

CONV 546/03

CONTRIB 238

BEGELEIDENDE NOTA

van: het secretariaat

aan: de Conventie

Betreft: Bijdrage van mevrouw Evelin Lichtenberger, plaatsvervangend lid van de
Conventie

- De rol van de civiele samenleving

De secretaris-generaal van de Conventie heeft van mevrouw Evelin Lichtenberger, plaatsvervangend lid van de Conventie, de bijdrage ontvangen die in bijlage dezes staat.

Contribution by Evelin Lichtenberger, alternate member of the Convention

The role of the civil society

The final report of the Working Group XI on Social Europe states:

“A consensus was reached within the Group on the following points:

- ...
- distinguishing it from the role of social partners in industrial bargaining, the treaty could recognise a certain consultative role for the civil society”

Why is it important to recognize this role? How could the consultation procedure work? For which acts of the Union could it be used?

REASONS

1. Efficiency through expertise

Civil society is a reservoir of knowledge. The efficiency of acts of the Union could be increased by tapping it.

2. Transparency

Civil society can participate only if the procedures of the organs of the Union are transparent. The participation of the civil society will result in a Union that is closer to the citizens.

3. Strengthen public support and legitimacy

An act will win more public support and democratic legitimacy, if the public concerned has had the opportunity to participate in the legislative process.

PROCEDURE

Civil society or rather the public, which means one or more natural or legal persons and/or their associations, organizations or groups, needs the following information and rights to be able to play a consultative role:

- a) The public has to be informed in due course about any possible decision taken.
- b) The public has to be informed about the competent authority to which comments or questions may be submitted.
- c) The public needs to have access, in the standard legal frame, to all relevant documents regarding this decision.
- d) The public has to be entitled to express comments and opinions before the decision is taken.
- e) Reasonable time-frames have to be provided.
- f) Due account has to be taken of the results of the public participation.
- g) The public has to be informed about the decision taken and the reasons and considerations upon which that decision is based.

SCOPE

The civil society will not be able to have a consultative role in all areas of Union policy (e.g. GASP). But for the following types of Union legislation will it be possible, because of the reasons mentioned above,:

- I. All laws and framework-laws¹, which are adopted by co-decision: It would probably be most effective, if the public was consulted by the Commission at the beginning of the legislative process, that means even before the Commission presents its proposal to the Council and the EP. There are three reasons for that: first of all, the rights of the official EU-Organs would be untouched, because they still would have the final word and vote (Council and EP) on the law. Second it would not lengthen the legislative process, which right now takes an average of over one year, but probably shorten it, because the proposal of the commission would already try to balance the needs and the demands of the public concerned. Third, the consultation of the civil society at a later stage in the process would be difficult to coordinate.
- II. „Delegated“ acts and implementing acts: There is a certain danger that these types of acts, which are mostly adopted by the Commission, result in a less transparent Union, which will be far away from the citizens. Therefore it is necessary to give the civil society a consultative role for these types of acts with the prerequisites mentioned above.

See also:

Protocol No. 7 to the Amsterdam Treaty Art. 9

CONV 369/02 Art. 25, 27, 34 (Preliminary Draft Constitutional Treaty)

CONV 490/03 CONTRIB 193 (A constitutional Treaty: Openness and good administration in the EU institutions)

CONV 518/03 (The regional and local dimension in Europe)

COM (2002) 728 final (The Communication of the Commission on the institutional architecture)
4.12.2002

COM (2002) 704 final (Towards a reinforced culture of consultation and dialogue – General Principles and minimum standards for consultation of interested parties by the Commission) 11.12.2002

C5-0589/2002 (Provisional Joint Text on the Directive providing for public participation in respect of drawing up of certain plans and programmes relating to environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC) 15.1.2003

Aarhus Convention (25.6.1998)

¹ See final report of WG IX „Simplification“