

COVER NOTE

from Secretariat

to The Convention

**Subject : Letter from MM Farnleitner and Michel concerning the discussion circle on the
 Court of Justice**

The Secretariat of the Convention has received from MM. Farnleitner and Michel the attached letter concerning the discussion circle on the Court of Justice.

Brussels, 25 April 2003

**To the Members of the
Convention for the Future of Europe**

Dear colleague,

We would like to draw your attention to the following. The discussion circle on the Court of Justice has recently finished its deliberations and the final report of its Chairman has been submitted to the Members of the Convention (CONV 636/03). A major part of the discussion in the circle focused on possible amendments to the current Art. 230 para. 4 TEC in order to improve access to the Courts of the Union by citizens.

Currently actions for annulment brought by individuals against legal acts of the European Community, which directly interfere with their rights, but are not directly addressed to them, are subject to very strict conditions on admissibility.¹ In a great number of cases, due to this strict criteria, actions have to be declared inadmissible, though they may be well founded.

Different proposals for reform of Art. 230 TEC to ensure better access to justice have been tabled in the discussion circle. However, a consensus on the need for reform could not be reached within the group.

We would find it highly regrettable, if the Convention failed to address this issue and to provide a satisfactory solution. We are convinced that a new Constitution for the Union, which expressly confers rights on individuals, but which does not provide for effective judicial remedies to protect these rights, will fall behind citizens' expectations.

The chairman of the discussion circle Antonio Vitorino proposed the following compromise wording to amend the current Art. 230 para. 4 TEC, which was supported by a majority of the group:

“Any natural or legal person may, under the same conditions, institute proceedings against an act addressed to that person or which is of direct and individual concern to him, and against an act of general application which is of direct concern to him without entailing implementing measures”.

The proposal seeks to ensure better judicial protection against acts of general application which under the current system are hardly challengeable.

We think this proposal merits broad backing. We would therefore ask for your support in the forthcoming discussions on the subject in the plenary expressing the wish for reform along the lines of this proposal.

HANNES FARNLEITNER

LOUIS MICHEL

Representative of the Federal
Chancellor of the Republic of
Austria

Representative of the Prime
Minister of the Kingdom of
Belgium

¹ According to Art. 230 para. 4 TEC the plaintiff must be directly and individually concerned by the legal act.