



# Participation in Europe

**In Europe we value democracy. The involvement of civilians is indispensable for this. In a vibrant democracy civilians do not only want to be heard at the elections, but also at other occasions. How is the participation of civilians organised in the countries of the Council of Europe? Which developments can we discern? What could be improved? And which uncertainties remain?**

The province of Utrecht assigned Utrecht University to map out civilian participation at local and regional government levels in the countries of the Council of Europe. The cause for this was the invitation during the Conference of Ministers in Utrecht (November 2009) for signing an additional protocol to the European Charter concerning local autonomy. This protocol applies to civilian participation at a local level in particular. Furthermore this report builds on a recommendation of the Committee of Ministers of the Council of Europe – Rec. 2009, nr. 9 with regard to evaluation, auditing and monitoring of participation and participation policy at local and regional level.

## The main conclusions of the study

The developments in many European countries show an increasing influence of the decentralised government level and consequently of civilian participation at this level. This makes civilian participation at a decentralised level of interest to national and European administrators as well.

The manner in which civilian participation in the countries of the Council of Europe is set up is quite different. That is hardly surprising: some countries have a long tradition in this respect while for other countries it is a relatively new phenomenon.

We can certainly conclude that civilian participation in all countries of the Council of Europe is not only on the agenda, but that it is also constantly developing. Not only the forms of participation are developing, but civilian participation is also used in increasingly more policy areas and in more phases of the policy process.

This:

- Provides a higher democratic standard in the countries of the Council of Europe
- Contributes to the application of the principles of good administration
- Promotes the legitimacy of the government actions
- Increases the acceptance of government actions among civilians

The development of civilian participation can be perceived most strongly at a decentralised level. This is also the level which – due to the limited distance between administration and society – has the greatest chance of success.

Organised participation should definitely be added to the list of the most familiar forms of participation – civilian initiative, civilian panel and referendum. In addition, a lot of informal forms of participation are developing, often as a variant of one of the ‘traditional’ forms. As soon as a truly new form of participation emerges, the principles of democracy and of transparency dictate the development of a legal basis for this form as well.



**Marjan Haak, member of the Executive Board of the province of Utrecht:**

*'I believe it is excellent that each country tries to find the form of participation that suits it best. But of course this study is only a first step. Because it immediately raises the question: how effective is the approach of the different countries?'*

*'When we agree that civilian participation is a welcome supplement to the chosen democracy, and should contribute to the legitimacy of the administration and to a healthy relationship between the population and the administrators, then we would preferably also want to know whether in practice it is perceived in this way. I will therefore insist that a follow-up study is carried out on this subject. This will show us where we stand and will enable us to put flesh on the discussion.'*

## General definition of concepts

### Different forms of participation

Participation of civilians can take place in all phases of the decision-making process. Civilians can put specific issues on the administrative agenda (civilian initiative). Civilians can have their say in the decision-making phase (participation and civilian panel), and in a referendum civilians can either endorse or reject decisions that have been taken. We see however that this traditional link between the form of participation and the policy phase is gradually disappearing. Subsequently, it would be interesting to know how these forms of participation are assessed or valued.

**Herman Sietsma, provincial secretary of the province of Utrecht:**

*'At a provincial level civilian participation is a different issue than at a municipal level. In a way that is only logical, because civilians after all feel involved the strongest in the developments in their own municipality. There is a recent example of the civilian initiative, and that was with the municipal redivision of Maartensdijk. In that case the civilians asked for a new orientation themselves, which was successful. The referendum is not used at a provincial level. As an instrument it has not been entrenched in the provincial legislation either. There are some municipalities however that use the referendum as an instrument.'*

### Reasons for civilian participation

We can distinguish various reasons for civilian participation. The reasons of civilians are usually control or representation. The administrative body can use civilian participation to test its own effectiveness or to increase the legitimacy of its decisions.



### The effects of civilian participation

Civilian participation will also lead to a better relationship between administrators and civilians. To more trust, more satisfaction and more acceptance. Civilian participation is consequently important for the legitimacy of the administrator. Participation stands the best chance of success at a decentralised level, because the distance between administrators and civilians is the smallest there. Civilian participation is therefore a necessary supplement to representative democracy.

### Who is in control?

Administrators govern on the basis of the mandate they have been given by the electorate. As long as that mandate is still valid, they are in control of the administration process. But what happens when civilians claim their right to participation? Will control shift as well, or will there be a new balance of power?

**Marjan Haak, member of the Executive Board of the province of Utrecht:**

*'The key question is of course: once a civilian has made his contribution, will he hear anything about it or notice anything? And as a result will he appreciate his relationship with the authorities more? And – on the other hand: do administrators believe that civilian participation really contributes to the quality of their decisions? Only when these questions can be answered with a convincing 'yes', we can say that the democratic standard in the member states is really improving.'*

## The situation in Europe

Subject of the study was the situation in most of the 47 countries of the Council of Europe. This in any case includes the most important European countries while the countries are spread evenly over Europe. The image that this study provides therefore offers a reliable indication of the total situation.

### The civilian initiative

Most countries seem to interpret the concept of 'civilian initiative' in the same way. And otherwise most countries have the traditional and strongly related 'right to petition'.

There is a distinct difference however in the way the civilian initiative is entrenched in legislation. Sometimes it is a basic right, sometimes an administrative obligation, and in a number of countries (Croatia, Italy, Spain) it is entrenched at a national, a regional as well as a local level. In Switzerland it has been provided for in all cantons.

In a number of countries however this right has been provided for by law only partially (Albania, Hungary) or not at all (Netherlands, Luxemburg, Denmark, United Kingdom).

The initiative is often subject to limiting conditions, but in a number of countries those limitations are also disappearing.

### The civilian panel

The civilian panel is an independent group of civilians that advises the administration on a specific subject. Sometimes at the request of the administration, sometimes at its own initiative. In this latter form there is some overlap with the civilian initiative. Perhaps that is why in countries like the United Kingdom (where a civilian initiative is not provided for) the civilian panel is used noticeably often. Other countries, like the Czech Republic and Albania, hardly know this form of participation. In many Scandinavian countries too, as well as in Portugal and Russia, the civilian panel is used hardly ever: preference is given to the referendum.

In the major cities and provinces of countries like the Netherlands and Germany the civilian panel is increasingly organised electronically. Austria uses a whole range of informal forms of participation. In Poland, Bulgaria and Lithuania the authorities let themselves be advised, but this is often done by a panel of experts, which is quite a difference. Greece, Italy and Switzerland

do not have civilian panels either. Here people rely on the right to petition.

The legal provisions for the civilian panel do not only differ per country, but even per region. And here too there are often limiting conditions to be eligible for a civilian panel: age limitations, internet access. One of the results is that the advice of a civilian panel is not always representative for the entire population.

### Organised participation

Another possibility to incorporate the opinions of civilians in policy development is the organisation of participation. Organised participation is often used in issues related to urban planning, education and health care.

Many countries have not only laid down participation in the constitution as a basic right, but they have also laid down supplementary legislation and procedures with regard to the subjects for which governments should organise participation and who shall have the right to participate about which subject. Usually this right is given to the interested civilians and NGO's that make a stand for a common (environmental) interest. But there are also countries where each citizen has the right to participate.

**Herman Sietsma, provincial secretary of the province of Utrecht:**

*'Participation is by far the most commonly used form of civilian participation here. The province used it, together with a lot of hearings, dialogue groups and discussion nights, to design the urban plan for Soesterberg airbase. In this process we have also made a lot of use of the expertise that was present in the area. That resulted in a wonderful plan for which there is broad public support.'*





### The referendum

In the referendum we can distinguish a number of different forms. The binding referendum is the oldest form. In addition the consultative referendum has been used frequently in recent years. Furthermore referendums are no longer used to get a 'yes' or 'no' on one issue, but also to allow civilians to express their preference with regard to various alternatives.

The legal entrenchment of referendums in the countries of the Council of Europe can – to put it mildly – be characterised as quite diverse. That applies to both the right of the civilian to this instrument and to the obligation of the government to use referendums. The same diversity can therefore be seen in the use of referendums, at a central as well as at a decentralised level. In Serbia for example it is even possible to call a referendum for a municipal district. Austria uses the referendum only centrally, for a total revision of the Constitution, for dismissing the president or when two thirds of parliament explicitly asks for one. In Albania, 50,000 civilians who have the right to vote may call for a referendum. In Greece on the other hand calling a referendum is reserved to the president.



### Recommendations

With the signing of the additional Protocol to the European Charter, civilian participation is no longer without obligations, but a right of civilians to participate in the policy-making process at local and regional levels. That requires regional and local authorities in the member states of the Council of Europe to develop relevant policy.

We recommend that this report is used as a first initiative for the evaluation, monitoring and auditing of participation.

The strong development that civilian participation is experiencing at a decentralised level, deserves to be monitored closely and to be discussed at the Council of Europe level. That could very well be done in the Congress of Local and Regional Authorities.

**Marjan Haak**, member of the Executive Board of the province of Utrecht:

*'It would be wonderful if at the coming meeting next February of the Institutional Committee of the Congress of Local and Regional Authorities we could make further arrangements with regard to the continuation. That would give this subject the acceleration that it deserves in my opinion'*

**Herman Sietsma**, provincial secretary of the province of Utrecht:

*'Municipalities in the Netherlands have freedom to either use or not use the referendum. The one municipality does use it, the other does not. They are also free in drawing up the relevant conditions themselves and in determining whether the results of a referendum are binding or not. We should be a bit more consistent in the way we deal with the rights of our civilians. There might be a provision in the local legislation concerning the use of referendums. In which cases they can be used and in which cases not. Another thing that could then be laid down is the value that the local authorities should attach to the results of a referendum. I believe that would be a major step forward. Because the right of every civilian to participate in the policy process – which will soon be ratified by the member states of the Council of Europe – will be just a formality if in addition the obligation of the administration is not laid down to take civilians seriously in this process.'*

### COLOFON

#### More information

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