

THE EUROPEAN CONVENTION

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COVER NOTE

from	Secretariat
to	The Convention
Subject :	Contribution from Ms Hanja Maij-Weggen, member of the Convention - “Transparency in the Constitution”

The Secretary-General of the Convention has received the contribution annexed hereto from Ms Hanja Maij-Weggen, member of the Convention.

"Transparency in the Constitution"

Contribution of Hanja Maij-Weggen - Member of the European Parliament, EPP-ED representative to the Convention

On April 24 and 25 the Convention discussed title VI of the constitution, on the democratic life of the Union. Transparency is an elementary part of the democratic life of the Union as it strengthens the confidence, openness and accountability of the Union Institutions.

The body of the European legislation on Transparency currently consists of article 255 of the EC Treaty, Declaration 41 attached to the Final Act of the Treaty of Amsterdam and consequently Regulation 1049/2001. It should be clear that this set of legislation should be maintained if not improved by article 36 of the constitution. For this reason the EPP-Ed group in the Convention has made several amendments on article 36.

On article 36 (2) the amendment of the EPP Convention Group reads:

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.*

The most important reason for this amendment is that it should be clarified that the Council always meets in public in its function as legislator. Meeting in public should not only mean that discussions are public but also that adopting of legislative proposals should be in public as to maintain transparency throughout the legislative procedure. Besides, the amendment of the EPP convention Group is much more in line with the proposal made by the Presidium of the Convention in art 25 (3):

When acting under any procedure for the adoption of a European Law or European framework law, the European Parliament and the Council shall meet in public.

On article 36 (3), the EPP Convention Group made the following amendment:

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 *of the Union institutions*, agencies and bodies.

This amendment is in line with the text of art 255 (1), apart from the fact that this amendment covers the agencies and bodies of the Union as well. Herewith Transparency in the Union will be more widely applicable and therefore strengthen democratic accountability.

On article 36 (4) the EPP Convention Group proposed:

General principles (conditions: delete) 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 in to force of this Constitution. The same conditions and limits are applicable to the Member States linked with the definition, negotiation and implementation of European Union legislation.*

This provision is similar to the provision in art 255 (2), where: General principles and limits on grounds of public or private interest governing the right of access to documents.... within two years of the entry into force of the Treaty of Amsterdam. Regulation 1049/2001 is the result of this provision. These limits should be implemented on the Member States as well.

On article 36 (5), the EPP Convention Group proposes:

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.*

This specific amendment refers to the existing legislation on access to documents especially with a view to Regulation 1049/2001, which provides for legislation applicable for Council, commission and European Parliament. Therefore this piece of legislation should be central to future Rules of

Procedure which should not differ from institution to institution, but have a common judicial base.

Finally the EPP Convention Group made a new proposal for art 36 (6):

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.

This to ensure greater openness of the work of the European institutions, its democratic accountability and so to strengthen an increased confidence in the Union, the ties between institutions and bodies of the European Union and third parties should be clear. Therefore they need to be made public.

Adopting these amendments in the European Constitution, will mean a clear improvement of transparency in Europe. Both by extending the application of transparency and by continuing important legislation in the field of access to documents, the Union will be more accountable, more open and finally European citizens have reason to be more confident in European Policy making.
