

Brussels, 9 April

From: From: BirdLife International European Community Office, Climate Action Network Europe, European Environmental Bureau, Friends of the Earth Europe, Friends of Nature International, Greenpeace European Unit, WWF European Policy Office, European Federation for Transport and Environment

Concerning: Participatory Democracy, suggestions for amendments to Article 34 and 36.

Deadline April 11

Dear Convention Member

In the past few months we have approached you several times with our suggestions for strengthening the environmental dimension of the draft of the Constitutional Treaty, and we have seen with appreciation that many of you have made contributions in the Convention that reflect the wishes of the citizens whose concerns we voice as environmental organisations in Europe.

This time we call upon you to strengthen the democratic nature of the European Union. We have specific suggestions to Articles 33 till 37, published on the 2nd April (CONV 650/03) under the heading of "The democratic life of the Union".

In anticipation of these articles the Green 8 had written to you, on March 20, proposing text that would ensure that the European Union is based on the principles of participatory democracy, transparency and openness. Although appreciative of the fact that some of our concerns have been included in the draft articles, we write to you again with specific suggestions for amendments that will ensure that the Convention's mandate to bringing the citizens of the European Union closer to the institutions will be fulfilled.

See our suggestions below, after that, our explanations:
[additions in CAPITALS, deletions in brackets]

Article 34. The principle of participatory democracy

1. Every citizen shall have the right to participate in THE DECISION-MAKING [delete: "the democratic life] of the INSTITUTIONS OF THE Union.

2. The Union institutions shall INFORM THE PUBLIC OF PROPOSALS FOR LEGISLATION, PROGRAMS OR POLICY IN ALL AREAS OF UNION ACTIVITY, PROVIDE AN OPPORTUNITY FOR CONSULTATION IN AN EARLY, APPROPRIATE AND ADEQUATE MANNER, AND PROVIDE THE PUBLIC WITH THE OPPORTUNITY TO COMMENT, DURING EACH STAGE OF DECISION-MAKING, ON SUCH INITIATIVES [delete: ", by appropriate means, give citizens and their representative associations the opportunity to make known and publicly exchange their opinions on all areas of Union action."]

4. [new] THE CITIZENS AND THEIR ORGANISATIONS SHALL HAVE A RIGHT OF ACCESS TO THE EUROPEAN COURT OF JUSTICE TO CHALLENGE DECISIONS OF THE EUROPEAN COMMISSION OR OTHER EU BODIES WHICH CONCERN THEM DIRECTLY.

ARTICLE 36: Transparency of the proceedings of the Union's institutions

1. In order to promote good governance and ensure the participation of civil society, the Union institutions shall conduct their work AND DECISION-MAKING as openly as possible.

2. The European Parliament shall meet in public, as shall the Council when it is discussing [delete: a] legislative AND MAJOR POLICY proposals, THROUGHOUT THE PROCESS. THIS REQUIREMENT INCLUDES THE MEETINGS BETWEEN THE TWO INSTITUTIONS, THE SO-CALLED CONCILIATION. DETAILED PROCEEDINGS SHALL BE PUBLISHED AS WELL.

EXPLANATORY NOTE:

Art. 34, par. 1: "democratic life" is an undefined term. While it is a term that could be used as a title of a chapter, it does not make clear what exactly are the rights that the citizens can deduce from it.

The right to public participation in decision-making is firmly established in environmental matters (the Aarhus Convention) and is a key concept also in the ongoing discussion on good governance in the Union.

Art. 34, par. 2: The phrase ‘by appropriate means’ is too vague. This Treaty should give the citizens concrete rights that uphold the principle of participatory democracy, not just a vague promise.

Art. 34, par 4: Accountability of the public authorities to their citizens is an essential part of participatory democracy. In cases of lack of or wrong implementation of laws by public authorities, the public should have the right of standing, as one possible means to realise accountable governance. Currently, the EU (European Community) restricts this right to those individually concerned. The Aarhus Convention, signed by the Community, preserves this right to citizens and their organisations in cases where the common good (like nature) is at stake. However, without a reference to access to justice in the Constitution, it might be difficult for this right to be achieved in practice. The proposed text should resolve this.

Art. 36, par. 1:: The decision-making process is the most important part of the proceedings of the European institutions for citizens, and the area where lack of transparency is most problematic.

Art. 36, par. 2: Legislation is not the only function of the European institutions that is relevant to citizens. Major policy initiatives that will direct the work of the Commission and the Member States in the years ahead need to be discussed in public as well. Furthermore, we want to make it sure that the conciliation procedure is undertaken in public.

Yours sincerely,

John Hontelez,
Secretary General EEB
For the eight organisations mentioned above