



**THE STRONG CIVIL PARTICIPATION IN THE NATIONAL AND  
EUROPEAN POLITICAL PROCESSES AS A WAY TOWARDS  
CONSOLIDATION OF THE EU**

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## **Abstract**

The purpose of this thesis is to demonstrate that in order to consolidate under the present international conditions the European Union relies predominantly on the intensive participation of its citizens in the integration processes. The strong civil participation generates shared values and supports the development of common identity which is essential for the strengthening of the EU. This trend is present in the fundamental EU documents for the current moment. Therefore, the thesis analyzes basic provisions of the Lisbon Treaty and the Charter of Fundamental Rights of the European Union which are preconditions for the more active participation of the citizens in the integration processes. The thesis suggests that the above mentioned process is not only a temporary situation but a long-lasting plan for the development of the European integration. In order to demonstrate this, the paper presents some administrative and constitutional reforms, reflecting the tendency, which are taking place at the moment in a new Member State (Bulgaria) and a future Member State (Serbia). Finally, the thesis recommends that the reforms ensuring stronger civil participation in the EU processes should continue in future because they already gave some positive results (the image of the EU and its institutions has improved over the past few years).

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## Introduction

The contemporary world is more dynamic and globalized than ever. Except for the numerous advantages, this dynamic also breeds many risks and general instability. In order to adapt and consolidate in this context, EU needs the support of its citizens motivated by shared values. Since the beginning of the European integration the existence of common values within Europe was a contested issue or at best only the fundamental principles shared by all democratic countries were accepted as such. In this paper I would question the first assumption and develop the second. In the EU common values do exist. These are certainly the fundamental democratic principles but also “new” values emerged as problem-solutions *during* the process of integration which altogether form the European identity. Since the integration proceeds, the identity formation is also a continuous process<sup>1</sup>, not something given or completed. The values “feeding up” this process are generated by no one but the European citizens.

In this thesis I would argue that in its current development the European Union tries to involve its citizens in the political process as much as possible. The reason is that the civil participation is an “identity generator”, which strengthens the connections between the member states, consolidates the EU and enhances its importance as a major political actor.

The three chapters of the thesis correspond to the basic questions which I would analyze in support of this statement: 1) What process predetermines the sense of belonging<sup>2</sup> to the different dimensions of the EU integration? 2) What are the current legal provisions that would support stronger participation? 3) What are the practical requirements for the continuation of the process in future?

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<sup>1</sup> ANTJE WIENER, “EUROPEAN CITIZENSHIP PRACTICE. BUILDING INSTITUTIONS OF A NON-STATE”, Westview Press, 1998, p.7

<sup>2</sup> Id., p.26

Chapter one examines the evolution of the European citizenship concept. In the literature citizenship is a term usually defined with respect to a nation-state<sup>3</sup> and as such it is viewed as comprising two aspects - “formal citizenship”<sup>4</sup>, which basically encompasses the normative rights of “participation and representation”<sup>5</sup>, given by the state to its nationals, and identity component (or sense of belonging) which is result of the “day-to-day experiences of participation”<sup>6</sup>. On its side, the formal citizenship has two elements – “rights”<sup>7</sup> which create the legal link between the citizen and the political entity, and “access”<sup>8</sup> which encompasses the conditions for the implementation of these rights created by the entity. Initially, the efforts were put in the development of the first aspect (the formal citizenship) in the economic as well as in the political sphere. Step by step this process entailed the emergence of shared values and lifted the integration to a level where being a European citizen presupposes a sense of belonging and loyalty to the Community.

There is an abundance of literature analyzing the formal dimension of citizenship. A comprehensive overview of the evolution and the main aspects of the EU citizenship are given by authors like Paul Craig and Grainne de Burca<sup>9</sup>, Josephine Steiner and Lorna Woods<sup>10</sup>, Sionaidh Douglas-Scott<sup>11</sup>. However, the aspect referring to the identity component and the ways how it can be carved is not sufficiently addressed, even though the current development of the EU shows that the stimulation of a common identity has great consolidating potential. The finding of this thesis is that under the present conditions the

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<sup>3</sup> Id., p.4

<sup>4</sup> WILLIAM ROGERS BRUBAKER, “NATIONALISM REFRAMED. NATIONHOOD AND THE NATIONAL QUESTION IN THE NEW EUROPE”, Cambridge:Cambridge UP, 1996; p.43

<sup>5</sup> ANTJE WIENER, “EUROPEAN CITIZENSHIP PRACTICE. BUILDING INSTITUTIONS OF A NON-STATE”, Westview Press, 1998, p.7

<sup>6</sup> Id.

<sup>7</sup> Id., p.25

<sup>8</sup> Id.

<sup>9</sup> PAUL CRAIG AND GRAINNE DE BURCA, “EU LAW, TEXT, CASES, AND MATERIALS”, (4<sup>th</sup> edition), Oxford University Press, New York, 2008, Chapter 23, *Citizenship of the European Union*, p. 847-873

<sup>10</sup> JOSEPHINE STEINER AND LORNA WOODS, “EU LAW”, (10<sup>th</sup> edition), Oxford University Press, New York, 2009, Chapter 21, *Citizenship: Right of free movement and residence*, p.455-91; Chapter 22, *Economic rights: Workers, establishment and services*, p.491-529; Chapter 23, *Free movement: social rights*, p.529-53

<sup>11</sup> SIONAIDH DOUGLAS-SCOTT, “CONSTITUTIONAL LAW OF THE EUROPEAN UNION”, (1<sup>st</sup> edition, 2002), Longman Pearson Education Limited, London (2002), Chapter 14, *In search of Union Citizenship*, p.479-515

opportunity for active citizens' participation in the EU processes is the major instrument for identity-building and hereby for consolidation of the European Union. At present the main EU documents are addressing this trend by introducing provisions through which the stronger civil participation can be practically guaranteed. Therefore, the second chapter is focused on certain articles of the Charter of Fundamental Rights of the European Union (like the rights of the elderly (Art.25), consumer protection (Art.38), right to good administration (Art.41), the rights of the workers in chapter 4: Solidarity etc.) as well as on some provisions in the Lisbon Treaty (the 'citizens' initiative' (Art.8B), the enhanced involvement of the National Parliaments in the decision making procedures (Art.8C), the further legislative and budgetary functions which were given to the European Parliament (Art.9) etc.) which extends the "input legitimacy"<sup>12</sup> and the possibility for participation of the European citizens in all stages of the EU political process.

By highlighting the direction of the democratic reforms which are taking place in a new member-state (Bulgaria) and a state which recently applied for membership<sup>13</sup> (Serbia), the final chapter suggests that the guidelines for long-term future development of the European integration are also concentrated on intense civil participation in EU policies. In this chapter I will analyze the phenomena of "Europeanization"<sup>14</sup> of the democratic processes which made possible the adoption of the EU shared values by the two states. Finally, I will examine some legal and constitutional reforms in the countries which were aimed at enhancing the civil participation in the political process and had a crucial positive effect on their relations with EU.

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<sup>12</sup> This is the legitimacy given to the EU integration by the citizens when they see their own preferences projected in the political process; Fritz W. Scharpf, "*Economic Integration, Democracy and the Welfare State*", MPIfG Working Paper 96/2, July 1996; available at: <http://www.mpifg.de/pu/workpap/wp96-2/wp96-2.html>

<sup>13</sup> On December 22<sup>nd</sup> 2009 Serbia officially applied for EU membership; Swedish Presidency of the European Union, "*Serbia applies for EU membership*", available at:

[http://www.se2009.eu/en/meetings\\_news/2009/12/22/serbia\\_applies\\_for\\_eu\\_membership](http://www.se2009.eu/en/meetings_news/2009/12/22/serbia_applies_for_eu_membership)

<sup>14</sup> I will accentuate mostly on the "bottom-up" concept for the Europeanization process which stimulates the citizens' participation in the EU policies. I would refer here mostly to the analyses suggested by CHRISTOPHER HILL, AND MICHAEL SMITH (EDS.), "*INTERNATIONAL RELATIONS AND THE EUROPEAN UNION*", Oxford: Oxford University Press, 2005

# **Chapter One: Which process is a precondition for stronger civil participation in the EU policies? From “formal” citizenship rights to identity-building efforts**

## 1.1. Economic participation in EC/EU. From the free movement of workers to the free movement of citizens

Even though the idea for Europe as a union of politically participating people<sup>15</sup> was topical from the beginning of the actual integration process, the situation after WWII was not a fertile soil for its development. With ruined industries and significant suspicion not only between the ex-enemies but also between the allies, the leading European forces decided to emphasize on the economic initiatives as a field for initial cooperation.

This approach predetermined a corresponding role for the people inhabiting the first integration community (ECSC)<sup>16</sup>. The Treaty of Paris stipulated freedom of movement only for a narrow group, capable of catalyzing the economic cooperation and revival of the six states – namely the workers. What is more, the right covered not all people engaged in economic activity but only those responding to certain fixed criteria. The Treaty granted the right to move freely through the borders just to “workers of proven qualifications”<sup>17</sup> from the coal and steel industries. In addition, even within this category there were some limitations. Not all workers from the selected industries could offer their labor on the work market of any of the other states but only those answering to “a common definition of specialities and

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<sup>15</sup> An essential view point of one of the founding fathers of the federalist approach for the European integration – Altiero Spinelli was that a really consolidated European community can be established if the center of power is shifted from the member states to the people, actively involved in the integration process.; <http://www.jef.eu/>; “Altiero Spinelli – His life and work” and “Jean Monnet – His life and work”; checked 13/02/2010

<sup>16</sup> The European Coal and Steel Community is the first integration organization in Western Europe, founded in 1951 in Paris, the participants being France, the BrNeLux countries, Italy and Germany; <http://europa.eu/>; “Treaty establishing the European Coal and Steel Community”

<sup>17</sup> Treaty establishing the European Coal and Steel Community (Paris 18 April 1951), Art.69(1)

conditions of qualification”<sup>18</sup>. What is obvious is that the contracting parties sought to achieve some rather practical economic objectives and therefore, they ensured free movement to “profit-maximizers”. Designed like that, the right was not aimed at stimulating the solidarity between the people of the new community.

In less than ten years the integration was given new impetus by the establishment of the European Economic Community<sup>19</sup>. Among other innovations, in the EEC Treaty the right of free movement was considerably developed<sup>20</sup>. First of all, unlike in the previous agreement, the right was guaranteed to all workers<sup>21</sup> within the Community and not only to those engaged in certain economic sectors. Secondly, the member states decided to stimulate “the exchange of young workers”<sup>22</sup> and to develop a system of benefit assurance<sup>23</sup>. What is more, “the right of establishment”<sup>24</sup> set up conditions for long term business cooperation and launching business units on the territory of another member state from the Community. The free supply of services<sup>25</sup> entailed the agreement on identical conditions applicable for nationals and residents offering one and the same service. Finally, the free movement of capital necessitated coordination of the policies towards “third countries”<sup>26</sup> in that area.

It is evident by these provisions that the states aimed to ensure continuity of the process initiated in 1951, but clearly it was impossible to secure lasting support of their citizens if there was a benefit for the state economies as a whole but not for the individual participants. For that reason the focus was shifted towards mutual benefits for the Community and for the workers engaged in the process. The strategy used was to provide a certain level of

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<sup>18</sup> Id. Art. 69(2)

<sup>19</sup> It was founded by the Treaty Establishing the European Economic Community (EEC Treaty) which is one of the three Treaties of Rome signed on 25 March 1957; [http://europa.eu/abc/treaties/index\\_en.htm](http://europa.eu/abc/treaties/index_en.htm), checked 13/02/2010

<sup>20</sup> EEC Treaty, Title III “The Free Movement of Persons, Services and Capital”

<sup>21</sup> Id. (Art. 48)

<sup>22</sup> Id. (Art.50)

<sup>23</sup> Id. (Art.51)

<sup>24</sup> Id. Title III, Chapter 2

<sup>25</sup> Id. Title III, Chapter 3, (Art.59)

<sup>26</sup> Id. Title III, Chapter 4, (Art.70(1))

social security (access to work in all sectors of the economy, harmonized system for obtaining benefits in all member states, coordination towards third countries).

It can be concluded that at this second stage the people within the Community were stimulated to participate in the economic integration processes. Even though at this point, generally, we can talk about economic common values, a process of differentiation was triggered. Differentiation of a community of people engaged in intense communications which bring them certain benefits. This is already a good stimulus for participation in the process and a challenging starting point for the building of common identity.

It should be noted that the widening of the scope of the right of free movement and residence is very significant for the development of solidarity (and hereby common values) because this is a sphere directly interrelated with the economic stability of a state. Concessions were made only when further resistance to liberalize the policies in the area would engender such losses for the participants that they would rather refrain from participating in them. Therefore, an unconditional rule was applicable and finally it was officially stated in the Directive on the right of residence from 1990<sup>27</sup>. The nationals of a member state can obtain right of residence on the territory of another member state only if they have a sickness insurance and “resources to avoid becoming a burden on the social assistance system of the host Member State”<sup>28</sup> The politics applied until Maastricht show that for the member states the major benefit from the integration still was the immediate economic effectiveness and not the long-lasting loyalty of the citizens to the integration idea<sup>29</sup>

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27 Council Directive 90/364/EEC of 28 June 1990 on the right of residence

28 Id. (Art.1(1))

29 If we read the decision of the ECJ case of *D.M. Levin v. Staatssecretaris van Justitie* (Case 53/81) of 23 March 1982, we will find out that not until this relatively late moment in the practice of the free movement, it was acknowledged that: “1. The provisions of the Community law relating to freedom of movement for workers also cover a national of a member state who pursues within the territory of another member state, an activity as an employed person which yields an income lower than that which in the latter state is considered as the minimum required for subsistence[...]”, summary available at [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=681J0053](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=681J0053)

After the official establishment of EU citizenship in the Maastricht Treaty<sup>30</sup> a slow but stable liberalization began in the area. The provisions of the Maastricht Treaty formed the most ambitious integration project up to that moment. The decisions to establish Common Market, Economic and Monetary Union<sup>31</sup> and to initiate cooperation in the Common Foreign and Security Policy and Justice and Home Affairs<sup>32</sup> envisaged much closer interaction and further contacts between states and citizens. It is not difficult to guess that for the successful implementation of the new objectives more categories of people and under more liberal conditions should be covered by the right of free movement and residence. The key phrase in the Treaty which made this process possible was that “Every citizen of the Union shall have the right to move and reside freely [...]”<sup>33</sup>. That is how the way for broadening the scope of the right was open.

A number of landmark cases decided by ECJ during the subsequent years favored the opportunities for participation of more citizens in the integration development, which is crucial for the loyalty and common identity-building in the EU. In the case *Martinez Sala*<sup>34</sup>, the right of social benefits covering family needs (in the case – child-raising allowance) was recognized even for residents who are not employed over a certain period. In the famous *Bosman*<sup>35</sup> case, the Court held that not only the free movement of people which is result of relations in the public sphere but also the one deriving from private working arrangements should be regulated by the Community legislation. The *Baumbast*<sup>36</sup> case recognizes a few more important rights, among which is the right of a person who is not employed any more to

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<sup>30</sup> The Maastricht Treaty, 7 February 1992, Part 2, Art.8(1): “Citizenship of the Union is hereby established”

<sup>31</sup> Id. Art.2

<sup>32</sup> Id. Art.199

<sup>33</sup> Id. Art.8a(1)

<sup>34</sup> *Maria Martinez Sala v. Freistaat Bayern*, (Case C-85/96), [1998] ECR I-2691, summary available at [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!CELEXnumdoc&numdoc=61996J0085&lg=en](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&numdoc=61996J0085&lg=en)

<sup>35</sup> *Union Royale Belge des Sociétés de Football Association ASBL and Others v Jean-Marc Bosman and Others*, (Case C-415/93), summary available at [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=61993J0415](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=61993J0415)

<sup>36</sup> *Baumbast and R v Secretary of State for the Home Department*, Case C-413/99, [2002] ECR I-7091, summary available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61999J0413:EN:HTML>

continue to live in the host state (Art.18 (1) directly applied) and the right of the studying children of that kind of person to continue their education in the host state regardless of the changed status of their parent. As is demonstrated by these cases, a different approach was gradually established in the freedom of movement and residence area. The policy of creating social security shifted the focus from the immediate economic gains to the settlement of a long-lasting relation between EU and its citizens which would grant further loyalty and participation in the integration process, also to those people who are with temporary uncertain status (e.g. unemployed).

The civil participation in the European economic integration began as a free movement of workers from a restricted industrial sphere. Nevertheless, the solidarity which proved to give positive results step by step spread over more groups of people and more derivative rights were recognized. The catalogue of rights presented in the currently applicable Directive 2004/38<sup>37</sup> makes it clear that the objective now is to guarantee solidarity among the EU citizens and their willingness to participate in further development. The directive provides social support to the workers but also for the students, job-seekers and their families or, in other words, to every citizen who makes some effort to engage as an active participant in the EU market.

### 1.2. Participation in the political process of EC/EU. From Europe of states to Europe of citizens<sup>38</sup>

The economic crisis in the beginning of the 70s refocused the integration process from the economic to the political realm<sup>39</sup>. It became clear that the structures which made possible

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<sup>37</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, Official Journal of the European Union, L229/35, 29.6.2004, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:229:0035:0048:EN:pdf>

<sup>38</sup> The idea for “A citizen’s Europe” is broadly developed in Chapter 4 of the Tindemans report (1975)

the economic integration lacked the qualities necessary for deepening the sense of European political belonging. In other words, an institutional reorganization was needed in order to stimulate the identity-building process among the European citizens and to ensure the transformation from, more or less amorphous Community to homogenous Union. The guidelines for this transition were first drafted in 1975 in the “Report on European Union” by the Belgium Prime Minister – Leo Tindemans.

While proposing future reforms, Tindemans disclosed an entirely new view of the integration and for the first time referred directly to the “human dimension of the undertaking”<sup>40</sup>:

We must listen our people. What do the Europeans want? What do they expect from a united Europe?<sup>41</sup>

Tindemans suggested that the stronger civil participation in the integration process should be pursued in several ways. First, he introduces the conception of “rights of Europeans [which] can no longer be guaranteed solely by individual states”<sup>42</sup> or put another way, he defines the “special rights” as one of the core areas in which the European citizenship would develop in future<sup>43</sup>. What makes a further impression is that even in this first attempt, an effort is made to put on the agenda not only general principles, but rights and topics which reflect the crucial interests and worries of the Europeans at the time (consumer rights, ecology and nuclear energy, educational cooperation)<sup>44</sup>. The second core area which had to be developed as an expression of the European solidarity was the passport policy (the gradual abolition of internal borders).

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<sup>39</sup> ANTJE WIENER, “EUROPEAN CITIZENSHIP PRACTICE. BUILDING INSTITUTIONS OF A NON-STATE”, Westview Press, 1998, p.65-66

<sup>40</sup> European Union Report by Mr Leo Tindemans, Prime Minister of Belgium, to the European Council, 1975, p.26

<sup>41</sup> Id. p. 11

<sup>42</sup> Id. p.26

<sup>43</sup> ANTJE WIENER, “EUROPEAN CITIZENSHIP PRACTICE. BUILDING INSTITUTIONS OF A NON-STATE”, Westview Press, 1998, p.75

<sup>44</sup> European Union Report by Mr Leo Tindemans, Prime Minister of Belgium, to the European Council, 1975, p.26 - 28

Drafted in this way, both aspects stimulate the process of identity-building. First, the people should be given at supranational level a common basis of rights which are usually given by the national state. Second, the communication between them is stimulated. In the process of their common activities the nationals of different states face common problems and find mutually beneficial solutions based on their common “European” rights. The similarity in the problems and solutions leads to solidarity in the views of the participants for “what is valuable”.

A third innovation which was initially suggested in the Tindemans report was also directed towards strengthening citizens’ participation in European politics, namely this was the proposal for direct elections for the European Parliament. According to the Tindemans report, this step would make the whole process of European integration more legitimate and democratic<sup>45</sup>. The first direct elections took place relatively soon – in 1979. Except for the obvious result – the individuals themselves directly deciding who will represent them on supranational level, there is another important side of the decision. By voting for European deputies, the people are supporting ideas and parties, not nationally grounded interests.<sup>46</sup> This principle further feeds into common identity- building first, because individuals of various national origin are represented by one party in the European Parliament and second, all these parties should again search for common grounds between themselves because without a stable majority the Parliament is incapable of executing its functions at all.

It can be concluded that the political participation envisaged in the Tindemans report laid the foundations for a new stage in the European identity-building process. The citizenship rights, passport policy and direct elections to European Parliament all proved to be valuable recommendations for enhanced involvement of the individuals in the integration. It should be noted, though, that implementation of these plans took quite a long time. The standardized

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<sup>45</sup> Id. p.29

<sup>46</sup> JOHN PETERSON AND MICHAEL SHACKLETON, (EDS.) (2006), “THE INSTITUTIONS OF THE EUROPEAN UNION”, (2 edn.; Oxford: Oxford University Press), p. 112

passport did not come into use until 1985<sup>47</sup>, European citizenship was officially stated in the Maastricht treaty (1992) and again only Maastricht provided the co-decision procedure which gave the European Parliament a real word in the legislative process.

The Maastricht treaty was a break-through document in all spheres concerning the European integration, but the aspects which had greatest impact on the further participation of the people were the establishment of EU citizenship (Art.8) and the co-decision procedure granting more powers to the Parliament.

The citizenship rights as stipulated in the treaty had a specific character. Unlike the national citizenship, the European one was not focused on the relation between citizen and political formation, but accentuated on the notion of solidarity and equality between the citizens themselves<sup>48</sup>. The “new” rights were not national citizenship rights restated at supranational level but supplementary ones<sup>49</sup>. Further, the European citizens were given “political rights traditionally withheld from foreigners”<sup>50</sup> like the right to vote and hold administrative positions. The right to vote in municipal elections (Art.8B1) guaranteed the citizens direct participation in the political process. Even though they were already granted the right to vote for European deputies, only the participation in the local elections ensured that every EU citizen would be able to affect and contribute to the development of his/her place of residence<sup>51</sup>. Finally, the EU started looking more like a political entity in a process of consolidation, an entity which stimulates the loyalty of its citizens and relies on their support, and never more a community gathered only by pure economic interest.

The co-decision procedure (taking decisions jointly with the Council)<sup>52</sup> initiated in Maastricht provided for expansion of the European Parliament’s powers. Gradually, from

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<sup>47</sup> “The European Passport”, <http://www.ena.lu/>

<sup>48</sup> ANTJE WIENER, “EUROPEAN CITIZENSHIP PRACTICE. BUILDING INSTITUTIONS OF A NON-STATE”, Westview Press, 1998, p.86

<sup>49</sup> Id., p.11

<sup>50</sup> Id., p.75

<sup>51</sup> Id., p.282

<sup>52</sup> “Codecision procedure”, [http://europa.eu/scadplus/glossary/codecision\\_procedure\\_en.htm](http://europa.eu/scadplus/glossary/codecision_procedure_en.htm)

being among the weakest institutions, the Parliament, transmitting the citizens' will, gained the power to influence the official decisions of the EU. In the subsequent years the scope of the areas covered by the co-decision was broadened<sup>53</sup>, but what matters here is not only the quantity of areas, but also their nature. All the spheres in which the Parliament increased its authority between Maastricht and Lisbon were of greatest concern for European citizens.<sup>54</sup> In other words the opinion of the citizens was affecting most the decisions which had greatest impact on their lives.

As the topic of this paper aims to demonstrate, the strengthening of the civil participation in the integration processes stimulates the overall consolidation and development of the European Union. As covered in this chapter, the economic objective for creation of a Single market with the common efforts of the European workers and students spilled over to deeper cooperation in the political sphere<sup>55</sup>. The passport policy understandably intensified the cooperation in the area of justice and home affairs<sup>56</sup>; and the introduction of the co-decision procedure which proved to be extremely effective negotiating method improved the cooperation between the European Parliament, the Council and the Commission<sup>57</sup>.

Despite the initial plans the European integration started as an economic process in which the individuals were conceded the modest role of "profit-maximizers". Soon it became clear that if the emerging community was based only on these principles it would remain unstable and therefore a risky undertaking. Gradually, the individuals were involved as active

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<sup>53</sup> In the Nice Treaty (2000) the co-decision procedure is applied in 37 legal areas and in the Constitutional treaty (2004) in 90, JOHN PETERSON AND MICHAEL SHACKLETON, (EDS.) (2006), "THE INSTITUTIONS OF THE EUROPEAN UNION", (2 edn.; Oxford: Oxford University Press), p. 106

<sup>54</sup> "Co decision procedure", [http://europa.eu/scadplus/glossary/codecision\\_procedure\\_en.htm](http://europa.eu/scadplus/glossary/codecision_procedure_en.htm); last checked on 18/02/2010: "In practice, it has strengthened Parliament's legislative powers in the following fields: the free movement of workers, right of establishment, services, the internal market, education (incentive measures), health (incentive measures), consumer policy, trans-European networks (guidelines), environment (general action programme), culture (incentive measures) and research (framework programme)"

<sup>55</sup> ANTJE WIENER, "EUROPEAN CITIZENSHIP PRACTICE. BUILDING INSTITUTIONS OF A NON-STATE", Westview Press, 1998, p.162

<sup>56</sup> Id., p.184

<sup>57</sup> JOHN PETERSON AND MICHAEL SHACKLETON (EDS.) (2006), "THE INSTITUTIONS OF THE EUROPEAN UNION", (2 edn.; Oxford: Oxford University Press), p. 109

participants first in the economic and then in the political processes of the integration. What we can observe from this transition is that the “shared values” which proved to be the basis for the civil participation, were not something existent and inherent which was only disclosed and put on the foreground. The common values emerged (and they are still emerging) in the process of cooperation and problem resolution. Therefore, we can conclude that the shared values, at least until Lisbon, laid the foundation of a market-orientated identity in EU<sup>58</sup>. The every day participation of the citizens in the integration areas helped the greater solidarity in the Community and consolidation of the European Union. Due to this fact the EU entered the 21<sup>st</sup> century ready to define its consolidated personality on the international stage. For that purpose though, further participation was needed. In the Nice declaration on the future of the Union it was agreed that “simplification of the treaties”<sup>59</sup> was needed so that the EU can be brought even closer to its citizens. The “role of the national parliaments”<sup>60</sup> and Charter of Fundamental Rights were also among the crucial questions addressed in the declaration. All these aspects concerning the development of the civil participation were central for the next integration period.

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<sup>58</sup> Wincott analyzing a statement of G. Majone in ANTHONY ARNULL AND DANIEL WINCOTT (EDS.), “ACCOUNTABILITY AND LEGITIMACY IN THE EUROPEAN UNION”, Oxford: Oxford University Press 2002; p.383

<sup>59</sup> Declaration on the future of the Union, Treaty of Nice, (26 February 2001), Final Act, Annexed declarations, available at: <http://www.eurotreaties.com/nicefinalact.pdf>, last checked 23/03/2010

<sup>60</sup> Id.

## **Chapter Two: What are the current legal provisions that would support stronger participation? Strengthening of the input legitimacy.**

In the period between Maastricht and Lisbon prominent EU scholars like Scharpf<sup>61</sup>, Arnull and Wincott<sup>62</sup> suggested that EU democratic legitimacy has two aspects – input and output legitimacy. The input legitimacy is achieved when the EU citizens see their preferences projected into the political process, or in other words, it has to do with civil participation and identity-building. For output legitimacy we can talk when the result of the EU political process is high effectiveness which satisfies EU citizens. For quite a long time the accent was put on the second dimension but clearly it was not enough to ensure stable support of EU political initiatives<sup>63</sup>. As a result, during the Post-Maastricht period there was a continuous development of instruments and provisions stimulating the input legitimacy which reached its highest point in the Charter of Fundamental Rights of the European Union (hereafter – the Charter) and the Lisbon Treaty. In this chapter I would suggest that the former instrument stimulates the group-by-group civil participation while the latter helps the overall involvement of the citizens in the European integration processes.

### 2.1. The Charter of Fundamental Rights of the European Union

Generally, there are four ways of civil participation in the political process – “voting, campaign activity, communal activity (working within a group in the community) and directly contacting officials”<sup>64</sup>. Even though the process of voting is the one which gives direct legitimacy to the whole democratic political system, in comparison with the other three it requires less individual initiative. The elections are centrally organized, there is fixed time

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<sup>61</sup> Fritz, W. Scharpf, “*Economic integration, democracy and welfare state*”, MPIfG Working Paper 96/2, July 1996, <http://www.mpifg.de/pu/workpap/wp96-2/wp96-2.html>, last checked 20/02/2010

<sup>62</sup> ANTHONY ARNULL, AND DANIEL WINCOTT, “ACCOUNTABILITY AND LEGITIMACY IN THE EUROPEAN UNION”, Oxford: Oxford University Press 2002, p.378-380

<sup>63</sup> Id. The result was evident at the negative vote in Denmark and France during the Maastricht referenda.

<sup>64</sup> RUSSELL J. DALTON, “CITIZEN POLITICS. PUBLIC OPINION AND POLITICAL PARTIES IN ADVANCED INDUSTRIAL DEMOCRACIES”, (4<sup>th</sup> edition) Washington: CQ Press 2006, p.36

when they should be held as well as certain programs which can not be affected by the electors. In the contemporary society this algorithm leads to lower turnout because the citizens don't have the feeling that they have any active role in policy-making. The alternative mobilization of the electorate requires time and strategy. Polls<sup>65</sup> show that the campaign and communal activity as well as the direct access to the institutions are dependent on certain conditions, like higher education and better access to information<sup>66</sup>. Furthermore, the young and the elderly people have different preferences in terms of participation in the political process. If the elderly participate more in the voting and campaign process, the young rather take part in group activities<sup>67</sup>.

As is evident, there are several main groups which are especially important at different stages of the participation process. The rights of these groups were articulated in different articles of the Charter. It is also important to mention here that the Charter itself is not created in a "closed" intergovernmental process but is a result of wide public debate and therefore it directly represents the crucial interests of EU citizens<sup>68</sup>. That is to say that the Charter comprises exactly the rights which the citizens themselves regard as crucial and want to see articulated.

Twenty-five years before the proclamation of the Charter in his report Tindemans referred to the Europeans' educational and scientific development as a resource of prime importance and "the grey gold"<sup>69</sup> of Europe. According to the Euro barometer report from spring 1995, the younger and more educated people are "more pro-European"<sup>70</sup>. The data from 2000 showed that 65% of the people with higher education and 55% of the young people between

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<sup>65</sup> Id., Here the author highlights studies reflecting the situation not only in EU (GB, France, Germany used as basis) but in all developed western democracies (U.S. included)

<sup>66</sup> Id., p.54-56

<sup>67</sup> Id., p.58

<sup>68</sup> ANTHONY ARNULL AND DANIEL WINCOTT, "ACCOUNTABILITY AND LEGITIMACY IN THE EUROPEAN UNION", Oxford: Oxford University Press 2002, p.285

<sup>69</sup> European Union Report by Mr Leo Tindemans, Prime Minister of Belgium, to the European Council, 1975 p.12

<sup>70</sup> Standard Euro barometer report 43, Spring 1995, p.9,  
[http://ec.europa.eu/public\\_opinion/archives/eb/eb43/eb43\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb43/eb43_en.pdf)

15 and 24 year old support membership in the EU<sup>71</sup>. In 2009 these figures are even improved – 62% of young between 15 and 24 years and 66% of the citizens with higher education support the EU membership of their country<sup>72</sup>. Not surprisingly, this stable trend in supporting the integration process made the education and the rights of the young people among the most developed areas in the Charter. Not only is the general “right of education” accentuated, but also “continuing training”<sup>73</sup>. This formulation highlights an important policy in the EU – using education to win the support of more people within the various age groups (even those of the elder people who were traditionally more pessimistic and aloof from the integration).

It is a common truth that the young people are among the most important resources for each state and the above statistics show that in the EU they are also a stable source of support and participation. Therefore, the rights of the young are also granted in one of the fundamental integration sectors – namely, the “protection of young people at work”<sup>74</sup>. The surveys show<sup>75</sup> that in 2004, 22% or 43 million workers were 15-29 year-old and these citizens also comprise the most vulnerable group at the working place<sup>76</sup>.

Meanwhile, an important characteristic of the EU is its ageing population<sup>77</sup>. Since the elder EU citizens will represent an ever increasing number of the EU population, the importance of their participation is not less important than that of the young ones.

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<sup>71</sup> Standard Euro barometer report 53, Spring 2000, p.9,  
[http://ec.europa.eu/public\\_opinion/archives/eb/eb53/eb53\\_en.htm](http://ec.europa.eu/public_opinion/archives/eb/eb53/eb53_en.htm)

<sup>72</sup> Standard Euro barometer report 71, Spring 2009, p.94,  
[http://ec.europa.eu/public\\_opinion/archives/eb/eb71/eb71\\_std\\_part1.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb71/eb71_std_part1.pdf)

<sup>73</sup> The Charter of Fundamental Rights of the European Union, proclaimed on 7 December 2000, Art. 14(1)

<sup>74</sup> Id., (Art. 32)

<sup>75</sup> “2004 Labor Force Survey” cited by the European Agency for Safety and Health at Work” in “*A statistical portrait of the health and safety at work of young workers*”, p.1 <http://osha.europa.eu/en/publications/e-facts/efact08>

<sup>76</sup> European Agency for Safety and Health at Work, [http://osha.europa.eu/en/priority\\_groups/young\\_people](http://osha.europa.eu/en/priority_groups/young_people), last checked 21/02/2010

<sup>77</sup> Konstantinos Giannakouris, *Eurostat Statistics in Focus. Population and Social Conditions*, 72/2008: “Ageing characterizes the demographic perspectives of the European societies”, p.1; According to this report the percentage of EU citizens over 65 years will increase from 17% in 2008 to 30% in 2060, [http://epp.eurostat.ec.europa.eu/cache/ITY\\_OFFPUB/KS-SF-08-072/EN/KS-SF-08-072-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-08-072/EN/KS-SF-08-072-EN.PDF), last checked 21/02/2010

Correspondingly, the Charter highlights this tendency and equally guarantees their rights as well as their participation “in the social and cultural life”<sup>78</sup>.

The whole European integration began with economic cooperation, free movement of workers and gradual ensuring of their rights, so it is not surprising that a considerable part of the Charter is again dedicated to the rights of this important group. The workers’ rights come under the Solidarity Chapter<sup>79</sup> and as the title shows, the intention is not only to list a number of rights but also to stimulate the cooperation between the employers and employees. Among the enumerated rights are the guarantees in case of dismissal<sup>80</sup> but also some positive rights such as “the right to information and consultation [...]”<sup>81</sup> and “access to placement services”<sup>82</sup>. Again the accent is on the problems which are of greatest concern for the relevant group and therefore, the efforts for their resolution would entail more loyalty and support for the EU structures.

In the Charter were highlighted not only the rights of the workers – the people who provide the goods and services, but also the protection of the consumers<sup>83</sup> was made more visible. Another crucial sphere focused on by the Charter goes under the “Right to good administration”<sup>84</sup>. It was said earlier that during the period when the Charter was issued, the European leaders were trying to make the EU more accessible for citizens. This right comprises aspects like improving the quality of services offered by the EU institutions, further transparency of the EU policies and accountability. A practical embodiment of the attempt to make EU more understandable is the possibility of the citizens to address an EU institution

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<sup>78</sup> The Charter of Fundamental Rights of the European Union, (Art. 25)

<sup>79</sup> Id. Chapter IV

<sup>80</sup> Id. (Art.30)

<sup>81</sup> Id. (Art.27)

<sup>82</sup> Id. (Art.29)

<sup>83</sup> Id. (Art.38)

<sup>84</sup> Id. (Art.41)

and to receive an answer in “one of the languages of the Treaties”<sup>85</sup> (the official languages of the 27 Member States) as well as the “Right of access to documents”<sup>86</sup>.

As the Charter itself stipulates, it does not create new or change the existing powers of the EU<sup>87</sup> but from the above analysis it can be concluded that this document makes a selection between a conglomerate of various rights, filtrates and exposes only those of them which have proved to be of special importance for major groups of EU citizens. By doing this, the Charter is aimed at ensuring further involvement of these groups in the various levels of the participation process. The question is whether the so defined purpose is achieved successfully. According to Eurobarometer report from 2008: “For EU27 citizens, human rights, peace and democracy are the three values that best represent the European Union”<sup>88</sup> supported correspondingly by 37%, 35%, and 34% of the interviewed. It seems that the guidelines suggested by the Charter lead in the right direction.

## 2.2.The Lisbon Treaty. Strengthening of all channels for civil participation

The Lisbon Treaty is the major proof that currently the EU attempts to strengthen its role on the international arena by enhancing the civil participation in EU policies. Despite the emotional reactions around the ratification of the Lisbon Treaty, it is actually one rather balanced document in terms of institutional powers. Even though the EU is given further personality by the creation of the post of High Representative of the Union for Foreign Affairs and Security Policy<sup>89</sup>, the most supranational body – the Commission is not given any powers in the area of CFSP. Further, in the Lisbon Treaty most EU areas are covered by the qualified

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<sup>85</sup> Id. Art.41(4)

<sup>86</sup> Id. Art.42

<sup>87</sup> Id. Art.51(2)

<sup>88</sup> Standard Euro barometer report 69, “The values of the Europeans”, Spring 2008, p.21; [http://ec.europa.eu/public\\_opinion/archives/eb/eb69/eb69\\_values\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb69/eb69_values_en.pdf)

<sup>89</sup> Functions mainly enumerated in Title III, Art.9E of the Treaty of Lisbon, Official Journal of the European Union, Volume 50, 17 December 2007, Notice No. 2007/C 306/01

majority vote procedure. It is often claimed that this measure would reduce the powers of the Member States to follow predominantly their own interests<sup>90</sup> and would contribute to more decisions favorable for the whole community. It should be noted though, that the procedure of “enhanced cooperation”<sup>91</sup> could also be triggered far easier with QMV under the present treaty<sup>92</sup>. Through it the Member states are given another opportunity to shape the policies in which they are interested in participating. Nevertheless, there are “great winners” of the ratification of the Lisbon Treaty – the EU citizens. Various provisions of the treaty are obviously favorable for the development of the citizens’ strong participation in the EU processes. Hereafter I will concentrate on three of them: the reformed role of the European Parliament, the new powers granted to the national parliaments<sup>93</sup> and the so called “citizens’ initiative”<sup>94</sup>.

#### A. The European Parliament

The European Parliament is probably the most dynamic EU institution. In the first years of the integration it was a body with rather symbolic functions and it has gradually transformed into a directly elected institution with a considerable role in EU decision-making. According to the Euro barometer data<sup>95</sup>, 76% of the people interviewed in 2000 regard the European Parliament as the institution with the most important role in the EU. It is also the body which the EU citizens “tend to trust”<sup>96</sup> most. For the period leading up to 2009, the level

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<sup>90</sup> Jo.Leinen, “Lisbon Treaty: a great success for the European Parliament”,

[http://www.theeuros.eu/IMG/article\\_PDF/1068-The-Reform-Treaty-a-great,1068.pdf](http://www.theeuros.eu/IMG/article_PDF/1068-The-Reform-Treaty-a-great,1068.pdf), last checked 22/02/2010

<sup>91</sup> It is a provision according to which at least 9 EU countries can cooperate deeply in policy areas where the other MS are still not ready to participate at an equal level; from Europa Glossary, [http://europa.eu/scadplus/glossary/enhanced\\_cooperation\\_en.htm](http://europa.eu/scadplus/glossary/enhanced_cooperation_en.htm)

<sup>92</sup> Joint Study of EPC, EGMONT and CEPS, November 2007, “The Treaty of Lisbon: Implementing the Institutional Innovations”, available at <http://www.ceps.eu/node/1385>; p.101

<sup>93</sup> Lisbon Treaty, Title II, (Art.8C) and “Protocol on the role of the national parliaments in the European Union”, annexed to the Lisbon Treaty

<sup>94</sup> Lisbon Treaty, Official Journal of the European Union, Volume 50, 17 December 2007, Title II, (Art. 8B)

<sup>95</sup> Standard Euro barometer report 53, Spring 2000, p.32;

[http://ec.europa.eu/public\\_opinion/archives/eb/eb53/eb53\\_en.htm](http://ec.europa.eu/public_opinion/archives/eb/eb53/eb53_en.htm)

<sup>96</sup> Id. p.33

of trust was always kept high (around 50%)<sup>97</sup>. This statistics is not surprising having in mind that the European Parliament is the body which to a largest extent represents the citizens in the EU policies. Understandably, if the purpose is to strengthen the civil support and participation in the EU processes, the powers of the European Parliament should be also enhanced.

Under the Lisbon Treaty the European Parliament co-decides with the Council in most legislative and budgetary areas<sup>98</sup>. What also makes an impression is the development of more instruments for accountability of both the Council and the Commission to the Parliament. Even for questions such as “the system of own resources” of the EU<sup>99</sup>, the Parliament should provide the Council with consultation and consent. Secondly, under the new treaty it is granted further participation in the comitology procedure where the Commission is obliged to render account for its actions to the Parliament. This measure has the potential to engage the Parliament also in the accomplishment of the legislative acts<sup>100</sup>.

Especially important among the reforms concerning the European Parliament is the changed relation between this most representative for the citizenship element body and the most supranational institution – the Commission. The Commission is designed to be an independent body<sup>101</sup>, but at the same time it “[...] shall promote the general interest of the Union [...]”<sup>102</sup> and this general interest can be articulated when the European citizens vote for specific political platforms on the elections for European Parliament. Until now the President of the Commission was both nominated and appointed by the Council<sup>103</sup> but under the new treaty there is a difference. The proposal of the Commission’s President is still a prerogative

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<sup>97</sup> Standard Euro barometer report 71, Spring 2009, p.110;  
[http://ec.europa.eu/public\\_opinion/archives/eb/eb71/eb71\\_std\\_part1.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb71/eb71_std_part1.pdf)

<sup>98</sup> Treaty of Lisbon, Title III, (Art. 9A)

<sup>99</sup> Id., Title VII, (Art.269)

<sup>100</sup> Joint Study of EPC, EGMONT and CEPS, November 2007, “The Treaty of Lisbon: Implementing the Institutional Innovations”, available at <http://www.ceps.eu/node/1385>; p. 9-10

<sup>101</sup> Treaty of Lisbon, Title III, Art. 9D(3)

<sup>102</sup> Id., Art. 9D(1)

<sup>103</sup> Treaty of Nice (2001), Official Journal of the European Union, 10.3.2001, Art. 214(2), available at: [http://eur-lex.europa.eu/en/treaties/dat/12001C/pdf/12001C\\_EN.pdf](http://eur-lex.europa.eu/en/treaties/dat/12001C/pdf/12001C_EN.pdf)

of the Council but it should be consistent with the results of the elections for European Parliament<sup>104</sup>. Then the President is elected by the European Parliament<sup>105</sup>. Furthermore, the already existing provision giving the Parliament a right of “motion of censure of the Commission”<sup>106</sup> continues to exist and is strengthened by the power of the Parliament to approve the new Commission<sup>107</sup>. Having in mind that the Parliament<sup>108</sup>, as well as the Commission<sup>109</sup>, has a five year term of office, this is a guarantee for stronger cooperation between these two institutions. A Commission which promotes a common EU interest reflecting the political expectations of the citizens would defend EU positions which are more relevant to the people’s expectations.

### B. The National Parliaments

The national parliament in each state is the representative body which is closest to the citizens. It articulates and searches for solutions of more specific, local problems, which are though, of crucial importance for the citizens of the relevant country. Therefore, the national parliament is an effective transmitter of regional positions and one more instrument for civil participation in the European political processes. What is more, the national parliaments are in permanent contact with the population of the Member States and can provide immediate feedback for the social attitudes towards various EU initiatives.

The Lisbon Treaty strengthens considerably the role of the national parliaments in EU policies. First of all, the EU institutions already have the obligation to send any draft legislations to the national parliaments of the Member States<sup>110</sup>. The national parliaments, for their part, should make sure these acts are in conformity with the subsidiarity principle and if

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<sup>104</sup> Treaty of Lisbon, Title III, Art. 9D(7)

<sup>105</sup> Id. (Art.9A)

<sup>106</sup> Id. Art. 9D(8)

<sup>107</sup> Id. Art. 9D(7)

<sup>108</sup> Id. Art. 9A(3)

<sup>109</sup> Id. (Art. 9D)

<sup>110</sup> Id. Title II, (Art. 8C)

not, they can return the act to the relevant institution for further consideration and amendment<sup>111</sup>. Through this provision the European citizens, indirectly though, can make sure that the legislation enacted by the EU which will be subsequently binding for them, is in their best interest and reflects the democratic principles established in the EU. Secondly, under the new provisions the national parliaments should participate in the case of revision of the Treaties<sup>112</sup>. In that way the citizens are given the opportunity to affect the general direction in which the integration is progressing.

The participation of the national parliaments in the EU legislative processes enhances EU accountability and makes its policies more perceivable for the citizens. If the stronger European Parliament grants them participation in the broader, supranational EU initiatives, the new position of the national parliaments creates conditions that the EU legislation and reforms will be tailored in conformity with the interests and preferences of the population in each Member State.

### C. The European Citizens' Initiative (ECI)

The two ways of civil participation in the EU integration processes presented above were examples of mediated participation. By contrast the Lisbon Treaty provision for Citizens' initiative<sup>113</sup> is an innovative instrument which can directly channel the citizens' preferences to the EU institutions. In practice the provision means that if at least a million people sign a proposal for legislative actions in an area which is of their common interest, and if this proposal answers to certain criteria, then the Commission should initiate legislation on the matter and send it to the Parliament and the Council<sup>114</sup>. The recommendations for

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<sup>111</sup> Id. "Protocol on the role of national parliaments in the European Union", "Protocol on the application of the principles of subsidiarity and proportionality"

<sup>112</sup> Id. (Art. 8C(d))

<sup>113</sup> Id. Title II, Art. 8B(4)

<sup>114</sup> Carsten Berg, "Lisbon treaty enters into force – so does the European citizens' initiative", [thenewfederalist.eu](http://www.taurillon.org/Lisbon-treaty-enters-into-force-so-does-the-European-Citizens), 11/12/2009, <http://www.taurillon.org/Lisbon-treaty-enters-into-force-so-does-the-European-Citizens>, last checked 24/02/2010

admissibility criteria of a citizens' initiative are enlisted in the Commission's Green Paper<sup>115</sup>. The main issues are formulated like questions to which the citizens are invited to respond by January 31<sup>st</sup> 2010. With the submitted opinions taken in mind, a regulation arranging the organizational details for ECI will be issued<sup>116</sup>. The intention here is that the citizens themselves should suggest the terms under which they would more willingly take part in this direct method of civil participation in the EU legislative process.

One of the tasks set was that the ECI should put for discussion questions which reflect the interests of a wide range of EU citizens and do not have national or regional character. Therefore, the Lisbon Treaty stipulates that the signatures collected within an ECI should be by "nationals of a significant number of Member States"<sup>117</sup> and the Commission suggests that this is "one third of the total number of Member States"<sup>118</sup>. At the same time in each of these states at least 0.2% of the population should support the initiative<sup>119</sup>. This double requirement ensures that towards the institutions will be articulated really significant concerns soldierly supported by a representative group of citizens. Most of the other questions posed were related to a format which would be understandable for a greater number of people<sup>120</sup> as well as to issues which would ensure transparency of the procedure<sup>121</sup>.

As is evident, the provision for ECI aims to actively involve the European citizens even from the earliest stage of formulation the conditions for its organization. In addition, large groups from different national backgrounds are stimulated to agree on common interests

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115 "Green Paper on a European citizens' initiative", Brussels, 11.11.2009 COM(2009) 622 final

116 "The European citizens' initiative", "Objective of the consultation", available on the site of the European Commission, [http://ec.europa.eu/dgs/secretariat\\_general/citizens\\_initiative/consultation\\_en.htm](http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/consultation_en.htm), last checked 24/02/2010

117 Id. Art. 8B(4)

118 "Green Paper on a European citizens' initiative", Brussels, 11.11.2009 COM(2009) 622 final, p. 5

119 Id. One million is 0.2% of 500 million which is the total EU population so the Commission suggested that this formula should be applied also on a state level.

120 Id., p.7

121 Id., p.7-13

whose implementation would result in common benefits. That is how the ECI enhances the solidarity within the Community and as a whole makes the EU more consolidated.

The outlining of the rights of the major groups of EU citizens in the text of the Charter laid the foundation of a continuous process of stimulating the development of the input legitimacy of the EU policies. Almost a decade later the Lisbon Treaty strengthened the multiple channels for civil participation of the whole EU community in the integration process. Whether these well-designed provisions will give the expected results depends on the ability of the EU citizens to unite around shared interests and values. But do the EU citizens really believe that they have common values? The Euro barometer report issued just a year before the Lisbon Treaty entered into force concludes:

EU-27 citizens are not only convinced that the Member States of the European Union are close to each other in terms of values, they also believe that the Member States of the European Union share similar values and the European values do therefore exist<sup>122</sup>.

Having this in mind, the next chapter will demonstrate that the further development of the EU identity and the strong civil participation in the EU processes is a long-term plan and the direction in which the integration is aimed.

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<sup>122</sup> Standard Euro barometer report 69, “The values of the Europeans”, Spring 2008, p.71; [http://ec.europa.eu/public\\_opinion/archives/eb/eb69/eb69\\_values\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb69/eb69_values_en.pdf)

### **Chapter Three: Steps supporting continuous civil participation in future EU integration processes; The Europeanization of new and future Member States.**

The last chapter of this thesis attempts to highlight some crucial current reforms which took place in one of the newest EU Member States – Bulgaria, and a state which is on its way of becoming a member – Serbia. The suggestions addressed by the EU institutions concern democratization, transparency and better accountability. As was demonstrated in the previous chapters, all these changes attempt to ensure stronger civil participation and involvement in the political processes – the national ones and hence, the EU ones. The reason why these two countries are objects to present chapter is that the idea for civil participation in them still differs from the EU common perception of participation. The disenchantment from the period of national democratic transition after the communist regimes in these countries collapsed made the population rather pessimistic about the political capacity of their governments and unwilling to participate in any kind of social activism. If the attitude towards the national government circles projects to the European level, it means that the population in these states will not see the supranational level as an arena where some of their important concerns can find solution and, correspondingly, these societies will not volunteer to participate in the EU integration processes. This scenario would be the exact opposite of EU present policy analyzed in the previous chapters. Therefore, the reforms supported by the EU level in Bulgaria and Serbia accentuate especially this “bottom-up” dimension of the Europeanization process. They convincingly demonstrate that the strengthening of civil participation is a long-term strategy for consolidation of the EU.

The term “Europeanization” refers to “the political and policy changes caused by the impact of membership in the European Union on the Member States”<sup>123</sup>. It is not a one-direction influence, but a mutual fertilization between the EU level and the Member States. Within the top-down Europeanization, the national structures are reformed according to the requirements of the *acquis communautaire* and the EU directives. Gradually, the national political dynamics is shaped by the EU organization principles<sup>124</sup>. Despite this, though, there is also a “bottom-up” Europeanization. This term refers to a rather active role of the Member States and their nationals who rationally project their “preferences, policy ideas and models to the European Union”<sup>125</sup>. The important factor here is that the Member States are not articulating their interests to the European level at random, but only interests which can be implemented at the supranational level and are beneficial for the whole community. A collateral effect of this process is the shared identity-building. Nevertheless, the bottom-up process can be supported by the top-down. In other words, EU needs participating citizens that are willing to articulate their interests towards the supranational level. However, effective uploading of interests can be done only by institutions and within a legal framework which meets the EU requirements in a way that they benefit the whole Community. Bulgaria is the example of a Member state where a number of administrative improvements should be made in order to facilitate and enhance the civil participation of its citizens in the EU processes. Serbia stands for transformation of the legal framework which would make the participation possible when the country becomes a member of the European Union.

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<sup>123</sup> CHRISTOPHER HILL AND MICHAEL SMITH, (EDS.), “INTERNATIONAL RELATIONS AND THE EUROPEAN UNION”, Oxford: Oxford University Press (2005), p.135

<sup>124</sup> K. Howell, “*Developing conceptualizations of Europeanization: Synthesizing methodological approaches*”, Queen’s papers on Europeanization, No 3/2004, <http://www.qub.ac.uk/schools/SchoolofPoliticsInternationalStudiesandPhilosophy/FileStore/EuropeanisationFiles/Fileupload,38403,en.pdf>

<sup>125</sup> CHRISTOPHER. HILL AND MICHAEL SMITH, (EDS.), “INTERNATIONAL RELATIONS AND THE EUROPEAN UNION”, Oxford: Oxford University Press (2005), p.137

### 3.1. The case of Bulgaria – from inertia towards transformation

As was highlighted in the previous chapter, the right to good administration<sup>126</sup> is stated among the fundamental rights of the European citizens in the Charter. It guarantees the existence of effective channels through which society can participate and articulate its interests towards the supranational level. In Bulgaria, like in most of the countries of CEE during the accession period, the political elites tried to satisfy faster the criteria for membership and as a result reform documents were proliferated but they remained only on paper without being implemented by the administration or understood by society<sup>127</sup>. This phenomenon made civil participation as well as the adaptation to the EU structures after accession more difficult. The state was assimilating rules and provisions from the EU, but the citizens lacked the channels to transfer their interests to the supranational level<sup>128</sup>.

Radaelli suggests a rather operational classification of the ways how the national structures can adapt to EU requirements. There are four ways to do this – accommodation, retrenchment, inertia and transformation<sup>129</sup>. Accommodation is a method through which the more insignificant EU standards are absorbed by the national system but it intentionally keeps its previous logic of behavior<sup>130</sup>. The retrenchment is an extreme case of the so called “negative Europeanization”<sup>131</sup> where the institutions answer to the EU reform standards with an even more nationalistic policy. The last two methods relate to the Bulgarian case. Within the inertia the national situation practically does not change according to the EU standards because the administrative capacity is insufficient for this<sup>132</sup>. The transformation is the real evolution of the national institutions with regard to EU standards. Only “transformed”

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<sup>126</sup> The Charter of Fundamental Rights of the European Union, (Art. 41)

<sup>127</sup> Svetlozar Andreev, “*Europeanization from below: Civil society monitoring of Bulgaria’s accession to the EU*”, Centre for the Studies of Public Policy, University of Aberdeen, Aberdeen AB24 3QY, Scotland (2007), p. 10-11

<sup>128</sup> Id., p. 9

<sup>129</sup> Claudio M. Radaelli, “*Whither Europeanization? Concept stretching and substantive change*”, European Integration online Papers (EIoP) Vol. 4 (2000) N° 8, p.15, <http://eiop.or.at/eiop/pdf/2000-008.pdf>

<sup>130</sup> Id. p.16

<sup>131</sup> Id., p.15

<sup>132</sup> Id.

national institutions can ensure strong transfer channels for citizens' interests up to the supranational level and facilitate the participation of these citizens in the integration processes.

The purpose of the analysis presented hereafter is to demonstrate the initial position of Bulgaria in the “inertia category” immediately after its accession to the EU on January 1<sup>st</sup> 2007 and the efforts of the European Commission to stimulate transition towards the “transformation category”. In relation to this I will examine the basic trends highlighted in the regular reports of the European Commission on Bulgaria's progress<sup>133</sup> after the accession up to July 2009. These reports have an important relation to the present thesis for two reasons. First, Bulgaria became a member of the EU exactly during the period when the consolidating reforms discussed in the previous chapters were officially articulated in the Lisbon Treaty and the changes suggested to the Bulgarian authorities reflect the direction in which the EU would develop from this time onwards. Second, due to many shortcomings during the post-communist transitional period, the Bulgarian people lost to a large extent their trust and support for the national institutions and as the Commission states, the “healthy” national administration is “not only in Bulgaria's but in the EU's wider interests”<sup>134</sup>. The guidelines suggested by the EU for combating this trend demonstrates one model how in practice the European institutions view the way towards stronger civil support and participation.

The opinion polls held in Bulgaria on the eve of its EU accession highlighted a rather gloomy situation in terms of public trust in the institutions. The attitude of the Bulgarian

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<sup>133</sup> “The reports of the Commission to the European Parliament and the Council on Progress in Bulgaria under the Cooperation and Verification Mechanism” are issued two times a year – in February when there is an interim report on the factual improvements under the six benchmarks and in June/July, when also an assessment of the Commission is provided.

<sup>134</sup> “Report from the Commission to the European Parliament and the Council on progress in Bulgaria under the co-operation and verification mechanism”, SEC (2008) 2350, Brussels 23.7.2008, COM (2008) 495 final, p. 6, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0495:FIN:EN:DOC> , last checked 10/03/2010

citizens towards the legislative and judicial institutions is described as stably negative<sup>135</sup>. There is also public mistrust in the ability of the institutions to ensure the rule of law. By contrast, they are perceived not as representatives of the population but as agents of the privileged position of a small elite group<sup>136</sup>. In the end of 2006 the public mistrust in the national parliament is almost 80% and in the Judiciary around 70%<sup>137</sup>. What is more, these results do not change even in case of successful institutional initiatives. Obviously, the Bulgarian political system has failed to create efficient communication channels between the governmental level and the society which is already a significant problem according to the new EU standards and needs to be specifically addressed in order to prevent transfer of the negative attitude from the national to the supranational level.

The need for effective implementation of the judicial and administrative reform necessitated the establishment of a Cooperation and Verification Mechanism for monitoring the process so that, in the Commission's words: "Bulgarian citizens and business [can] enjoy the rights they are due as EU citizens"<sup>138</sup>. With this statement the Commission from the very beginning of the first report states that the improvements which will be most persistently addressed relate to the insurance of citizens' rights which would entail increase in their credibility and support for the institutions on a national and EU level.

The first report of the Commission of June 2007 appreciates the readiness of the Bulgarian authorities to implement the necessary institutional and legal reforms prescribed by the EU, but at the same time reiterates the fact that having in mind the problems with crime and corruption, only the "determined implementation"<sup>139</sup> of the reforms will be counted as real progress. In relation to this, the Commission suggests a bunch of six benchmarks which

<sup>135</sup> Alpha Research, "*Obshtestvenoto mnenie 2006*" (The Public Opinion 2006), p. 21, [http://www.aresearch.org/userfiles/file/Alpha%20Research\\_book\\_2006.pdf](http://www.aresearch.org/userfiles/file/Alpha%20Research_book_2006.pdf)

<sup>136</sup> Id.

<sup>137</sup> Id. p.25

<sup>138</sup> "Report from the Commission to the European Parliament and the Council on Bulgaria's progress on accompanying measures following accession", Brussels, 27.6.2007; COM (2007)377 final, p. 3; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0377:FIN:EN:DOC>, last checked 3/03/2010

<sup>139</sup> Id., p.5

should be satisfied so that Bulgaria can successfully integrate in the EU processes. All of these benchmarks have a direct impact on the enhancement of the social support and participation of the Bulgarian citizens in the national and EU political processes.

The first area in which the Commission suggested reforms was the legal system, notorious among the Bulgarian population with its slowly procedures and punishments which quite often do not correspond to the seriousness of the crimes. Implementing the Commission's recommendations, the national authorities accomplished an amendment to the Constitution, ensuring more effective separation of powers and judicial independence<sup>140</sup>. What is more, the accountability of the judiciary in front of society was strengthened. The amended article 132a of the Constitution provided for an Inspectorate to monitor the actions of the judiciary. This new body can, among other things, act pursuant to citizens' complaints<sup>141</sup> and "shall provide public information about its activity"<sup>142</sup>.

The second and third benchmarks are also directed at enhancing the trust in the judiciary respectively by more transparency of the procedures, strengthening of the professionalism of the judiciary and evasion of the so problematic overlapping of functions<sup>143</sup>. The next two benchmarks treat the other major problem which alienates society from the political system and makes it unwilling to participate – namely the multi-level corruption. The important aspects on which the Commission focuses here are disclosure of the assets of civil servants and the fight against local corruption. The lack of a body which monitors the origin of the former has always created a dim and dubious image of public administration. As for the latter, the final polls from 2006 show growing criticism with reference to the transparency of

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<sup>140</sup> Id., p. 6

<sup>141</sup> Constitution of the Republic of Bulgaria, last amend. SG 12/6 Feb 2007, art. 132a §7

<sup>142</sup> Constitution of the Republic of Bulgaria, last amend. SG 12/6 Feb 2007, art. 132a §9

<sup>143</sup> "Report from the Commission to the European Parliament and the Council on Bulgaria's progress on accompanying measures following accession", Brussels, 27.6.2007; COM (2007)377 final, p. 7-12; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0377:FIN:EN:DOC>, last checked 3/03/2010

the local authorities and their ability to involve the citizens in the governmental process<sup>144</sup>. It is important here to mention that according to the polls, not the reforms and new practices but their ineffective implementations by the authorities are the socially criticized areas. Therefore, the recommendations of the Commission throughout the first report and in subsequent ones are always directed not towards the reforms themselves but towards the way they are put into practice.

The improvements under the sixth benchmark – combating organized crime, are viewed as least successful, “patchy and inadequate”<sup>145</sup>. Having in mind that the ensured protection against crime is a serious precondition for social support and loyalty towards the authorities, this conclusion creates a danger for future complications.

The second report from February 2008 is only an update of the information. It reiterates the need of further transparency, clear division of functions between the institutions and pays special attention to tentative areas which have direct impact on the citizens, like local government, healthcare and education<sup>146</sup>.

The suggestion stated in the beginning of this chapter that Bulgaria falls within the inertia category of adaptation to the EU requirements, is best demonstrated by the third Commission’s report on the progress. If the previous documents were only highlighting potential shortcomings, the report from July 2008 speaks about “serious difficulties”<sup>147</sup> to implement the reforms under the six benchmarks. Although the constitutional amendments and the creation of State Agency of National Security (SANS) are viewed as positive changes

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<sup>144</sup> Alpha Research, “Obshtestvenoto mnenie 2006” (The Public Opinion 2006), p. 47, [http://www.aresearch.org/userfiles/file/Alpha%20Research\\_book\\_2006.pdf](http://www.aresearch.org/userfiles/file/Alpha%20Research_book_2006.pdf)

<sup>145</sup> “Report from the Commission to the European Parliament and the Council on Bulgaria’s progress in accompanying measures following accession”, Brussels, 27.6.2007; COM (2007)377 final, p. 19; <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0377:FIN:EN:DOC>, last checked 3/03/2010

<sup>146</sup> “Interim report from the Commission to the European Parliament and the Council on progress in Bulgaria under the Co-operation and Verification Mechanism”, Brussels, 4.2.2008, COM (2008) 63 final, p.9, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0063:FIN:EN:DOC>, last checked 10/03/2010

<sup>147</sup> “Report from the Commission to the European Parliament and the Council on progress in Bulgaria under the co-operation and verification mechanism”, SEC (2008) 2350, Brussels 23.7.2008, COM (2008) 495 final, p. 2, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0495:FIN:EN:DOC>, last checked 10/03/2010

by the Commission, the overall conclusion is that the reforms are still only on paper and do not have any practical impact on the life of the citizens<sup>148</sup>. The central problems like unclear division of functions, lack of coordination and procedural delay which engender low trust and dissatisfaction in the society, are again objects of the Commission's criticism. In addition, no improvement is reported in the crucial spheres of corruption in healthcare and education, as well as in efforts to combat organized crime<sup>149</sup>. The Commission's recommendations for improvement again reflect the general EU trends of development through more civil participation. These are parliamentary control over the institutions which are of special importance for citizens like (SANS), further transparency, accountability and clear division of responsibilities<sup>150</sup>. All of these reforms are stated in words but there are no efficient practical mechanisms to put them into practice. As a result the citizen's trust and satisfaction with the government remains low and the right to good administration is not successfully ensured. After the harsh criticisms in the summer of 2008, in the next interim report, the Commission searches for improvements exactly in the aspects which would grant stronger civil involvement and participation in political processes. Among the latter are the availability of internet sites<sup>151</sup> of every Bulgarian court which has the potential to guarantee more transparency of the processes and the social initiatives against "election frauds" which are referred to as "encouraging"<sup>152</sup>.

When the latest report from July 2009 came, Bulgaria had already been for a relatively long time under the Co-operation and Verification Mechanism so that the Commission can state some more significant conclusions for the progress of the new Member state. These observations explicitly highlight the overall guidelines for development of the whole EU.

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<sup>148</sup> Id., p. 3

<sup>149</sup> Id., p. 3-4

<sup>150</sup> Id., p.5

<sup>151</sup> "Interim report from the Commission to the European Parliament and the Council on progress in Bulgaria under the co-operation and verification mechanism", Brussels, 12.2.2009, COM (2009), 69 final, p. 5, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0069:FIN:EN:DOC> , last checked on 10/03/2010

<sup>152</sup> Id., p.6

They can be summarized as follows: strong accent on the reforms in spheres which are especially close to the life of the citizens; rationalization and greater flexibility of the administrative procedures so that the institutions can become more understandable and accessible for citizens; faster and more proactive procedures so that citizens can realize that the institutions effectively protect their interests. In the case of Bulgaria within the first “vulnerable” group fall the fight against organized crime, health and education where more pro-active initiatives are needed<sup>153</sup>. Under the second and third group the Commission recognizes numerous problems with the slow and complex procedures which together with the overlapping of functions between different bodies are preconditions for general dissatisfaction in society with the administrative and judicial system<sup>154</sup>.

The final conclusion of the Commission in this report is a demonstration of the trend followed from the very beginning of this thesis: “The kind of deep seated changes that are needed can only come from within [...] society”<sup>155</sup>. The role of the administration is to bare central responsibility for the effective implementation of the social initiatives by evading the overlapping of functions and the existence of loopholes in the law.

Nevertheless, the most recent Eurobarometer report on the public opinion in Bulgaria regarding the trust in its national institutions shows increasing in the traditionally low trust. In the autumn of 2009 it amounts to 44% which is 27% higher than the result from the winter of 2008<sup>156</sup>. Only the trust in the efficiency of the judicial system continues to be low (20%)<sup>157</sup>. On the other hand, the report states that the trust in the European institutions in the autumn of

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<sup>153</sup> “Report from the Commission to the European Parliament and the Council on progress in Bulgaria under the co-operation and verification mechanism”, SEC (2009) 1074, Brussels, 22.7.2009, COM (2009) 402 final, p.5, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0402:FIN:EN:DOC> , last checked on 10/03/2010

<sup>154</sup> Id., p. 4-6,

<sup>155</sup> Id., p. 6

<sup>156</sup> “Standarten Evrobarometar 72. Obshtestvenoto mnenie v Evropeiskiq Sajuz. Esen 2009. Nacionalen Doklad Bulgaria“, (Standard Eurobarometer Report 72. The Public opinion in the European Union. Autumn 2009. National Report Bulgaria), p.24, [http://ec.europa.eu/public\\_opinion/archives/eb/eb72/eb72\\_bg\\_bg\\_nat.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb72/eb72_bg_bg_nat.pdf)

<sup>157</sup> Id., p.26

2009 is highest since 2007 and continues to increase<sup>158</sup>. The leading institution in the preferences of the Bulgarians is again the European Parliament<sup>159</sup>. These encouraging data demonstrates that in people's view, the administrative reforms suggested by the EU have given the first positive results and the efforts in this direction should proceed.

### 3.2. The case of Serbia – from Constitution of the state to Constitution of the citizens

The transformation of the legal framework and especially the constitutional reform predetermines the direction of the long lasting political and social development of a state. When in 2004 a pro-European government came to power, Serbia initiated multi-level reforms corresponding to the guidelines of the European institutions. The purpose of these reforms was to make possible the accession of Serbia to the EU in the near future. The most important among them was the adoption of the new Serbian constitution in October 2006. Unlike the previous constitution from 1990, the accent in the new one is on developing the citizens' rights which is a precondition for stronger civil involvement in the political processes. Having in mind the new Constitution, the European Parliament reaffirmed that "the future of Serbia lies in the European Union"<sup>160</sup>. The support of most of the member-states which followed made it possible soon after (in December 2009) for Serbia to hand in an official application for membership<sup>161</sup>. The support which EU showed for the reforms stipulated in the new Constitution of this future member demonstrates that strong civil participation is intended to be the direction also for the long lasting future development of the EU.

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<sup>158</sup> Id., p.11

<sup>159</sup> Id.

<sup>160</sup> P6\_TA(2007)0482, EU-Serbia relations, Committee on Foreign Affairs, PE 391.943, European Parliament recommendation to the Council of 25 October 2007 on relations between the European Union and Serbia (2007/2126(INI)), section A

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2007-0482>, last checked, 18/03/2010

<sup>161</sup> Swedish Presidency of the European Union, "Serbia applies for EU membership", [http://www.se2009.eu/en/meetings\\_news/2009/12/22/serbia\\_applies\\_for\\_eu\\_membership](http://www.se2009.eu/en/meetings_news/2009/12/22/serbia_applies_for_eu_membership)

There is considerable difference in the underlying logic of the 1990 Serbian Constitution and the one from 2006. If the provisions of the former are mainly aiming to arrange the state structure (institutions, powers), the latter is focused on guarantees of human rights and civil society development. It was already noticed in the previous chapters, among the factors which stimulate the stronger citizens' support for the institutions are the positive rights guaranteed by them. The 1990 Constitution begins with a long preface defining as a purpose of the document to delineate the border "between man's freedom and state intervention"<sup>162</sup> and then proceeds with the extremely liberal statement that "everything shall be permitted unless it has been prohibited by the Constitution and law"<sup>163</sup>. First by their nature both statements suggest negative rights of the holders and second, put in this way the provisions do not presuppose sufficient degree of social protection. They are so general that create uncertainties and conditions for legal loopholes. By contrast, the Constitution of 2006 is structured in a different way. As its constitutional principles it recognizes a number of provisions addressing the rights of the citizens and in this sense from the very first article the text refers to "commitment to European principles and values"<sup>164</sup>. The direct participation of the citizens in the political process through "referendums and people's initiative"<sup>165</sup> is put even before their right to being represented by the deputies.

As the text proceeds it becomes clear that the stronger civil involvement in the state processes is supported in two ways. First directly – through a comprehensive list of human rights guarantees and second, the civil support and trust for the political system is stimulated through provisions guaranteeing separation of powers, further transparency and as a whole, more internationally orientated and open political structure.

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<sup>162</sup> Constitution of Republic of Serbia, 1990; Preface

<sup>163</sup> Id. Art.3

<sup>164</sup> Constitution of Republic of Serbia, 2006; Art.1

<sup>165</sup> Id., Art.2

The section dedicated to the human rights in the new Serbian constitution begins with guarantee for the protection of human dignity<sup>166</sup> and afterwards continues with most of the rights stipulated by the Charter of Fundamental Rights of the European Union. Unlike the previous Constitution where the rights of the minorities are blurred in between various provisions, here they are put in a separate section<sup>167</sup> and the Serbian state recognizes its positive obligation to prevent any discrimination of the volatile groups<sup>168</sup>. Through this constitutional protection not only the EU requirements are satisfied but also the country makes steps to further involve minority groups especially in decision-making on matters having direct impact on their life<sup>169</sup>. This improvement does not remain unnoticed by the EU. In its address to the Council, the European Parliament praises the fact that “Serbia has a new Constitution which includes positive provisions regarding human rights”<sup>170</sup>

In second place, the citizens’ participation is stimulated by better institutional balance and separation of powers, which are the major guarantees for democracy in every state. In the 1990 Constitution the institutions’ rights were rather unevenly spread. The National Assembly had the function to elect and dismiss the main actors in the executive and judicial branch<sup>171</sup>. Under the current Constitutions the procedure is much more balanced. The Government is elected by the National Assembly as in a classic parliamentary democracy but the other positions are only appointed by it<sup>172</sup>. An important improvement with regard to the civil participation is the articulation of the importance of the political parties (not addressed at all

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<sup>166</sup> Id., Art.23

<sup>167</sup> Id., Art.75 - 81

<sup>168</sup> Id., Art.21

<sup>169</sup> Art. 75

<sup>170</sup> P6\_TA(2007)0482, EU-Serbia relations, Committee on Foreign Affairs, PE 391.943, European Parliament recommendation to the Council of 25 October 2007 on relations between the European Union and Serbia (2007/2126(INI)), section 12

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2007-0482> last checked, 18/03/2010

<sup>171</sup> Constitution of Republic of Serbia, 1990, Article 73, “The National Assembly shall: 10) elect and dismiss: the president and vice-presidents of the National Assembly; the prime minister, deputy prime ministers and ministers in the Government; the president and justices of the Constitutional Court, the Supreme Court and other courts; the republic public prosecutor and public prosecutors; the governor of the National Bank and other high-ranking officials as specified by law”

<sup>172</sup> Constitution of Republic of Serbia, 2006, Art.99

in the previous Constitution) “in democratic shaping of the political will of the citizens”<sup>173</sup>. And here again the state declares its positive obligation to guarantee the practical implementation of this role. A completely new institution with unique functions is the “Civic Defender”<sup>174</sup>. He should make sure that the rights of the citizens are protected in practice and respected by the public administration.

As was mentioned, transparency is a prerequisite for building trust in the institutions, support and involvement from the citizens’ side. In the 2006 Constitution the transparency is strengthened through a number of provisions which is also positively viewed by the European Parliament<sup>175</sup>. First of all, the people are much more informed about the internal procedures and division of functions within the institutions. In other words the citizens know who does what and under which conditions. This information helps them to create opinion about the state issues and gives them a better chance to effectively participate in policy formation. Under the new Constitution there is a separate article clarifying the methods applied by the institution which to the largest extent represents the citizens’ interests – the National Assembly<sup>176</sup> (what kind of majority is required for different decisions). In addition to this, there is a provision prohibiting the practice which very much shakes the trust in the institutions - namely the conflict of interests<sup>177</sup>. What is more, there are constitutional provisions defining which activities are incompatible with the position of President<sup>178</sup>, members of the Government<sup>179</sup>, the judiciary<sup>180</sup> and the Prosecution<sup>181</sup>.

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<sup>173</sup> Id., Art.5

<sup>174</sup> Id., Art. 138

<sup>175</sup> The European Parliament: “14. Commends Serbia for the greater transparency achieved in the operation of the government and parliament...”, P6\_TA(2007)0482, EU-Serbia relations, Committee on Foreign Affairs, PE 391.943, European Parliament recommendation to the Council of 25 October 2007 on relations between the European Union and Serbia (2007/2126(INI)), <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2007-0482> last checked, 18/03/2010

<sup>176</sup> Id., Art.105

<sup>177</sup> Id., Art.6

<sup>178</sup> Id., Art.115

<sup>179</sup> Id., Art.126

<sup>180</sup> Id., Art.152

<sup>181</sup> Id., Art.163

Last, but not least, there are provisions which would also stimulate the future civil participation on European level. Through them Serbia gradually abandons the image of isolationist and nationally orientated state and becomes more open to international engagement. Among them is the separate provision referring to the importance of international relations and treaty obligations<sup>182</sup>. The rights of foreigners, including the right of owning property in Serbia<sup>183</sup> are also ensured.

In the end of 2009 Serbia officially applied for EU membership and her application was positively regarded by the majority of the Member States. The constitutional reforms which give the guidelines for the future political development of the country are in concordance with current EU development and demonstrate that the strengthening of civil participation in the political processes is not only a temporary measure but the long term plan for strengthening of the European Union.

Bulgaria is a new EU Member State with many areas which can be object of reform but the administrative improvements recommended by the EU institutions are targeting predominantly the spheres which would ensure strengthening of the trust in the national and EU institutions and enhancement of citizens' participation in the EU political processes. Similarly, the constitutional reform in Serbia is also citizens oriented. Both analyses demonstrate that the further development of the EU identity through stronger citizens involvement in the supranational processes is not only temporary but long-lasting strategy for the evolution of the European Union.

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<sup>182</sup> Id., Art.16

<sup>183</sup> Id., Art.17 and Art. 85

## Conclusion

The purpose of this thesis was to demonstrate that the European Union has chosen the enhanced civil participation as a strategy for further consolidation and strengthening of its positions on the international arena. The starting assumption of the thesis was that even though the identity aspect of the EU citizenship was insufficiently addressed, the common EU identity does exist. It is in a process of permanent development and the citizens' involvement in the EU issues intensifies the identity-formation.

With regard to this, the first chapter of the thesis has shown how the relation between the European Community and its people evolved from purely economically based free movement of workers to full value citizenship, guaranteeing positive rights and social protection which stimulate solidarity between the people and loyalty to the EU structures. The paper demonstrated that this favorable result was achieved through continuous active involvement of the citizens in the integration process.

The second chapter was aiming to indicate that the present EU legal framework is predominantly ensuring the conditions for stronger civil participation. The suggestion that EU tries to achieve its consolidation exactly through further citizens' involvement was supported by analysis of the major present EU documents – the Charter of Fundamental Rights of the European Union and the Lisbon Treaty. From the analysis of the Charter it can be concluded that the stipulated rights concern the issues that are crucial for main groups of EU citizens (young, elder, workers, students) and would stimulate their attachment to the European structures and better involvement in the integration processes. The analysis of the Lisbon treaty discovered provisions strengthening the citizenship element in the EU and the channels through which the will of the people could be successfully transferred to the supranational level. An important conclusion which was made here is that the provisions strengthening the role of the European Parliament, national parliaments and also the “European citizens’

initiative”<sup>184</sup> are identity-building factors because they stimulate the solidarization of the EU citizens around issues which are of interest for the whole Community and not only the ones with local character.

The purpose of the third chapter of this paper was to trace whether the strengthening of the civil participation is only a temporary measure initiated due to the requirements of the present moment or it is the long-term plan for development of the EU. The latter assumption was supported by examining the reforms supported by the EU in a new Member State – Bulgaria and a state which is preparing for accession – Serbia. The results of the analysis of the Bulgarian administrative reforms and the Serbian citizens orientated constitutional changes demonstrate that the efforts in both states are directed towards intensifying the “bottom-up”<sup>185</sup> aspect of Europeanization which would enhance people’s trust in the institutions and make people willing to participate in the political processes on national and supranational level.

The results of some of the latest polls show that even though at the moment EU is affected by the world economic crisis, over the last year the trust in the supranational institutions has increased<sup>186</sup>. These results demonstrate that the reforms directed to stronger civil participation already started giving results and therefore they should be continued in future.

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<sup>184</sup> Lisbon Treaty, Title II, Art. 8B(4)

<sup>185</sup> CHRISTOPHER HILL AND MICHAEL SMITH, (EDS.), “INTERNATIONAL RELATIONS AND THE EUROPEAN UNION”, Oxford: Oxford University Press (2005), p.137

<sup>186</sup> “Standard Eurobarometer 72, Public Opinion in the European Union”, December 2009, P.28, “Following a decrease between autumn 2008 and spring 2009; the latest results point to a slight renewal of trust in the European Parliament (50%; +2) and the European Commission (46%; +2) bringing it back to the autumn 2008 level (51% and 47%, respectively)”, [http://ec.europa.eu/public\\_opinion/archives/eb/eb72/eb72\\_first\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb72/eb72_first_en.pdf)

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