

COVER NOTE

from Secretariat

to The Convention

Subject : Increased openness in the EU: non-paper by Mrs Lena Hjelm-Wallén

Members of the Convention will find attached a non-paper received from Mrs Lena Hjelm-Wallén, member of the Convention, with a view to the Convention session of 24-25 June.

Non-paper

Increased openness in the EU

Input to the European Convention

- With a view to the meeting of the Convention on 24-25 June – when organisations representing civil society will participate – Mrs Lena Hjelm-Wallén, Member of the Convention, would like to present the following paper on openness.

The EU must perform its tasks as openly and as closely to the citizens as possible. Transparency strengthens the democratic nature of the institutions and the citizens' confidence in the administration. Therefore, measures need to be taken to further increase the transparency of the EU institutions.

Council meetings should be open at the beginning and end of all legislative procedures. More public debates of a thematic nature could increase the public's understanding of EU policy and enhance interest in the work of the Council. Important policy documents, such as the Work Programme for the EU, should be debated openly.

The right of access to documents must be extended to all EU institutions and bodies. Currently, the treaty-based right of access is limited to documents held by the European Parliament, the Council and the Commission. This creates an imbalance, as European citizens may be denied insight into other institutions and bodies whose work has an impact on their daily lives. An extension of the right of access to documents should preferably be made by amendment of Article 255 of the EC Treaty.

It is of equal importance to strengthen and improve **the right of EU officials to freedom of expression**. The opportunity for officials to participate in public debate is at the heart of a democratic society. The right to freedom of expression is a fundamental freedom protected by the European Convention on Human Rights and constitutes one of the essential foundations of a democratic society. This right should be expressly guaranteed in codified Community law.

Today, EU officials are under an almost total obligation of confidentiality. If they were to be given wider opportunities to publicly express views and ideas on the matters they work with – and are experts on – citizens would have a far better chance to actively follow developments on different EU issues. Also, a strengthened right to freedom of expression could serve as an important tool for preventing fraud and mismanagement.

The present rules could, in theory, lead to the absurd result that an official who has an obligation to give a citizen access to a document under Regulation (EC) No 1049/2001 on public access to European Parliament, Council and Commission documents, could be subject to disciplinary proceedings under the Staff Regulations for orally conveying the same information.

The current situation is not satisfactory and there is a need for vital changes regarding the right of EU officials to freedom of expression.

The citizens' right to good administration, as expressed in Article 41 of the Charter of Fundamental Rights of the European Union, also needs to be guaranteed by the EC Treaty. All EU institutions and organs should be obliged to adhere to binding rules on good administrative behaviour and to inform the citizens of what they have a right to expect.

The European Ombudsman has recently called on all institutions and organs to adopt a proposed European Code of Good Administrative Behaviour. The initiatives taken in this field constitute a step in the right direction, but it is time to make further efforts to create modern, effective and citizen-oriented institutions.