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## **The Role of Non-Governmental Organizations in Shaping European Civil Society.**

### **Legal Aspects**

It appears that we live in a new era of democracy. It is without doubt that the tools of democratic participation are presently more common than ever in the modern history. Still, the proliferation of egalitarian principles and measures encounters numerous obstacles on the way. For instance, in recent years, many organized and long-term protests have swept through the world. However, the conducted studies indicate that these movements hardly materialized into significant political powers after the outcries had run out. Furthermore, the postulates for giving voice to the citizens or democratizing the rule-making procedures both at the national and the international level have been especially noticeable in the last few years. Still, these demands have often been misused by populists in order to promote the idea of direct democracy not as a tool of improving citizen participation but rather of imposing the 'will of the people'. This led to many problematic decisions made in various states in form of referendums. As it has turned out, democracy is very vulnerable to risks associated with the Internet and social media. In particular, these new means give an illusion of participation, social inclusion and fighting for the right cause without actual and direct involvement. At the same time, agents of civil society face growing inequalities in treatment in many states around the globe, both in political and fiscal terms. The problem of maintaining participation or advocacy instruments with their parallel and factual undercutting has been known as the 'shrinking of civil space' dilemma.

The above listed issues are also very noticeable in the European Union and its Member States, and are exceptionally urgent as grass-root civil movements should always play a prominent role in protecting the values of the Union, in particular the rule of law. In this dimension, another matter of great importance appears - the democratic deficit of the EU. It means that there is no sufficient democratic link between the EU institutions and the Member States societies. Subsequently, it may be arguable whether a 'European civil society', i.e. a society which gathers around affairs of common, European interests across borders, is in fact possible. If so, it would definitely contribute to a solid ground of the EU democracy. Yet, its establishment appears as especially burdensome in the light of the presently varying Europe.

These observations lead to a conclusion that the means of civil society participation requires more structuring and independence. For this reason, non-governmental organizations

(NGOs) as legal entities will be the focal point of further deliberations because they are historically designed to meet these ends. The aim of this dissertation is to discuss the legal role of these organizations in shaping European civil society. The two main hypotheses of this dissertation read: 1) NGOs, as subjects acting in the interest of European civil society, can diminish the democratic deficit of the EU, 2) the legal instruments of forming European civil society are present in the EU law but are not sufficient. The collateral hypotheses can be worded as follows: 1) there is a tendency of increasing the role of NGOs not only in the EU legal system but also in other intergovernmental organizations, 2) European civil society, as a legal community, is possible, 3) NGOs have played a significant role in the history and theory of European integration, 4) the EU provides various democratic tools and arenas of cooperation between the institutions and the representatives of civil society, 5) the EU law also provides certain means of advocating for the collective interests of civil society, 6) these tools are often not effective, 7) as a result, other, frequently unofficial means of influencing the EU institutions are used by NGOs, 8) the EU law concerns numerous spheres of cross-border activities of NGOs, 9) there are spheres which might be regulated in order to ameliorate such enterprises.

The dissertation covers various aspects concerning the role of NGOs as subjects acting towards shaping European civil society. It consists of five chapters. The first one, 'Defining NGOs and setting their place in European civil society', discusses the notions of a 'NGO' and a 'European civil society'. In doing so, it particularly invokes various modes of cooperation between NGOs and intergovernmental organizations and the theories of European integration. The second chapter, 'NGOs in the EU constitutional system', provides a general insight into the role of NGOs in the history of integration. Furthermore, it discusses the treaty basis for social cooperation and presents the areas of NGO participation at the EU level. The third chapter is entitled 'NGO influence on shaping the EU law'. It examines and evaluates access to documents and the European Citizens' Initiative as means of exerting pressure on the EU legislation. Moreover, it discusses legal basis and practices of relations between the EU institutions and NGOs, including lobbying activities. The fourth chapter, 'NGOs as entities acting in the collective interest of European civil society', discusses the possibilities of bringing actions in the common good before courts and other institutions, which derive from the EU law. It also presents the special role of NGOs in environmental protection which was guaranteed by the Aarhus Convention. The fifth chapter, 'The EU law and the cross-border activities of NGOs – selected aspects', examines the case law of the CJEU with reference to the transboundary operations of NGOs. Furthermore, it presents the regulation proposals for a European Association and a European Foundation. It also indicates the possible areas of the EU legislation

which could promote the operations of NGOs at the European level. Lastly, the dissertation presents concluding remarks which consist of findings and implication of the conducted research.

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