umbrella groups (when the agreement covers a single sector), or specially set up working groups comprising several representatives of the country's main associations. In other cases, the documents are signed by the national public authorities unilaterally.

It would not be a good idea for the European Union to have a restricted panel of associations as its main interlocutor. Instead, it would appear sensible to have as large a number of associations as possible to reflect the fabric of the whole of civil society, in other words including associations which are not based in Brussels, have a local or national base but which can themselves be affected by or can understand situations impacted by EU decisions.

- **Flexibility in levels of decision-making**

The framework-agreement should solve the problem of influence at European level. For a system as complex as the EU, a framework-agreement should cover as many levels of decision-making as possible. In the examples analysed in the comparative study of compacts with various Member States above, we saw that such agreements could also suit national, regional and local authorities.

In application of the agreement, the partnership between civil society and the EU institutions should follow the decision-making process and the implementation process for the agreement set out in the EU Treaties in line with the principle of subsidiarity (in other words as far down the decision-making chain as possible). Such an agreement would be copied at all power levels, be they national, regional or local. One could imagine a snowballing of framework-agreements for the European Union's areas of exclusive or shared powers, using subsidiarity when it comes to implementing the decisions. A framework-agreement would be particularly suitable for the Cohesion Policy under the Lisbon Strategy.

The English Compact was followed by a guide on the implementation of local compacts. The local guide has been a great success. The European Union could follow this example and produce its own guide to help spread the principles underpinning the framework-agreement to other power levels.

- **Flexibility in issues to be addressed (general or specific)**

Firstly, all framework-agreements are based on broad general principles that both sides undertake to adopt, respect and promote. At European level, such common principles might be associations' independence, participation, transparency, active citizenship, non-discrimination against women and minorities, and the European Charter of Fundamental Rights.

Finance is a particularly important aspect of framework-agreements. Without going into detail, we believe it is important for funding to focus on the independence of associations, including their freedom of opinion and respect of their duty to criticise public action. It would be a good idea to make the funding provided by the European Union available to small organisations, which currently do not have sufficient

resources to develop application dossiers for EU subsidies. These financial management issues should be reviewed by the European Parliament.

Associations should undertake to supply expertise that is as comprehensive and accurate as possible. They should pledge to respond to the consultation process. They should commit to make good use of any funding received and act in a fully transparent manner, both in the management of the funding and in the proper democratic functioning of their organisation.

Most of the framework-agreements should be accompanied by specific codes of conduct. We saw in the comparative study that such codes can help increase the agreements' effectiveness in domains like taking greater account of minorities (for the English Compact) or clarifying various issues and highlighting best practice. Such codes could also strengthen consultation procedures by setting out more detailed agreements or going further than set out in the currently existing financial regulation.

The authorities should select the consultation format best suited to the specific subject in question and the type of stakeholder involved. As we saw above, the English Compact's "Consultation and Policy Appraisal Code of Good Practice" recommends that there should be a large number of consultation methods and the best one selected to suit each specific situation without giving a definitive definition of the best form of consultation. Civil society's involvement could range from drawing up the agreement to implementation on the ground.

Implementation

Depending on the country, compacts do not always have the same legal force. There are cases where compacts are legally binding, like in Poland and Wales. The agreements of the other Member States studied are not legally binding. The commitments are made on a voluntary basis but that does not mean that the compacts do not work, as has been shown in England, where the Compact has been used to restore order in disputes settles in conflicts over the use of funding. It would make sense for the European framework-agreement to have the most flexible type of format and non legally binding would appear the wisest option.

Another major benefit of framework-agreements is that they are revised on a regular basis. We have seen that the frequency of the agreements' review process ranges from one to three years in the case of the national compacts. The one-year option would appear the best for an EU agreement. Each year, representatives of civil society in the widest sense (those who have made particular use of the agreement in the past year, for example), could meet with members of the European institutions concerned in order to decide whether the agreement has been properly implemented, where further work is necessary and which terms of the agreement, if any, require revision. The 'Agora Citoyenne' would appear to be the most appropriate framework for such a meeting. It would be a good way of finding a suitable review process for the agreement and also of making the "Agora Citoyenne" itself a permanent fixture.

Some national agreements have their own dispute-settlement procedures. This could very well suit an agreement at EU level because the existing dispute-settlement procedures at the European Court of Justice or the European Ombudsman are too

burdensome, costly and time-consuming for questions relating to the relations between civil society and the European institutions.

Finally, it would be desirable for the draft agreement to be accompanied by the introduction of “European statutes for associations and foundations,” an unresolved issue dating back to the 1970s. A feasibility study is being carried out on foundations, the results of which are expected to be published in October 2009. The statutes of associations is a question that is often raised but nothing has been done and the Commission has withdrawn its draft legislation. The French Presidency of the Council of the EU (June to December 2008) was expected to put the question back on the agenda and ask the Commission to consider revised statutes or an alternative solution.

Annex: Glossary of terms used to describe civil society

Country	Term used to describe 'Civil Society'
England	"The Voluntary and Community Sector" "Voluntary and Community Organisations"
Scotland	"The Voluntary Sector" "Voluntary Organisations"
Northern Ireland	"The Voluntary and Community Sector"
Wales	"The Voluntary Sector" "Voluntary Sector Organisations":
Croatia	"The non-government, not-for-profit sector" "NGOs"
Estonia	"The nonprofit sector" "Nonprofit associations" "Citizens' associations"
Denmark	"Volunteer Denmark/Associations Denmark": "Organizations and Associations"
Hungary	"Civil Society", "NGOs," "Associations," "Organisations"
France	"Mouvement associatif": community movement "Les associations"
Sweden	"Civil Society"
Poland	"Public Benefit Work" "NGOs" "Public Benefit Organizations"