

## AMENDMENT FORM

### Suggestion for amendment of Article 36

By : TIMOTHY KIRKHOPE MEP and THE EARL OF STOCKTON MEP

Status : Mr Kirkhope , Member  
Lord Stockton, Alternate

| PRAESIDIUM  | TIMOTHY KIRKHOPE MEP   |
|---|--|
| <p><b><u>Article 36: Transparency of the proceedings of the Union's institutions</u></b></p> <p>1. In order to promote good governance and ensure the participation of civil society, the Union institutions shall conduct their work as openly as possible.</p> <p>2. The European Parliament shall meet in public, as shall the Council when it is discussing a legislative proposal.</p> <p>3. Any citizen of the Union, man or woman, and any natural or legal person residing in a Member State, shall have a right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created by those institutions.</p> <p>4. General principles, conditions and limits which, on grounds of public or private interest, govern the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure.</p> <p>5. Each institution, agency or body referred to in paragraph 2 shall determine in its own Rules of Procedure specific provisions regarding access to its documents.</p> | <p><b><u>Article 36: Transparency of the proceedings of the <i>Community</i>'s institutions</u></b></p> <p>1. In order to promote good governance and ensure the participation of civil society, the <i>Community</i> institutions shall conduct their work <u><i>openly, unless there are compelling reasons for the matter to be debated "in camera".</i></u></p> <p>2. The European Parliament shall meet in public, as shall the Council when it is discussing a legislative proposal.</p> <p>3. Any citizen of the <i>Community</i>, man or woman, and any natural or legal person residing in a Member State, shall have a right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created by those institutions.</p> <p>4. General principles, conditions and limits which, on grounds of public or private interest, govern the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure.<br/><u><i>However, in the interests of accountability, Members of the European Parliament acting in their professional capacity shall have the right to view any Council, Commission or Parliament document.</i></u></p> <p>5. Each institution, agency or body referred to in paragraph 2 shall determine in its own Rules of Procedure specific provisions regarding access to its documents.</p> |

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|  | <p><b>Explanation: MEPs, as elected representatives in the European Community, should have the right to access documentation in order to guarantee transparency.</b></p> |
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## AMENDMENT FORM

### Suggestion for amendment of Article : I-49

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status :    - Member            - ~~Alternate~~

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#### Artikel I-49: Transparenz der Arbeit der Organe der Union

(1) Um eine verantwortungsvolle Verwaltung zu fördern und die Beteiligung der Zivilgesellschaft sicherzustellen, handeln die Organe, Einrichtungen, Ämter und Agenturen der Union unter ~~weitest gehender~~ Beachtung des Grundsatzes der Offenheit.

(2) Das Europäische Parlament tagt öffentlich; dies gilt auch für den Rat, wenn er über Gesetzgebungsvorschläge berät oder Gesetzgebungsvorschläge annimmt.

~~(3) Jede Unionsbürgerin und jeder Unionsbürger sowie jede natürliche oder juristische Person mit Wohnsitz oder mit Sitz in einem Mitgliedstaat hat unter den in Teil III der Verfassung festgelegten Bedingungen das Recht auf Zugang zu Dokumenten der Organe, Einrichtungen, Ämter und Agenturen der Union, und zwar unabhängig davon, in welcher Form diese Dokumente erstellt werden.~~

(4) In einem Europäischen Gesetz werden die allgemeinen Grundsätze und die aufgrund öffentlicher oder privater Interessen geltenden Einschränkungen für die Ausübung des Rechts auf Zugang zu ~~solchen~~ Dokumenten **der Organe, Einrichtungen, Ämter und Agenturen der Union** festgelegt.

(5) Im Einklang mit dem in Absatz 4 genannten Gesetz legen die unter Absatz 3 fallenden Organe, Einrichtungen, Ämter oder Agenturen in ihren jeweiligen Geschäftsordnungen besondere Bestimmungen für den Zugang zu ihren Dokumenten fest.

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Explanation (if any) :

**Absatz 3:**

**Streichung.** Wiederholung von Artikel II-42.

## FICHE AMENDEMENT

### Proposition d'amendement à l'Article I-49

Déposée par Monsieur de Villepin

Qualité : - Membre

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#### **Article I-49 : Transparence des travaux des institutions de l'Union**

1. Afin de promouvoir une bonne gouvernance, et d'assurer la participation de la société civile, les institutions, les organes et les agences de l'Union œuvrent dans le plus grand respect possible du principe d'ouverture.
2. Le Parlement européen siège en public, ainsi que le Conseil lorsqu'il ~~délibère sur et adopte~~ **statue sur** une proposition législative.
3. Toute citoyenne ou tout citoyen de l'Union ou toute personne physique ou morale résidant ou ayant son siège statutaire dans un État membre dispose d'un droit d'accès aux documents, ~~quelle que soit la forme dans laquelle ils sont produits~~ **leur support**, des institutions, des agences et des organes de l'Union, dans les conditions prévues à la Partie III.
4. La loi européenne fixe les principes généraux et les limites qui, pour des raisons d'intérêt public ou privé, régissent l'exercice du droit à l'accès à de tels documents.
5. Chaque institution, organe ou agence visé au paragraphe 3 définit dans son règlement intérieur des dispositions particulières concernant l'accès à ses documents, en conformité avec la loi européenne visée au paragraphe précédent.

## AMENDMENT FORM

**Suggestion for amendment of Article :** Article I-49: Transparency of the proceedings of the Union's Institutions

**By Ms / Mr : Mr Jens-Peter Bonde**

**Status :   X- Member                      - Alternate**

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1.     In order to promote good governance and ensure the participation of civil society, the Union's Institutions, bodies and agencies shall conduct their work openly [~~DELETE~~:as possible.]
2.     2.   The European Parliament shall meet in public, as shall the Council when it is discussing and adopting a legislative proposal. **ELECTED MEMBERS OF PARLIAMENTS SHALL HAVE ACCESS TO AGENDAS, WORKING DOCUMENTS AND LISTS OF SCHEDULED MEETINGS FOR ALL MEETINGS IN THE COUNCIL AND COMMISSION WORKING GROUPS - INCLUDING THE EXECUTIVE MEETINGS. FOR ALL ACTS INITATED BY THE COMMISSION A LIST SHAL BE PROVIDED INDICATING WHICH LOBBYIST/STAKE HOLDERS HAVE BEEN HEARD IN THE DRAFTING PROCESS.**
- 3.
4.     3.   Any citizen of the Union, man or woman, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union's Institutions, bodies and agencies in whatever form they are produced, in accordance with the conditions laid down in Part Three of the Constitution.
4.     **DRAFTS AND PROPOSALS SHALL BE ACCESSIBLE TO THE PUBLIC AS SOON AS THEY ARE ADOPTED OR HANDED OVER TO OTHER BODIES, INTEREST ORGANIZATIONS OR INDIVIDUALS, OR PUBLISHED WHOLLY OR PARTLY BY OTHERS.**

**ALL MEETINGS ON PROPOSED LEGAL ACTS TO BE HELD IN PUBLIC UNLESS A SPECIFIC AND DULY JUSTIFIED EXEPTION IS DECIDED BY A TWO-THIRD MAJORITY . SUCH EXCEPTIONS SHALL BE NOTIFIED TOGETHER WITH THE**

**REASONS FOR THEM TO THE EUROPEAN PARLIAMENT.**

**5. ALL DOCUMENTS SHALL BE ACCESSIBLE TO THE PUBLIC UNLESS  
EXEPTIONS ARE DECIDED BY A TWO-THIRD MAJORITY IN THE  
RESPONSIBLE BODY.**

6. 5. Each institution, body or agency referred to in paragraph 3 shall determine in its own rules of procedure specific provisions regarding access to its documents, in accordance with the European law referred to in paragraph 4 above.

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**Explanation (if any) :**

## AMENDMENT FORM

### Suggestion for amendment of Article :NEW I-49b

By ~~Ms~~/ Mr : Danny PIETERS also on behalf of Alain LAMASSOURE and Neil McCORMICK

Status :    - Member            - Alternate

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Introduce a new article 49 b, reading as follows :

“1. Every official language of a Member State submitted by that Member State to the Union is also an official language of the European Union.

The official language of the choice of the citizen of the Union is used for all communication between the citizen and the European Union. All documents, acts and other information the citizens and the enterprises of the European Union are supposed to know or have a legitimate interest to get access to, will be simultaneously accessible in all official languages of the European Union.

2. The European Union has three working languages: English, French and German. The use of one's mother tongue as a working language is not allowed.

The working languages are the languages used for internal communication, internal discussions and the internal exchange of information and documents. However Members of the European Parliament, and Members of the national Parliamentary Assemblies or of the Governments of the Member States, are always entitled to use the official language of their choice.

3. In their different establishments, the European Union institutions, bodies and agencies will also use the local official languages as a working language in their local communications.”

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#### Explanation (if any) :

It makes little sense to deal in Part I with « transparency », « participatory democracy » etc. without guaranteeing the linguistic rights of the citizens of the Union and the linguistic regime of the Union institutions. This is NOT covered by Part II nor is it covered by references to linguistic diversity etc. It is essential to include the linguistic regime in Part I as in the opinion of most peoples and citizens of the Union, it is essential that their language is recognised also by the Union.

Let us also observe the inconsistency that in the presently proposed text there is a reference to the official languages in the Draft Protocol on National Parliaments in I.4, without this concept being defined in the Constitution.



The contents of the proposed article are explained at length in the boklet presented to all Convention Members in English, French and Dutch : « PIETERS, D ., The languages of the European Union, The Belgian House of Representatives, 2002,71pp (ISBN 90-807420-3-1).

The necessary text adaptations have been carried out in order to fit in the article into the actual Text of Part I.

## AMENDMENT FORM

### Title VI: The Democratic Life of the Union

#### Suggestion for amendment of Article : I-49

**By Members: Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Mr Rein Lang, Mr Dimitrij Rupel, Lord MacLennan**

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#### **Article I-49 : Transparency of the proceedings of the Union's Institutions**

In order to promote good governance and ensure the participation of civil society, the Union's Institutions, bodies and agencies shall conduct their work as openly as possible.

2. The European Parliament shall meet in public, as shall the Council when it is discussing and adopting a legislative proposal.
  3. Any citizen of the Union, man or woman, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union's Institutions, bodies and agencies in whatever form they are produced, in accordance with the conditions laid down in Part Three.
  4. A European law shall lay down the general principles and limits which, on grounds of public or private interest, govern the right of access to such documents. ***It shall also fix the structure and content of the Official Journal of the European Union.***
  5. Each institution, body or agency referred to in paragraph 3 shall determine in its own rules of procedure specific provisions regarding access to its documents, in accordance with the European law referred to in paragraph 4 above.
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**Explanation:**

*We are constitutionalising all acts of the Union. They need to be recorded and disseminated in the official gazette of the Union. This amendment provides therefore the necessary legal base.*

## AMENDMENT FORM

### Suggestion for amendment of Article I-49.6

**By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg and Mr Göran Lennmarker, national parliament representatives.**

**Status :**  
- **Members:** Hjelm-Wallén, Lekberg and Lennmarker  
- **Alternates:** Petersson

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#### **Article I-49: Transparency of the proceedings of the Union's institutions<sup>1</sup>**

**6. The Members of the institutions of the Union, the members of committees, and the officials and other servants of the Union have the right to freedom of expression. This may be restricted in accordance with the principles and conditions to be defined in the Staff Regulations.**

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<sup>1</sup> The principle of transparency includes more than public legislative debates and public access to documents, *inter alia* the officials' right to freedom of expression. The right to freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions of its progress. It should be codified in Union law (*cf.* CONV 637/03). This codification could be included in this Article (or in Article III-332, presently dealing with confidentiality).

## AMENDMENT FORM

**Suggestion for amendment of Article :Article I-49°**

**By Mr : Ernâni Lopes and Manuel Lobo Antunes**

**Status : Member and Alternate**

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### **Article I-49: Transparency of the proceedings of the Union's institutions**

1. In order to promote good governance and ensure the participation of ~~civil society~~ **the citizens**, the Union institutions shall conduct their work as openly as possible.
2. The European Parliament shall meet in public, as shall the Council ~~when it is discussing~~ **during the presentation and the voting** of a legislative proposal.

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**Explanation : According to the rules laid down , in the E.C. Treaty, in the Seville summit and in the Council's rule of procedure recently amended, Council meetings are open during the initial stage of the procedure (presentation by the Commission of its main legislative proposals and the ensuing debate) and the final stage (votes and explanations of votes).**

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## AMENDMENT FORM

Suggestion for amendment of Article : 36, para 1

By ~~Ms~~ / Mr : František Kroupa

Status :        - ~~Member~~                      - Alternate

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1. In order to promote good governance and ensure the participation of civil society **and associations representing regional and local players**, the Union institutions shall conduct their work as openly **and transparently** as possible.
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## FICHE AMENDEMENT

**Proposta di emendamento all'articolo 36, paragrafi 3, 5 e 6, parte I della Costituzione:**

**Déposée par** Mme Anne VAN LANCKER  
M. Olivier DUHAMEL  
M. Ben FAYOT  
Mme Linda McAVAN  
M. Luis MARINHO  
Mme Pervenche BERÈS  
Mme Maria BERGER  
M. Carlos CARNERO  
Mme Elena PACIOTTI  
Mme Helle THORNING-SCHMIDT

**Qualité:** - Membres et Suppléants

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### **ARTICOLO 36 – Trasparenza dei lavori delle istituzioni dell'Unione**

3. Qualsiasi cittadino dell'Unione o persona fisica o giuridica che risieda in uno Stato membro ha il diritto di accedere ai documenti, indipendentemente dalla forma in cui essi sono prodotti, del Parlamento europeo, *del Consiglio europeo*, del Consiglio e della Commissione, nonché a quelli degli organi creati da tali istituzioni *o dalla presente Costituzione*.

5. Ciascuna istituzione, agenzia o organo ~~di cui al paragrafo 2~~ *(5 parole soppresse)* definisce nel proprio regolamento interno disposizioni specifiche riguardanti l'accesso ai propri documenti.

*6. I principi e le condizioni di accesso ai documenti si applicano anche agli Stati membri quando essi attuano le politiche dell'Unione.*

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**Explication éventuelle:**



## FICHE AMENDEMENT

### Proposition d'amendement à l'Article : 36

Déposée par Madame ou Monsieur : M. Louis Michel, M. Karel de Gucht, M. Elio di Rupo, Mme Anne Van Lancker, membres de la Convention et M. Pierre Chevalier et Mme Marie Nagy, membres suppléants de la Convention ainsi que par Monsieur Patrick Dewael, observateur

Qualité : - Membre - Suppléant

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- Supprimer l'article 36
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### Explication éventuelle :

*Les paragraphes 1, 2 et 3 sont redondants avec d'autres dispositions :*

- *le paragraphe 1 reprend le principe d'ouverture déjà développé à l'article 34*
- *le paragraphe 2 relatif à la publicité des réunions législatives du Conseil est couvert par l'article 25*
- *le paragraphe 3 développe l'article 42 de la Charte.*

*Il y a lieu de supprimer ces dispositions là où elles sont redondants et de transférer les éléments additionnels dans la partie I de la Constitution relative au fonctionnement des institutions*

*S'agissant des paragraphes 4 et 5, ils ont pour objet de donner une base juridique à l'adoption de règles d'accès aux documents. Ils devraient dès lors les inscrire dans la partie relative au fonctionnement des institutions à l'instar de l'article 255 TCE actuel.*

*Sur le fond, il y a toutefois lieu de se féliciter de l'extension du principe d'accès aux documents aux organes et agences de l'Union. Une disposition générale pourrait toutefois dans la partie institutionnelle préciser que les agences et organes de l'Union respectent les droits énoncés dans la Charte des droits fondamentaux.*

## FICHE AMENDEMENT

### Proposition d'amendement à l'Article : 36 bis

Déposée par Madame ou Monsieur : **M. Louis Michel, M. Karel de Gucht, M. Elio di Rupo, Mme Anne Van Lancker**, membres de la Convention et **M. Pierre Chevalier et Mme Marie Nagy**, membres suppléants de la Convention ainsi que par **Monsieur Patrick Dewael**, observateur

Qualité :   - Membre                      - Suppléant

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- Supprimer l'article 36bis.
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### Explication éventuelle :

*Le paragraphe 1<sup>er</sup> ne fait que reprendre un principe déjà énoncé à l'article 8 de la Charte.*

*Le paragraphe 2 reçoit notre appui sur le fond. Il doit toutefois puisqu'il régit le fonctionnement démocratique des institutions et organes de l'Union figurer dans le titre sur les institutions*

## AMENDMENT FORM

### Suggestion for amendment of Article 36 bis (new)

**By Mrs Lena Hjelm-Wallén, Mrs Teija Tiilikainen, Mr Dick Roche and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg, Mr Göran Lennmarker, Mr Kenneth Kvist and Mr Ingvar Svensson, national parliament representatives.**

**Status :**           - Member: Hjelm-Wallén, Tiilikainen, Roche, Lekberg and Lennmarker  
                      - Alternate: Petersson, Kvist and Svensson

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#### **Article 36 bis: Good administration**<sup>1</sup>

**In the handling of administrative matters and in other administrative activities the institutions and bodies of the Union shall act in accordance with fundamental principles of good administration<sup>2</sup>, detailed arrangements for the implementation of which are to be defined in accordance with the legislative procedure within two years of the entry into force of the [Treaty].**

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<sup>1</sup> Working group V on complementary competencies proposed that a provision should be introduced in a future Treaty, providing power for the Union to adopt rules on good administration within the EU institutions (CONV 375/1/02). The proposal from the working group did not meet any objections when its conclusions were discussed in the plenary. This Article could be placed under this Title, preferably after Article 36, or under a Title dealing with the Institutions.

<sup>2</sup> The nature of any cross-reference to Article 41 of the Charter will depend on the Convention's ultimate decision on the treatment of the Charter.

## AMENDMENT FORM

Suggestion for amendment of Article : Art 36

Suggestion for Part III

By Ms / Mr : Mr Bonde, Mr Dalgaard (Alternate), Mr Heathcoat-Amory, Mr Skaarup, Mr Zahradil

Status :    **X - Member**                      - Alternate

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### 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 **HAVE PUBLIC LISTS OF OUT AND INCOMING POST AND EASY ACCESSIBLE ARCHIVES** [~~Delete:~~ conduct their work as openly as possible].
2.        The European Parliament shall meet in public, as shall the Council when it is discussing a legislative proposal. **ELECTED POLITICIANS SHALL HAVE ACCESS TO AGENDAS, WORKING DOCUMENTS AND LISTS OF SCHEDULED MEETINGS FOR ALL MEETINGS IN THE COUNCIL AND COMMISSION WORKING GROUPS.**
3.        Any citizen of the Union, man or woman, and any natural or legal person residing in a Member State, shall have a **DIRECT** right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created OR CO-FINANCED by those institutions.
4.        General [~~Delete:~~ principles, conditions and] limits on grounds of public or private interest, **TO** the right of access to documents **CAN ONLY** [~~Delete:~~ shall] be determined by the European Parliament and the Council in accordance with the legislative procedure. **CONCRETE AND RESONED DEROGATIONS FROM OPENESS AND TRANSPARENCY CAN BE DECIDED WITH 2/3 MAJORITY IN THE INSTITUTIONS. THE DECISION CAN BE APPEALED TO THE OMBUDSMAN AND THE EUROPEAN COURT OF JUSTICE.**

5. [**Delete:** Each institution, agency or body referred to in paragraph 2 shall determine in its own Rules of Procedure specific provisions regarding access to its documents.]

## AMENDMENT FORM

**Suggestion for amendment of Article:** 36

**By Mr:** Erwin Teufel

**Status:** Member

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### *Text of the Praesidium*

(3) Any citizen of the Union, man or woman, and any natural or legal person residing in a Member State, shall have a right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created by those institutions.

(5) Each institution, agency or body referred to in paragraph 2 shall determine in its own Rules of Procedure specific provisions regarding access to its documents.

### *Proposed Amendment*

(3) Any citizen of the Union, man or woman, and any natural or legal person residing in a Member State, shall have a right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created by those institutions **or referred to in this Constitution.**

(5) Each institution, agency or body referred to in paragraph **3** shall determine in its own Rules of Procedure specific provisions regarding access to its documents.

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### **Explanation:**

#### Paragraph 3

Institutions like Europol were not created by the Union's institutions but are referred to in the (future) Constitution. They should be included in the scope of Article 36, too.

#### Paragraph 5

Correction of an incorrect cross reference.

## FICHE AMENDEMENT

|                                       |              |
|---------------------------------------|--------------|
| Proposition d'amendement à l'Article: | 36           |
| Déposée par Monsieur:                 | Erwin Teufel |
| Qualité:                              | Membre       |

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### *Texte du Praesidium*

- (3) Jede Unionsbürgerin und jeder Unionsbürger sowie jede natürliche oder juristische Person mit Wohnsitz in einem Mitgliedstaat hat das Recht auf Zugang zu Dokumenten – gleich, in welcher Form sie erzeugt werden – des Europäischen Parlaments, des Rates und der Kommission sowie der von diesen Organen geschaffenen Agenturen und Einrichtungen.
- (5) Die unter Absatz 2 fallenden Organe, Agenturen oder Einrichtungen legen jeweils in ihrer Geschäftsordnung Sonderbestimmungen hinsichtlich des Zugangs zu ihren Dokumenten fest.

### *Amendement proposé*

- (3) Jede Unionsbürgerin und jeder Unionsbürger sowie jede natürliche oder juristische Person mit Wohnsitz in einem Mitgliedstaat hat das Recht auf Zugang zu Dokumenten – gleich, in welcher Form sie erzeugt werden – des Europäischen Parlaments, des Rates und der Kommission sowie der **in der Verfassung vorgesehenen oder** von diesen Organen geschaffenen Agenturen und Einrichtungen.
- (5) Die unter Absatz **3** fallenden Organe, Agenturen oder Einrichtungen legen jeweils in ihrer Geschäftsordnung Sonderbestimmungen hinsichtlich des Zugangs zu ihren Dokumenten fest.

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### **Begründung:**

Abs. 3

Einrichtungen wie Europol sind nicht von den Organen geschaffen, sondern (künftig) in der Verfassung vorgesehen. Auch diese sollten von Artikel 36 erfasst sein.

Abs. 5

Richtigerweise muss auf Absatz 3 verwiesen werden.

## FICHE AMENDEMENT

**Proposition d'amendement à l'Article : Article 36**

**Proposition d'amendement à la Partie I**

**Déposée par : Dominique de Villepin**

**Qualité : - Membre**

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### **Article 36 : Transparence des travaux des institutions de l'Union**

1. Afin de promouvoir une bonne gouvernance, et d'assurer la participation de la société civile, les institutions de l'Union œuvrent dans le plus grand respect possible du principe d'ouverture.
  2. Le Parlement européen siège en public, ainsi que le Conseil lorsqu'il délibère statue sur une proposition législative.
  3. Toute citoyenne ou tout citoyen de l'Union ou toute personne physique ou morale résidant ou ayant son siège statutaire dans un État membre dispose d'un droit d'accès aux documents, quel que soit leur support~~quelle que soit la forme dans laquelle ils sont produits~~, du Parlement européen, du Conseil et de la Commission, ainsi que des agences et organes créés par ces institutions.
  4. Les principes généraux, les conditions et les limites qui, pour des raisons d'intérêt public ou privé, régissent l'exercice du droit à l'accès aux documents sont fixés par le Parlement européen et le Conseil conformément à la procédure législative.
  5. Chaque institution, agence ou organe visé au paragraphe 2 définit dans son règlement intérieur des dispositions particulières concernant l'accès à ses documents.
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### **Explication éventuelle :**

- Au paragraphe 2, l'amendement proposé reprend la rédaction de l'article 25 proposé par le præsidium.
- Au paragraphe 3, l'amendement proposé reprend la rédaction de l'article 42 de la Charte et l'article 255 TCE.



## AMENDMENT FORM

### Suggestion for amendment of Article :36

By Ms / Mr : Ernâni Lopes and Manuel Lobo Antunes

Status : - Member and Alternate

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### 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 citizens**, the Union institutions shall conduct their work as openly as possible.
2. The European Parliament shall meet in public, as shall the Council ~~when it is discussing~~ **during the presentation and the voting** of a legislative proposal.
3. Any citizen of the Union, man or woman, and any natural or legal person residing in a Member State, shall have a right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created by those institutions.
4. General principles, conditions and limits which, on grounds of public or private interest, govern the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure.
5. Each institution, agency or body referred to in paragraph ~~2~~ **3** shall determine in its own Rules of Procedure specific provisions regarding access to its documents.

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**Explanation :** According to the rules laid down , in the E.C. Treaty, in the Seville summit and in the Council's rule of procedure recently amended, Council meetings are open during the initial stage of the procedure (presentation by the Commission of its main legislative proposals and the ensuing debate) and the final stage (votes and explanations of votes).

## AMENDMENT FORM

**Suggestion for amendment of Article :36**

**By Mr : M. Attalides**

**Status : - Member**

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*In para 3*

Any citizen of the Union, ~~man or woman~~, and any natural or legal person...

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**Explanation (if any) : The fact that any citizen of the Union may be man or woman is self evident and does not need to be spelt out.**

**AMENDMENT FORM**

**Suggestion for amendment of Article :36**

**By Mr :M. Attalides**

**Status : - Member**

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*In para 1 add the following phrase*

In order to *facilitate citizens' full information*, promote good governance and the participation of civil society, the Union institutions shall conduct their work as openly as possible.

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**Explanation (if any) :**

## AMENDMENT FORM

### Suggestion for amendment of Article 36: Transparency of the proceedings of the Union's institutions

By Mr Roche

Status : - Member

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#### 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 as openly as possible.
2. The European Parliament shall meet in public, as shall the Council when it is discussing a legislative proposal.
3. Any citizen of the Union, ~~man or woman~~, and any natural or legal person residing in **or having its registered office in** a Member State, shall have a right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created by those institutions.
4. General principles, conditions and limits which, on grounds of public or private interest, govern the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure.
5. Each institution, agency or body referred to in paragraph 2 shall determine in its own Rules of Procedure specific provisions regarding access to its documents.

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#### Explanation (if any) :

While no amendment is proposed, it should be clear that the requirement to meet in public does not apply to Corerper or to other preparatory meetings at official level.

## AMENDMENT FORM

### Suggestion for amendment of Article : 36

By Mr : Joschka Fischer

Status : - Member

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#### Artikel 36: Transparenz der Arbeit der Organe der Union

(1) Um eine verantwortungsvolle Verwaltung zu fördern und die Beteiligung der Zivilgesellschaft sicherzustellen, handeln die Organe der Union unter ~~weitestgehender~~ Beachtung des Grundsatzes der Offenheit.

(2) Das Europäische Parlament tagt öffentlich; dies gilt auch für den Rat, wenn er über Gesetzgebungsvorschläge berät.

~~(3) ——— Jede Unionsbürgerin und jeder Unionsbürger sowie jede natürliche oder juristische Person mit Wohnsitz in einem Mitgliedstaat hat das Recht auf Zugang zu Dokumenten — gleich, in welcher Form sie erzeugt werden — des Europäischen Parlaments, des Rates und der Kommission sowie der von diesen Organen geschaffenen Agenturen und Einrichtungen.~~

(4) Die allgemeinen Grundsätze, die Bedingungen und die aufgrund öffentlicher oder privater Interessen geltenden Einschränkungen für die Ausübung des Rechts auf Zugang zu Dokumenten werden vom Europäischen Parlament und vom Rat nach dem Gesetzgebungsverfahren festgelegt.

(5) Die unter Absatz 2 fallenden Organe, Agenturen oder Einrichtungen legen jeweils in ihrer Geschäftsordnung Einzelheiten fest~~Sonderbestimmungen hinsichtlich des Zugangs zu ihren Dokumenten fest.~~

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#### Explanation:

**Absatz 1: Streichung des Wortes "weitestgehender", da Einzelheiten nach Absatz V festgelegt werden.**

**Absatz 3 ist der Sache nach identisch mit Artikel 42 der Grundrechtecharta und kann daher entfallen.**

**Aufgrund Absatz 2 sollte Absatz 5 präzisiert werden. Der neue Grundsatz der Öffentlichkeit für die Gesetzgebungsarbeit des Rats ist von hoher Bedeutung. Analog zu nationalen Regelungen zur Öffentlichkeit parlamentarischer Sitzungen sollte die Möglichkeit erhalten bleiben, in der Geschäftsordnung der einzelnen Organe Sonderregelungen für den Einzelfall vorzusehen.**

## AMENDMENT FORM

### Suggestion for amendment of Article : 36

### Suggestion for Part III

By Ms / Mr :           G.M. de Vries  
                              T.J.A.M. de Bruijn

Status :           Members                   Alternate

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1. In order to promote good governance and ensure the participation of civil society, the Union institutions shall conduct their work as openly as possible.
  2. The European Parliament shall meet in public, as shall the Council when it is discussing a legislative proposal.
  3. Any citizen of the Union, ~~man or woman,~~ and any natural or legal person residing in a Member State, shall have a right of access to documents held by the institutions and to those of the agencies and bodies created by those institutions in whatever form they are produced. European Parliament, Council and Commission documents\_ in whatever form they are produced\_, ~~and to those of the agencies and bodies created by those institutions.~~
  4. General principles, conditions and limits which, on grounds of public or private interest, govern the right of access to documents shall be determined ~~by the European Parliament and the Council~~ in accordance with the legislative procedure.
- 
1. Each institution, agency or body referred to in paragraph ~~2-3~~ shall within the framework of the rules envisaged in paragraph 4 determine in its own Rules of Procedure specific provisions regarding access to its documents.
- 

**Explanation (if any) :** The amendment of paragraph 3 broadens the possibility for citizens to access information. Furthermore, the Dutch Government would like to point out that paragraph 3 of this article and others (see below) are a repetition of what is already laid down

in the Charter of Fundamental Rights. If the Charter would become an integral part of the Constitution, such a repetition is obviously undesirable. Therefore, if the Charter would become an integral part of the Constitution this article and the articles 33, 35, 35a, 36a(1), 37 will have to be deleted and/or adjusted. See for further background information the relevant declaration of the Dutch Permanent Representative (CONV 659/03).





Suggestion for amendment of Article 36

By Mr Göran Lennmarker

Status : Member

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**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 ~~as openly as possible~~ in accordance with the principle of openness.<sup>1</sup>

2. The European Parliament shall meet in public, as shall the Council when it is discussing a legislative proposal.

3. Any citizen of the Union, man or woman, and any natural or legal person residing in a Member State, shall have a right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created by those institutions.

4. General principles, conditions and limits which, on grounds of public or private interest, govern the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure.

5. Each institution, agency or body referred to in paragraph ~~2~~ 3<sup>2</sup> shall determine in its own Rules of Procedure specific provisions regarding access to its documents.

6. The Members of the institutions of the Union, the members of committees, and the officials and other servants of the Union have the right to freedom of expression. This may be restricted in accordance with principles and conditions to be defined in the Staff Regulations.<sup>3</sup>

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<sup>1</sup> This is a clearer definition.

<sup>2</sup> Incorrect reference.

<sup>3</sup> Freedom of expression must be guaranteed.

## AMENDMENT FORM

Suggestion for amendment of Article : 36

Suggestion for protocol :

By Ms / ~~Mr~~ : Dr. Sylvia-Yvonne Kaufmann

Status :    - Member            ~~–Alternate~~

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### Artikel 36: Transparenz der Arbeit der Organe der Union

(1) Um eine verantwortungsvolle Verwaltung zu fördern und die Beteiligung der Zivilgesellschaft sicherzustellen, handeln die Organe der Union unter ~~weitestgehender~~ Beachtung des Grundsatzes der Offenheit.

~~(2) Das Europäische Parlament tagt öffentlich; dies gilt auch für den Rat, wenn er über Gesetzgebungsvorschläge berät.~~

(3) Jede Unionsbürgerin und jeder Unionsbürger sowie jede natürliche oder juristische Person mit Wohnsitz in einem Mitgliedstaat hat das Recht auf Zugang zu Dokumenten ~~—gleich, in welcher Form sie erzeugt werden—~~ **[des Europäischen Parlaments, des Rates und der Kommission sowie]** der ~~von diesen Organen geschaffenen~~ Agenturen und Einrichtungen **der Europäischen Union**.

(4) Die allgemeinen Grundsätze, die Bedingungen und die aufgrund öffentlicher oder privater Interessen geltenden Einschränkungen für die Ausübung des Rechts auf Zugang zu Dokumenten werden vom Europäischen Parlament und vom Rat nach dem Gesetzgebungsverfahren festgelegt.

~~(5) Die unter Absatz 2 fallenden Organe, Agenturen oder Einrichtungen legen jeweils in ihrer Geschäftsordnung Sonderbestimmungen hinsichtlich des Zugangs zu ihren Dokumenten fest.~~

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**Explanation (if any) :**

**Absatz 1:**

Der Grundsatz der Offenheit ist umfassend und nicht nur "weitestgehend" zu beachten.

**Absatz 2:**

**Streichung.** Diese Regelung findet sich bereits in Art. 25 Abs. 2.

**Absatz 3:**

Der Zusatz "gleich, in welcher Form sie erzeugt werden" ist unnötig. Er birgt vielmehr die Gefahr in sich, dass vergleichbare Bestimmungen, die diesen Zusatz nicht enthalten, zukünftig enger ausgelegt werden.

Der freie Zugang zu den Dokumenten der Organe ist ohnehin bereits durch die Grundrechtecharta gewährleistet, die gemäß Art. 5 integraler Bestandteil der Verfassung wird. Die **sinnvollste Lösung** im Umgang mit diesem Artikel würde deshalb darin bestehen, das Recht aus **Art. 42 der Grundrechtecharta durch die Nennung von "Agenturen und Einrichtungen" zu erweitern**. In dem Falle könnte Absatz 3 gestrichen werden.

**Absatz 5:**

**Streichung.** Der Zugang zu öffentlichen Dokumenten ist ein Grundrecht. Die Schrankenbestimmung obliegt dem **Gesetzgeber**, wie es in Absatz 4 auch vorgesehen ist. Der **Gesetzgeber** hat dabei auch die Schranken des Zugangs zu Dokumenten der von ihm geschaffenen Agenturen und Einrichtungen zu bestimmen. Absatz 5 würde aber Absatz 4 gerade in dieser Hinsicht leer laufen lassen.

## AMENDMENT FORM

Suggestion for amendment of Article :36 (part 3)

Suggestion for protocol :

By Mr David Heathcoat-Amory, Mr Bonde

Status :X      - Member                      - Alternate

N.B. '( )' denote text deleted ' \_\_\_\_\_ 'denotes text added

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### Article 36: Transparency of the proceedings of the Union's institutions

1. In order to promote good governance and ensure *(the)* **democratic** participation *(of civil society)*, the Union institutions shall conduct their work as openly as possible.
2. The European Parliament shall meet in public, as shall the Council when it is discussing *(a legislative proposal)* **any matter of Union business**.
3. Any citizen of the Union, man or woman, and any natural or legal person residing in a Member State, shall have a right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created by those institutions.
4. General principles, conditions and limits which, on grounds of public or private interest, govern the right of access to **such** documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure.
5. Each institution, agency or body referred to in paragraph 2 shall determine in its own Rules of Procedure specific provisions regarding access to its documents.

**New 6. The rights of whistleblowers in the institutions and agencies of the Union shall be recognised and protected.**

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### Explanation (if any) :

For paragraph one: we should foster participation by our citizens, and not lobbyists.

For paragraph two: the original text is limiting, and permits meetings to be held in camera where no legislative proposal is on the table.

For new paragraph six: the constitutional treaty must acknowledge in some form the rights of those who speak out, where the European institutions themselves have been restrictive and unresponsive. There have been a number of attempts to expose wrongdoing, maladministration, fraud and corruption in the Communities institutions by people who have been subjected to harassment and dismissal.

## AMENDMENT FORM

### Title VI: The democratic life of the Union

#### Suggestion for amendment of Article : 36.4

By Members: Mr Jens-Peter Bonde and Mr Andrew Duff.

Status : Members

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#### Article 36: *Access to documents*

4. *All Union documents are publicly accessible. General conditions* and limits which, on grounds of public or private interest, govern the right of access to these documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure. *Specific derogations shall be decided by the Council acting by unanimity.*
- 

#### Explanation:

*It is necessary to be explicit about the procedure that the Council will use to decide on specific exceptions to the general rule of open access.*

*Under the scheme proposed here, the burden of proof is on those who would wish to restrict access to a document to make their case.*

## FICHE AMENDEMENT

### Proposition d'amendement à l'Article 36, paragraphes 3, 5 et 6, partie I de la Constitution:

**Déposée par**     Mme Anne VAN LANCKER  
                         M. Olivier DUHAMEL  
                         M. Ben FAYOT  
                         Mme Linda McAVAN  
                         M. Luis MARINHO  
                         Mme Pervenche BERÈS  
                         Mme Maria BERGER  
                         M. Carlos CARNERO  
                         Mme Elena PACIOTTI  
                         Mme Helle THORNING-SCHMIDT

**Qualité:**    - Membres et Suppléants

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### **ARTICLE 36 – Transparence des travaux de l'Union**

3. Toute citoyenne ou tout citoyen de l'Union ou toute personne physique ou morale résidant dans un État membre dispose d'un droit d'accès aux documents, quelle que soit la forme dans laquelle ils sont produits, du Parlement européen, **du Conseil européen**, du Conseil et de la Commission, ainsi que des agences et organes créés par ces institutions **ou par cette Constitution**.
5. Chaque institution, agence ou organe ~~visé au paragraphe 2~~ **(4 mots supprimés)** définit dans son règlement intérieur des dispositions particulières concernant l'accès à ses documents.
6. **Les principes et conditions d'accès aux documents s'appliquent aussi aux Etats membres lorsqu'ils exécutent les politiques de l'Union.**

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**Explication éventuelle:**



**AMENDMENT FORM**

**Suggestion for amendment of Article 36:  
Transparency of the proceedings of the Union's institutions**

**Suggestion for Part I of the Constitution, Title IV: The democratic life of the Union**

**By Mr :      dr. Dimitrij Rupel   Janez Lenarčič**

**Status :      - Member                      - Alternate**

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**Article 36: Transparency of the proceedings of the Union's institutions**

The European Parliament shall meet in public; as shall the Council when it is **ACTING** as a legislator.

## AMENDMENT FORM

**Suggestion for amendment of Article : 36 (3)**

**By Mr. Frans Timmermans**

**Status : Member of the European Convention**

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Any citizen of the Union, man or woman, and any natural or legal person residing in a Member State, shall have a right of access to ~~European Parliament, Council and Commission~~ documents of the Union's institutions in whatever form they are produced, and to those of the agencies and bodies created by those institutions or established on the basis of this Constitutional Treaty.

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### **Explanation:**

It is essential to apply these principals to all EU institutions or bodies, so that they do not evade their obligations to ensure the right of access to documents as they do at present.

## AMENDMENT FORM

### Suggestion for amendment of Article 36: (Title VI: The democratic life of the Union, part I of the Constitution)

By: Teija Tiilikainen, Antti Peltomäki, Kimmo Kiljunen, Matti Vanhanen, Riitta Korhonen

Status :      Tiilikainen, Kiljunen, Vanhanen - Members  
                 Peltomäki, Korhonen - Alternates

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#### 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 as openly as possible.
  2. The European Parliament shall meet in public, as shall the Council when it is discussing a legislative proposal.
  3. Any citizen of the Union, ~~man or woman~~, and any natural or legal person residing **or having its registered office** in a Member State, shall have a right of access to ~~European Parliament, Council and Commission documents in whatever form they are produced, and to those of the Union institutions, agencies and bodies created by those institutions..~~
  4. General principles, ~~conditions~~ and limits ~~which~~, on grounds of public or private interest, governing the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure **within two years of the entry into force of the Constitutional Treaty.**
  5. Each institution, agency or body referred to in paragraph 2 3 shall determine in its own Rules of Procedure specific provisions regarding access to its documents.
- 

#### Explanation:

Paragraph 3 should cover the right of access to documents of not only agencies and bodies created by the European Parliament, Council and Commission but also Union institutions and bodies established directly by the Constitution. Furthermore, there is no reason to define that citizens are either men or women.

In paragraph 4 the word "conditions" is superfluous. There should also be a time limit for the act concerned.

As regards paragraph 5, it is not certain whether this paragraph is necessary. More specific rules on access to documents of each institution, agency or body can in any case be made in accordance to jurisdiction given to each institution, agency or body in the Constitution to adopt its Rules of Procedure.

Ms. Teija Tiilikainen also supports the proposal made by Lena Hjelm-Wallén to include a specific provision about good administration as a new Article 36 b of the Constitutional Treaty.

## FICHE AMENDEMENT

**Proposition d'amendement à l'Article : Artigo 36.º, n.º 3**

**Déposée par Monsieur Luís Queiró**

**Qualité : Suppléant**

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3. Qualquer (2 palavras suprimidas) cidadão da União ou qualquer pessoa singular ou colectiva com residência **ou sede social** num Estado-Membro goza do direito de acesso aos documentos (9 palavras suprimidas) do Parlamento Europeu, do Conselho e da Comissão, bem como das agências e órgãos criados por essas Instituições.

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### **Explication éventuelle :**

*O n.º 3 consagra o princípio do acesso aos documentos das instituições (não jurisdicionais), «agências e órgãos». Na verdade, mesmo aceitando a redacção proposta, deveria dizer «pessoa singular ou colectiva com residência ou sede social [ou estatutária] (...)», até por razões de coerência com outras disposições. A linguagem dita inclusiva usada no início do n.º 3 nem sempre é usada noutras normas. Por razões de coerência formal e sistémica, propõe-se a sua eliminação.*

## FICHE AMENDEMENT

**Proposition d'amendement à l'Article : Artigo 36.º, n.º 2**

**Déposée par Monsieur Luís Queiró**

**Qualité : Suppléant**

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2. As sessões do Parlamento Europeu são públicas, assim como as do Conselho, (7 palavras suprimidas) **quando actue como legislador, nos termos previstos no respectivo regulamento interno.**

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### **Explication éventuelle :**

*A regra da publicidade quanto ao Conselho deve assentar na distinção entre a discussão e a deliberação sobre uma proposta legislativa. A generalização da publicidade das sessões do Conselho seria mais uma forma de transformar este órgão numa segunda câmara, tornando-o incapaz de exercer as competências executivas indiscutíveis que hoje tem, para além de contribuir para a alteração dos actuais equilíbrios institucionais.*

## **FICHE AMENDEMENT**

**Proposition d'amendement à l'Article : Artigo 36.º, n.º 1, novo**

**Déposée par Monsieur Luís Queiró**

**Qualité : Suppléant**

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**1. As Instituições da União procuram actuar, nos processos deliberativos, de modo conforme ao princípio da transparência.**

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**Explication éventuelle :**

*Julga-se escusado a referência à "governance" bem como a afirmação do princípio de abertura, sendo mais adequado e bastante o da transparência.*

## AMENDMENT FORM

Suggestion for amendment of Article : 36

~~Suggestion for Part III~~

By ~~Ms~~/ Mr : Hain

Status :    - Member            - ~~Alternate~~

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1.     *Okay.*
  2.     *Okay – but we would like clarity on exactly how far this is intended to extend – e.g. only to full meetings of the Council, or also to Working Groups and Coreper?*
  3.     Any citizen of the Union, man or woman, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created by those institutions, subject to the principles, limits and conditions to be defined in accordance with paragraph 4.
  4.     *Okay.*
  5.     Each institution, agency or body referred to in paragraph ~~2~~3 shall determine in its own Rules of Procedure specific provisions regarding access to its documents.
- 

### Explanation (if any) :

*Paragraph 3 should be subject to paragraph 4 – this reflects the provisions of Article 255 TEC.  
Paragraph 5 should logically refer to paragraph 3.*



## AMENDMENT FORM

Suggestion for amendment of: Part One of the Constitution, Title VI: The democratic life of the Union

### Article 36: Transparency of the proceedings of the Union's institutions

By: BROK; SANTER; STYLIANIDIS; SZAJER; TAJANI; PALACIO; VAN DER LINDEN; ALMEIDA GARRETT; ALONSO; ALTMAIER; AZEVEDO; BASILE; BREJC; CISNEROS; CUSHNAHAN; DEMETRIOU; DOLORES; FIGEL; FOGLER; FOLLINI; FRENDON; GIANNAKOU; KAUPPI; KELEMEN; KORHONEN; KRASTS; KROUPA; LA-MASSOURE; LENNMARKER; LEQUILLER; MAIJ-WEGGEN; MLADENOV; PIKS; RACK; VAN DIJK; WITTBRODT; ZIELENIEC ; ZILE

on behalf of the EPP Convention Group

Status: Members and Alternates

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*Text of the Praesidium*

*Proposed Amendments*

### 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 as openly as possible.
2. The European Parliament shall meet in public, as shall the Council when it is discussing a legislative proposal.
3. Any citizen of the Union, man or woman, and any natural or legal person residing in a Member State, shall have a right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created by those institutions.
4. General principles, conditions and limits which, on grounds of public or private interest, govern the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure.
5. Each institution, agency or body referred to in paragraph 2 shall determine in its own Rules of Procedure specific provisions regarding access to its documents.

### 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 as openly as possible.
2. The European Parliament shall meet in public, as shall the Council when it is discussing *and adopting* a legislative proposal. *The minutes shall be made public.*
3. Any citizen of the Union, man or woman, and any natural or legal person residing in a Member State, shall have a right of access to ~~European Parliament, Council and Commission~~ documents *of the Union institutions*, ~~in whatever form they are produced, and to those of the agencies and bodies created by those institutions.~~
4. General principles, ~~conditions~~ and limits which, on grounds of public or private interest, govern the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure *within two years of entry into force of this Constitution. The same conditions and limits are applicable to the Member States linked with the definition, negotiation and im-*

*plementation of the European Union legislation.*

5. Each institution, agency or body referred to in paragraph 2 shall determine in its own Rules of Procedure specific provisions regarding access to its documents *in line with legislation on the access to documents.*

*6. (new) Drafts and proposals should be accessible to the public as soon as they are adopted or handed over to other bodies, interest organisations or individuals, or published wholly or partly by others.*

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***Explanation:***

It should be clarified that the Council always meets in public in its function as legislator.

Not only the meetings themselves, but also the minutes should be public and accessible by every citizen. Internal committee work should be possible.

In order to achieve greater openness and increased confidence in the Union, the rules on public access to documents must be extended to cover all EU institutions and bodies.

The executive measures need to be in line with the European legislation concerned.

## FICHE AMENDEMENT

### Proposition d'amendement à l'Article : 36

Déposée par Madame ou Monsieur :

**Maria Eduarda Azevedo (membre)**  
**António Nazaré Pereira (suppléant)**

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Article 36

1. Afin de promouvoir une bonne gouvernance, et d'assurer la participation de la société civile, les ~~institutions~~Institutions de l'Union, **les agences et les organes créés par ces institutions** œuvrent dans le plus grand respect possible du principe de **transparence**.
2. Le Parlement européen siège en public, ainsi que le Conseil lorsqu'il est **investi de pouvoirs législatifs**.
3. **Tout citoyen** de l'Union ou toute personne physique ou morale **ayant un domicile** dans un État membre (...)

## AMENDMENT FORM

### Suggestion for amendment of Article 36.5 and 6 (new)

**By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg, Mr Göran Lennmarker, Mr Kenneth Kvist and Mr Ingvar Svensson, national parliament representatives.**

**Status :**  
- Member: Hjelm-Wallén, Lekberg and Lennmarker  
- Alternate: Petersson, Kvist and Svensson

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### **Article 36, Transparency of the proceedings of the Union's institutions**

5. Each institution, agency or body referred to in paragraph 2 <sup>3</sup><sup>1</sup> shall determine in its own Rules of Procedure specific provisions regarding access to its documents.

**6. The Members of the institutions of the Union, the members of committees, and the officials and other servants of the Union have the right to freedom of expression. This may be restricted in accordance with the principles and conditions to be defined in the Staff Regulations.<sup>2</sup>**

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<sup>1</sup> Incorrect reference.

<sup>2</sup> The principle of transparency includes more than public legislative debates and public access to documents, *inter alia* the officials' right to freedom of expression. The right to freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions of its progress. It should be codified in Union law (*cf.* CONV 637/03). This codification could be included in this Article, in a separate Article under this Title or in the Title dealing with the Institutions.

## AMENDMENT FORM

### Suggestion for amendment of Article 36. 3-4

By Mrs Lena Hjelm-Wallén and Mrs Teija Tiilikainen, government representatives,  
Mrs Helle Thorning-Schmidt, Mrs Lone Dybkjær and Mrs Piia-Noora Kauppi,  
European Parliament representatives, Mr Sören Lekberg, Mr Kenneth Kvist  
and Mr Ingvar Svensson, national parliament representatives

Status :- Member: Hjelm-Wallén, Tiilikainen, Lekberg

- Alternate: Thorning-Schmidt, Dybkjær, Kauppi, Kvist and Svensson

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### Article 36, Transparency of the proceedings of the Union's institutions

3. Any citizen of the Union, ~~man or woman,~~<sup>1</sup> and any natural or legal person residing **or having its registered office** in a Member State, shall have a right of access to ~~European Parliament, Council and Commission~~ documents **of the Union institutions,** ~~and their in whatever form they are produced, and to those of the agencies and bodies created by those institutions.~~<sup>2</sup>

4. General principles, ~~conditions~~<sup>3</sup> and limits ~~which~~ on grounds of public or private interest, ~~govern~~ **governing this** right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure **within two years of the entry into force of [the Treaty].**<sup>4</sup>

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<sup>1</sup> Superfluous. That men and women have equal rights is a fundamental principle of the Union and does not need to be mentioned specifically in particular articles

<sup>2</sup> In order to achieve greater openness and increased confidence in the Union, the rules on public access to documents must be extended to cover *all* EU institutions and bodies.

<sup>3</sup> Superfluous. The conditions are included in the principles and their limitations.

<sup>4</sup> A time limit should also be included in this article.

## AMENDMENT FORM

### Suggestion for amendment of Article 36. 1-2

**By Mrs Lena Hjelm-Wallén and Mr Sven-Olof Petersson, government representatives and Mr Sören Lekberg, Mr Kenneth Kvist and Mr Ingvar Svensson, national parliament representatives.**

**Status :**  
- **Member: Hjelm-Wallén and Lekberg**  
- **Alternate: Petersson, Kvist and Svensson**

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### **Article 36, Transparency of the proceedings of the Union's institutions**

1. In order to promote good governance and ensure the participation of the ~~civil society~~ **citizens**<sup>1</sup>, the Union institutions shall conduct their work as openly as possible.
2. The European Parliament shall meet in public as shall the Council when it is discussing **and adopting**<sup>2</sup> legislative proposal.<sup>3</sup>

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<sup>1</sup> The citizens - rather than civil society - constitute the democratic base of the Union.

<sup>2</sup> To clarify.

<sup>3</sup> The possibility to have open Council meetings in other cases is and should be regulated in the Council's Rules of procedure.

## AMENDMENT FORM

### Title VI: The democratic life of the Union

#### Suggestion for amendment of Article : 36

**By Members:** Mr Andrew Duff, Mr Lamberto Dini, Mr Paul Helminger, Mr Peeter Kreitzberg, Mr Algirdas Gricius, Mr Puiu Hasotti, Mr Jelko Kacin, Mr Zekeriya Akçam and Mr Eugenijus Maldeikis; **and Alternate Members:** Ms Lone Dybkjaer, Mr Valdo Spini, Mr Willem Van Eekelen, Lord Maclean of Rogart, Mr Nesrin Uzun, Mr Marios Matsakis, Mrs Androula Vassiliou, Mr Istvan Szent-Ivanyi, Mr Péter Eckstein-Kovacs, Mr Ibrahim Ozal and Mr Gintautas Sivickas.

**Status :**        **Members and alternate members.**

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#### **Article 36:**    *Access to documents*

1.    *Delete*
  2.    *Delete*
  3.    Any citizen of *the Union*, and any natural or legal person residing in a Member State, shall have a right of access *to documents of the Union institutions, agencies and bodies*.
  4.    [General principles, conditions and limits which, on grounds of public or private interest, govern the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure.]
  5.    *Delete*
- 

#### **Explanation:**

*The principle of good governance and openness should have been introduced much earlier on in the Constitution. One has suggested their inclusion, for example, in Article 3.5. What the Union means by the practice of good administration is in any case already spelt out in Article 41 of the Charter. We should be careful to ensure ourselves that this Article here really adds something of substance.*

*We propose to change the title so that it accurately reflects the substantive content of the article.*

*The content of draft paragraph 1 would be better placed in Article 34 (see our amendment).*

*The content of draft paragraph 2 has already been expressed - and better - in Article 25.3 (see also our amendment to that article).*

*In paragraph 3 we remove the ludicrous reference to 'man or woman'. Who else, indeed?*

*We also bring the formulation more into line with current case law and practice by broadening the definition of access.*

*We suggest that paragraph 4 may be better placed in Part Two.*

*Paragraph 5 is superfluous.*



## AMENDMENT FORM

### Suggestion for amendment of Article 36: Transparency of the proceedings of the Union's institutions

By Ms / Mr : Ivan Korčok, Ján Figel', Juraj Migaš (Slovak Republic)

Status : I. Korčok and J. Figel' are members; J. Migaš is an alternate.

1. In order to promote good governance and ensure the participation of civil society, the Union institutions shall conduct their work as openly and transparent as possible.
2. The European Parliament shall meet in public, as shall the Council when it is discussing a legislative proposal.
3. Any citizen of the Union, ~~man or woman~~, and any natural or legal person residing in a Member State, shall have a right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created by those institutions.
4. General principles, conditions and limits which, on grounds of public or private interest, govern the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure.
5. Each institution, agency or body referred to in paragraph 2-3 shall determine in its own Rules of Procedure specific provisions regarding access to its documents.

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**Explanation (if any) :**

## FICHE AMENDEMENT

Proposition d'amendement à l'Article : T6Demiralp.doc.

Déposée par ~~Madame ou~~ Monsieur Oğuz DEMIRALP

Qualité : ~~-Membre~~ - Suppléant

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Article 36 : Transparence des travaux des institutions de l'Union

- Remplacer « toute citoyenne ou tout citoyen » par « Tous les citoyens » :

3. ~~Toute citoyenne ou tout citoyen~~ Tous les citoyens de l'Union ou toute personne physique ou morale résidant dans un État membre dispose d'un droit d'accès aux documents, quelle que soit la forme dans laquelle ils sont produits, du Parlement européen, du Conseil et de la Commission, ainsi que des agences et organes créés par ces institutions.

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### Explication éventuelle :

Dans le contexte de cet article, il est absolument redondant de se référer aux sexes comme un élément possible de discrimination. Par conséquent, il serait préférable d'inclure les termes « tous les citoyens » à la place de « toutes citoyennes ou tous citoyens ».

## AMENDMENT FORM

**Suggestion for amendment of Article : 36**

**Suggestion for protocol :**

**By Ms / Mr : M Caspar EINEM**

**Status : Member**

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### **Artikel 36: Transparenz der Arbeit der Organe der Union**

- (1) Um eine verantwortungsvolle Verwaltung zu fördern und die Beteiligung der Zivilgesellschaft sicherzustellen, handeln die Organe der Union unter weitestgehender Beachtung des Grundsatzes der Offenheit.
- (2) Das Europäische Parlament tagt öffentlich; dies gilt auch für den **Legislativrat**, ~~wenn er über Gesetzgebungsvorschläge berät.~~
- (3) Jede Unionsbürgerin und jeder Unionsbürger sowie jede natürliche oder juristische Person mit Wohnsitz in einem Mitgliedstaat hat das Recht auf Zugang zu Dokumenten - gleich, in welcher Form sie erzeugt werden - des Europäischen Parlaments, des Rates und der Kommission sowie der von diesen Organen geschaffenen Agenturen und Einrichtungen.
- (4) Die allgemeinen Grundsätze, die Bedingungen und die aufgrund öffentlicher oder privater Interessen geltenden Einschränkungen für die Ausübung des Rechts auf Zugang zu Dokumenten werden vom Europäischen Parlament und vom **Legislativrat** nach dem Gesetzgebungsverfahren festgelegt.

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**Explanation (if any) :**

**Titre VI: La vie démocratique de l'Union**

**Proposition d'amendement à l'article 36**

**Déposée par: M.J.CHABERT  
M.M.DAMMEYER  
M.P.DEWAEL  
Mme C. du GRANRUT  
M.C.MARTINI  
M.R.VALCARCEL SISO**

**Status: - Observateur**

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Insérer au point 3, à la troisième ligne, après Commission: « le Comité des régions ».

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**Explication**

Au paragraphe 3 de cet article il est indiqué que les citoyens de l'Union disposent d'un droit d'accès non seulement aux documents du Parlement européen, du Conseil et de la Commission européenne (institutions) mais également aux documents des agences et organes créés par ces institutions. Au même titre que celles-ci, le Comité des régions souhaite intensifier le dialogue avec les citoyens. En outre, le Comité des régions a été créé par le Traité et non pas par les institutions mentionnées précédemment.

## AMENDMENT FORM

### Suggestion for amendment of Article : 36

By **Mr Hannes FARNLEITNER**  
**Mr Reinhard Eugen BÖSCH**

**Mr Gerhard TUSEK**  
**Mr Eduard MAINONI**

Status :        - Members

- Alternate Members

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#### **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 as openly as possible.
  2.        The European Parliament shall meet in public, as shall the Council when **acting under a procedure for the adoption of a European law or a European framework law.** ~~it is discussing a legislative proposal.~~
  3.        Any citizen of the Union, ~~man or woman~~, and any natural or legal person residing in a Member State, shall have a right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created by those institutions.
  4.        **The European Parliament and the Council, in accordance with the legislative procedure, shall adopt a European law laying down the General principles, conditions and limits** which, on grounds of public or private interest, govern the right of access to documents **of the institutions, agencies and bodies referred to in par.3.** ~~shall be determined by the European Parliament and the Council in accordance with the legislative procedure.~~
  5. ~~Each institution, agency or body referred to in paragraph 2 shall determine in its own Rules of Procedure specific provisions regarding access to its documents.~~
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**Explanation (if any) :**

*Par.2 is a duplication of Art. 25 (2). In any case, the wording in this article should not deviate from the more precise wording there. (In the amendment of Hannes Farnleitner to Art.25 he has proposed to replace “any procedure” by “a procedure” for reasons of linguistic clarification.)*

*Ad par.3: It is evident that any citizen can be either man or woman.*

*Ad par.4 and 5: With a view to simplification, a single European law governing access to the documents of all Union institutions, agencies and bodies would be desirable.*



## FICHE AMENDEMENT

Proposition d'amendement à l'**article 36** de la partie I de la Constitution, Titre VI relatif à « la vie démocratique de l'Union »

**Déposée par M. Pierre Lequiller**, représentant de l'Assemblée nationale française

**Qualité :** Membre titulaire

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Rédiger cet article ainsi :

*« Article 36 : Transparence des travaux des institutions de l'Union »*

1. Afin de promouvoir une bonne gouvernance, et d'assurer la participation de la société civile, les institutions de l'Union œuvrent dans le plus grand respect possible **des principes d'ouverture et de transparence.**
  2. Le Parlement européen siège en public, ainsi que le Conseil lorsqu'il ~~délibère sur une proposition législative~~ **intervient dans la procédure législative. Les comptes-rendus des débats sont rendus publics.**
  3. Toute citoyenne ou tout citoyen de l'Union ou toute personne physique ou morale résidant dans un Etat membre dispose d'un droit d'accès ~~aux~~ **à l'ensemble des documents**, quelle que soit la forme dans laquelle ils sont produits, du Parlement européen, du Conseil ~~et de la~~ **de la Commission et de la Banque centrale européenne**, ainsi que des agences et organes créés par ces institutions. **Les documents créateurs de droits sont disponibles dans toutes les langues officielles de l'Union européenne.**
  4. *Sans modification.*
  5. *Sans modification.*
- 

### Explication :

Au point 1, il est souhaitable d'ajouter au principe d'ouverture celui de transparence qui est indissociable de la bonne gouvernance de l'Union.

Au point 2, il est indispensable que les sessions du Conseil, lorsque celui-ci siège en formation législative, fassent l'objet d'un compte rendu public afin d'assurer une véritable transparence et une large diffusion des débats, notamment auprès des Parlements nationaux.

Au point 3, les documents de l'ensemble des institutions faisant l'objet d'un droit d'accès, il faut mentionner explicitement la Banque centrale européenne. Par ailleurs, il paraît souhaitable de confirmer dans cette disposition que les actes créateurs de droits sont disponibles dans toutes les langues officielles de l'Union européenne, conformément au règlement n°1 de 1958 portant fixation du régime linguistique de la Communauté européenne.



## FICHE AMENDEMENT

### Proposition d'amendement à l'Article : Article 36 (Titre VI)

Déposée par MM. Santer, Helminger et Fayot (Titulaires, Luxembourg) ainsi que Mme Wagener et M. Schmit (Suppléant, Luxembourg)

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#### Article 36 : Transparence des travaux des institutions de l'Union

1. Afin de promouvoir une bonne gouvernance, et d'assurer la participation de la société civile, les institutions de l'Union œuvrent dans le plus grand respect possible du principe d'ouverture.
2. Le Parlement européen siège en public, ~~ainsi que le Conseil lorsqu'il délibère sur une proposition législative.~~ Le Conseil siège en public lorsqu'il statue dans le cadre d'une procédure conduisant à l'adoption d'une loi européenne ou d'une loi-cadre européenne.
3. Toute citoyenne ou tout citoyen de l'Union ou toute personne physique ou morale résidant dans un État membre dispose d'un droit d'accès aux documents, quelle que soit la forme dans laquelle ils sont produits, du Parlement européen, du Conseil et de la Commission, ainsi que des agences et organes créés par ces institutions.
4. Les principes généraux, les conditions et les limites qui, pour des raisons d'intérêt public ou privé, régissent l'exercice du droit à l'accès aux documents sont fixés par le Parlement européen et le Conseil conformément à la procédure législative.
5. Chaque institution, agence ou organe visé au paragraphe 2 définit dans son règlement intérieur des dispositions particulières concernant l'accès à ses documents.

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#### Explication éventuelle :

Par souci de cohérence, il convient d'aligner les dispositions relatives à la transparence dans ce chapitre sur celle des chapitres précédents, notamment de l'article 25 dont il ressort que le Conseil siège en public lorsqu'il statue dans le cadre d'une procédure législative.

## FICHE AMENDEMENT

Proposition d'amendement à l'Article : **36**

Déposée par Madame : **Cristiana MUSCARDINI**

Qualité : **Membre**

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### **Art. 36**

1. Al fine di promuovere il buon governo e garantire la partecipazione della società civile, le istituzioni dell'Unione operano **in modo trasparente**.

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Explication éventuelle :

## AMENDMENT FORM

**Suggestion for amendment of Article : 36 doc**

**Suggestion for Part III**

**By Ms / Mr : Voggenhuber, MacCormick, Lichtenberger**

**Status :    - Member            - Alternate**

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### **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 as openly as possible.~~

~~2. The European Parliament shall meet in public, as shall the Council when it is discussing a legislative proposal.~~

~~3. Any citizen of the Union, man or woman, and any natural or legal person residing in a Member State, shall have a right of access to European Parliament, Council and Commission documents in whatever form they are produced, and to those of the agencies and bodies created by those institutions.~~

4. General principles, conditions and limits which, on grounds of public or private interest, govern the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure.

~~5. Each institution, agency or body referred to in paragraph 2 shall determine in its own Rules of Procedure specific provisions regarding access to its documents.~~

### **Explanation if any:**

1. The content of paragraph 1 would be better placed in Article 34 (see our amendment)

2. The content of paragraph 2 has already been expressed in Article 25.3. However we strongly believe that the Council shall equally respect the principle of direct public nature of legislation when it is taking decisions which are directly binding norms. Furthermore it shall not be possible of members of the Council to be represented by others, nor shall it be admissible to assign one's voting

right.

3. The content of paragraphe 3 is stipuleated in Article 42 of the Charter of Fundamental Rights

5. Paragraphe 5 is superflous

## FICHE AMENDEMENT

Proposition d'amendement à l'Article : 36

Déposée par Messieurs : Borrell (miembro), Carnero y López Garrido (suplentes)

***3. Todo ciudadano de la Unión y toda persona física o jurídica que resida en un Estado miembro tendrán derecho a acceder a los documentos en poder del Parlamento Europeo (...).***

## **AMENDMENT FORM**

### **Suggestion for amendment of Article: 36 (Title VI)**

**By Mr : Adrian Severin**

**Status :** - Alternate member

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#### **Art. 36**

Replace the paragraph 2 with

2. The European Parliament and the Legislative Council shall meet in public
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#### **Explanation (if any) :**

The separation of legislative and executive powers within the Council, which is in principle agreed by a large majority of the Conventionalists, presupposes a clear distinction between Executive Council and Legislative Council. The Legislative Council will work following the parliamentary procedure



## AMENDMENT FORM

### Suggestion for amendment of Article : I-49

By Mr Göran Lennmarker

Status : Member

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#### Article I-49: 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's Institutions, bodies and agencies shall conduct their work ~~as openly as possible~~ in accordance with the principle of openness. Exceptions to openness should be laid down in a European law<sup>1</sup>
2. The European Parliament shall meet in public, as shall the Council when it is discussing and adopting a legislative proposal.
3. Any citizen of the Union, man or woman, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union's Institutions, bodies and agencies in whatever form they are produced, in accordance with the conditions laid down in Part Three.
4. A European law shall lay down the general principles and limits which, on grounds of public or private interest, govern the right of access to such documents.
5. Each institution, body or agency referred to in paragraph 3 shall determine in its own rules of procedure specific provisions regarding access to its documents, in accordance with the European law referred to in paragraph 4 above.
6. The Members of the institutions of the Union, the members of committees, and the officials and other servants of the Union have the right to freedom of expression. This may be restricted in accordance with principles and conditions to be defined in the Staff Regulations.<sup>2</sup>

#### Explanation:

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<sup>1</sup> The European law should clearly state the grounds for secrecy.

<sup>2</sup> Freedom of expression must be guaranteed.