First of all I have to admit that I very much appreciate the energetic conceptual attempt of bringing representation back in the discourse on civil society and the EU – the conceptual reason for this move is perfectly clear and it consists in the fact that you cannot account for and build on the possible virtues of civil society (in either of its forms: weak/strong or organized/disorganized) without blending it with the issue of representation (better: representativeness). The normative reason is of course that of safeguarding the fundamental principle of equality (or: participatory parity, as Nancy Fraser 2003, 2005 and 2007 would have it) – or to use the happy formula Amna (2007) found for that, of safeguarding the status, concerns and participatory demands of the “standby-citizen”.

Although this is, as I said, perfectly clear and although there is, all in all, a regrettable lack of disagreement (as well as to the normative outlook, to the conceptual move and to its main paradigmatic underpinnings), these two papers nonetheless deserve closer attention also because this conceptual move is immediately confronted with mayor theoretical challenges which primarily are derived from the fact that – taken paradigmatically – the idea of civil society and the idea of representation are conceptual rivals (these tensions are, after all, also perfectly mirrored by the two papers, which, in a kind of division of labour, nicely represent the two different conceptual perspectives on the matter – a perspective from representation in Koko’s paper and a perspective from civil society in Thorsten’s paper. Against this background let me then quickly and very roughly address some of the more pertinent conceptual issues involved, leaving aside the question of the analytical, empirical and practical merits of the two papers: Firstly, I shall shortly indicate why I think that there is a greater (and more serious) tension between representation and civil society than Koko seems to admit (1), so that we can better understand why there remains an unresolved tension centered in the idea of “accountability”. So the question is what can make representation safe
for democracy (2) and how this impinges on the issue of conceptualizing the link between civil society and representation (3). The most important features of this are to establish a plausible and normatively acceptable division of labour between civil society and representative democracy (i), and delineating the repercussions the idea of representation then must have within the realm of civil society: The most important ideas here are then discursivity, representation as process, the “performative” character of civil society (ii). After having said all this, I’d finally like to raise a (small) doubt if Koko really has managed to grasp the full sense of her (and Thorsten’s) conceptual insights and innovations at the level of an analytically and empirically directed heuristics (4).

Ad 1) In order to be able to better address the conceptual challenges with which one is confronted when bringing representation back to civil society, let me offer a slightly different story of the history of the attempts to arrange the relationship between representation and civil society (cf. also Nadja Urbinati 2005): The point here is that representation not only is (as Koko admits) conceived differently in different theories of democracy, but that first of all representation most of the time was not thought to be a democratic device at all (cf. their conceptual use in Aristotle, Bodin, Hobbes, Montesquieu and even Rousseau). The main reason for this is that representation is internally linked to the mutually reinforcing distinctions between judgement and will on the one hand, and state and civil society or “private and public” on the other. The upshot of this constellation is that the most clear cut idea of representation emerges where judgement (reason) and (the capacity to) will are fused within one (and then: representative) body (i.e. the state) which leaves behind civil society as a depoliticized sphere of the more or less private affairs of families or isolated or atomized individuals. This conceptual architecture most clearly comes to the fore when you, for example, consider three essential ingredients to the idea of representation:

- The metaphysics of presence. The idea here is that in order to invest a common will (which is a reasonable representation of the literally absent and only fictitious will of a people) with the capacity to will and act upon its will, there also must be a physical or corporal dimension to this will (Koko herself alludes to this herself, but unfortunately takes it to be an decisive element of any idea of representation).

- The internal link to sovereignty. Here again representation serves as a kind of incorporating mechanism which incorporates the “moral personality” of the community – a move which then allows for the internal development of the idea of sovereignty from the notion of a superior to the notion of a perfect authority.
The fusion of will and judgement (reason). Here it is important to note that a perfect authority in the above mentioned sense takes on (stands for or represents) the moral qualities of the community to which it is directed, which means that it is supposed to have a privileged access to the demands of reason (natural law) via the personal rational capacities of the representatives so that finally it is an authority precisely because its will is shielded from capricious passions, private interest or else and instead informed by reasoned judgement.

Ad 2) Against this conceptual background the pivotal question now of course is how to open up the idea of representation to the idea of democracy – and this is where civil society comes into play. This can only be done by establishing a new kind of devision of labour between the two spheres of state and society. Drawing on the above mentioned distinction between will and judgement, there are basically three systematic options to account for such a new division of labour: Will and judgement remain fused, but are shifted from state to (organized) civil society (i), or they are separated and separately invested into the two domains so that the will resides with civil society (and judgement with the state) – that is the solution Rousseau found (ii), or instead reason is invested into civil society and the will remains with the state (this is the solution suggested for example by Jürgen Habermas and made explicit in the by now famous formula “dass sich die Idee der Volkssouveränität in die subjektlosen Kommunikationskreisläufe der diskursiven Willensbildung in den schwach institutionalisierten Öffentlichkeiten der Zivilgesellschaft zurückzieht” (iii).

Now, it seems to me that Koko and Thorsten deliberately follow Habermas when trying to find a new expression of the interplay between representative government and civil society, but this general outlook then is somewhat obscured by the fact that they seem to invest much hope in the concept of accountability. And this, it seems to me, is not a completely innocent move, because accountability as such does not prove a necessary elective affinity to the overall architectural solution they have in mind: As for example Pettit’s idea of freedom as non-domination (and the concomitant idea of contestatory politics) may indicate accountability as such may perfectly fit with at least a mere “standby”-notion of civil society which would run counter to the basic intuitions of Koko and Thorsten – and by implication I would like to suggest that here some work of clarification is necessary.

Ad 3) Once this has been made explicit and this problem been overcome, then the question arises as how to conceive of the repercussions of the idea of democratic representation within the realm of civil society. One possibility here then would be to make civil society itself into a strong (i.e. organized) public, roughly following the lines marked by the concept of
“deliberative polyarchies” (and this may be combined with the conceptual strategy of reserving “reflective functions” for representative government). Or, and this seems to be the direction in which Koko and Thorsten want to go, one can try to tie the issue of “reflection” even more closely to civil society itself, thereby “politicizing” representation and combining it with a notion that undermines all possible social-ontological meanings of the idea of representation and instead reconsiders representation as a process (see also Urbinati and especially the very instructive suggestions Nancy Fraser in recent years has made with reference to the idea of misrepresentation as an issue of metapolitical injustice: 2003, 2005, 2007).

As it at least seems to me, there is an important connection between these just mentioned lines of reasoning on the one hand and the decisive conceptual move Koko wants to undertake with reference to her notion of the “performative function” of civil society which, I suggest, might gain some additional shape when built into the ideas of f.i. Urbinati and Fraser.

Ad 4) One small concluding remark: When it comes to spelling out the heuristic potentials of such an conceptual move with reference to analysing the politics of civil society as conceived by the Commission, I wonder whether Koko’s suggestions here really can make full sense of the combined normative and conceptual force of her and Thorsten’s paper: In broadest terms and with reference to the idea of representation as process this raises the question of whether we can use a heuristics thus conceptually informed also to sensitize us for aspects of the EU-civil society relations which more directly speak to the reflexive function of safeguarding the very conditions of representation as process within civil society.