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EDITORIAL

Dear Friends

The IGC is drawing to a close – a very closed close since there has never been any dialogue with civil society along the process. The Italian Presidency has presented a compromise for the Conclave in Naples – to all Member States, but not the general public. Vive la transparence! We will update you as soon as we can lay our hands on it.

The EU Civil Society Contact Group has issued a press release giving a clear warning signal to the IGC. You should have received it this yesterday and we encourage you to distribute it to your press contacts. We hope many of you have also been able to

participate in the letter campaign before Naples this week. If you need any further information please check our webpage or contact us. The webpage is currently updated on a daily basis.

Act4europe was present at the European Social Forum. It was a very interesting event at which the debate on the EU Constitution had a high profile. The debate we heard at the ESF has made it even clearer how difficult the constitutional debate will be for NGOs during the ratification process. BOND – a UK based development NGO – brought 7000 copies of its ACT4EUROPE TIMES to the ESF. The newspaper style publication was written in partnership with many other NGOs participating in the act4europe campaign. We have included information on this below.

We also include information on our most recent campaigns and activities, which you have received separately, plus additional news about other campaigns. In which there have been promising recent developments that will need further lobby efforts. We would also like to alert you to the new citizens' guide on the final constitutional text, which the Commission will publish next March. Their first guide on the outcome of the Convention was a very useful document for an easy and understandable overview. The new guide can be sent to NGOs and Unions free of charge.

And last but not least, we have hired a new assistant for the campaign, Markus Held, whom you can reach under assistant@act4europe.org. He will be responsible for most of the information gathering, monitoring, and updating.

Good luck to all of us in the last efforts during the IGC!

Nicolas Beger
Coordinator
Civil Society Contact Group/act4europe campaign

IGC news

News from the IGC

The Italian Presidency announces to present **a draft of constitution in NAPLES 28-29 NOVEMBER** "with solutions to 95% to all problems". Spain and Portugal are still firmly opposed to a double majority in the Council proposed by the Convention. The question of the number of Commissioners is still pending – there might finally be one Commissioner per MS, with the possibility of the big countries having two. With the draft text, FRATTINI (Italian Foreign Affairs Minister) wants to avoid a marathon and announces that discussions should be finished by Saturday (29) lunch time – the more sensitive issues will be dealt with in December. The text will propose clarifications and compromises regarding the Foreign Minister (Spain and some other MS are still precautious about his "double hat"; UK and PL support the Presidency's proposals on the independence of the Minister: S/He has to resign if the College of Commissioners resigns and the President of the Council has to intervene at an individual resignation. Although it seemed like the **legislative Council** was off the table already, it has now been re-tabled supported by Germany and Benelux. Finally, FRATTINI affirms that this text will go further in the revision of Part III on the policies. As said above, this text has been sent to all Member States governments – but is not available to the public before the Conclave.

Parliament and IGC: Since November 14, **ELMAR BROK** replaces MENDEZ DE VIGO as EP representative at IGC through a vote within the European People's Party instead of a vote in the EP, which originally elected Klaus Hänsch and Mendez de Vigo in plenary. The appointment was not without controversy as MEPs criticised the procedure as undemocratic. The EP Presidents (PAT COX and the Presidents of the Parliaments political groups), however, approved the EPP-ED group vote. The plenary of the EP had no possibility to influence the choice. Some MEPs suggested that ANDREW DUFF would have been a better choice since he is backed by a significant number of MEPs, the seat in the IGC is not party bound but belongs to the EP as a whole, and two Germans at the same time are not the best choice.

MEP Hänsch and Mendez de Vigo (EP representative at IGC), MEP Randzio-Plath (President of Monetary Committee) firmly opposed the proposal of the EU Finance Ministers to reduce the budgetary powers of the Parliament (ECOFIN proposal). In its plenary session of the 19 November in Strasbourg, many MEP raised the question of the budgetary powers reaffirming that any proposal that would cut powers of the EP could not be accepted by this institution as according to PAT COX "the power of the purse is at the very heart of the prerogatives of each Parliament". NAPOLITANO warns the IGC to "not force Parliament to give a negative judgment or National Parliaments not to ratify it (the Constitution)." On 21 November EP votes resolution that the ECOFIN proposals would be a significant step backwards compared to the proposed Constitution and would overturn the balance between the European institutions. The Presidency has affirmed that the ECOFIN proposal is not a working basis for the IGC.

The **EP Intergroup on the European Constitution** (composed of 230 MEPs) are so far **disappointed** that European Integration does not progress through the proposals of the IGC. It calls on the EP and the National Parliaments, which meet on **5 December in Brussels**, to adopt minimum requirements such as: *Realisation of European democracy through rights of EP on budget, in legislation, in the control of the executive and in the process of amending the Constitution; the creation of an efficient EU (no reduction of areas under QMV); flexibility for the revision of the Constitution.* The European Parliament and the national Parliaments are getting increasingly involved and it is worthwhile to keep ex-Convention Members informed about the concerns of civil society at this point.

It seems that the debates on the **Franco-German plans for a closer union** are strategically placed just at the end of the IGC to send a warning message to those blocking agreement on the Constitution. However, in Germany, France, and Belgium considerable support has been voiced that potentially threatened the Constitutional project. The development has to be watched closely with regards to a two-speed Europe that produces first and second-class citizens, and that has an impact on the community method as well as on democratic institutions such as the European Parliament. The transition periods for accession countries in terms of freedom of movement are already a setback to integration.

Danish opt in for JHA: The Danish foreign minister MOELLER wants a system that permits Denmark to move from its opt-out system on JHA to an opt-in mechanism so that they can take part in areas they regard as necessary. To the present areas of civil legal cooperation, asylum, immigration and visas, the new treaty possibly includes as well legal and penal cooperation and police cooperation. It is not quite sure yet, if Denmark wants this move to an opt-in mechanism to be approved by a referendum held parallel to the referendum for the treaty as a whole.

AMATO and **57 former Convention Members issued a declaration** affirming their claim that the EU should stay a non-religious project; that the legislative role of the EP shouldn't be weakened (especially not by reducing budgetary power); that legislative Council should be maintained; that it ought to reflect economic and social governance in the third part on EU policies; and that the EU has to assure a clear legal basis for protecting and developing public services.

The **Reference to Christianity** is still an issue of major disagreement in the IGC and might be one of the more difficult problems to resolve during the Conclave. The IGC is heavily lobbied from both sides on this issue. Last week, the European People's Party in the European Parliament presented Berlusconi with 400 000 signatures of European citizens backing the mentioning of Christian heritage, not quite as many as the new citizens' initiative would require (1 000 000). The NGO campaign for equal dialogue has in the meantime been successful in lobbying the Belgian government to table a deletion of article I-51 (see detailed report below)

The **Commission** presented a package of legislative proposals on the application of the **Arhus Convention** in Environmental policies and proposes a Council Decision on the ratification of the Convention. The proposals include a directive to ensure public access to justice in the Member States. This initiative can be promising for an access of NGOs on behalf on citizens to European (and National) Courts.

IGC documents CIG 43-49

(SUMMARY MARKUS HELD)

The IGC is obviously much less transparent than the Convention. There are nevertheless some documents available, showing the proceedings of the discussions, on the **official IGC website of the Council** and the website of the **Italian Presidency**:

http://ue.eu.int/igc/doc_register.asp?content=DOC&lang=EN

<http://www.ueitalia2003.it/EN/ConferenzaIntergovernativa/Doc1CIG.htm>

You can certainly also find all documents on the act4europe webpage, which we update with IGC information almost daily. Here we give you a brief summary of the documents so far available. We are waiting for the Italian Conclave package and will send around an extra summary as soon as we have it.

CIG 49/03: Adaption of the Protocol amending the EURATOM Treaty
(17/11/03)

This documents brings the EURATOM Treaty in line with the Constitution, but so far not changing its legal status. The implications seem to be technical for this particular document, yet we need to be alert to the tabled amendment to include Euratom in the Constitution.

CIG 46/03: Treaty Revision (11/11/03)

The Italian Presidency proposes compromise regarding simplified Treaty Revision procedures. The Commission is backing this initiative. The "Nihil obstat" formula (tacit authorisation of national Parliamentarians) of the Presidency seems to get backing of other MS. Many Ministers recognized that the IGC is not absolutely indispensable for every amendment to the Treaty. However, the question of ratification of amendments by all MS is still pending (UK, IRL, SW, SF, EST) do not

amendments by all MS is still pending (UK, IRL, SW, SF, EST) do not want to give it up. Three methods of Treaty Revision are proposed:

- *Specific "bridging clauses"*, which apply in specific areas (such as social policy (III-104(3), environment policy, III-170(3)); require unanimity to move to QMV in these areas after consultation of EP
- *General "bridging clauses"*, replace unanimity with QMV or changes legislative procedure (e.g. move to co-decision); require unanimity in Council + consultation of EP + information of National Parliaments
- *General revision clause*, quasi-constitutional measures necessary for functioning of Treaty or to allow its further development (e.g. defence policy (40 (2), own resources (53 (3), III-232(1) electoral procedures); requires unanimity in Council (in some cases role for EP) + approval by MS

To mitigate between different views of MS (those which want lighter provision against those which reject these provisions generally), the Presidency proposes the following compromises:

- *Specific "bridging clauses"* shouldn't make problems as they define clearly the scope where they are applied
- *General "bridging clauses"*: One option might be to consider introducing a provision similar to the procedures set out in the subsidiarity protocol stipulating that the clause could only be used on condition that no objections have been raised within a certain period of time by at least one third of national parliaments.
- *General revision clause*: a lighter system for amending certain parts of the Treaty under certain conditions; 1st possibility: decision of the European Council by qualified majority; approval by all Member States in accordance with their respective constitutional requirements, 2nd: reduce the requirement for full national ratification, and introduce instead a "nihil obstat" procedure along the lines of that outlined above for the general bridging clauses. National parliaments would in effect retain a "veto" over any proposed.

CIG 45/03: Union Minister of Foreign Affairs (10/11/03)

The Italian Presidency proposes clarifications to tackle different issues regarding the role of the Foreign Minister

- *Independence of Foreign Minister (I-25(4))*
FM cannot be subject of same obligation of independence than other members of Commissions, to the extent that s/he is responsible for CFSP
- *Resignation (I-25(5), 26(3))*
Clarification that FM must resign at request of President of Commission and as Member of Commission in the event of a censure motion from the EP
- *Coherence between CFSP and external relations (I-27(3))*
FM not only responsible for coordination of ext. action within Commission, but also for ensuring coherence between her/his action and CFSP

CIG 43/03: Issues to be dealt with by the Legal Experts group (new mandate) (04/11/03)

The "Phyrus" Expert group is made up of representatives of the IGC, which will verify the legal coherence of the draft Constitution.

- Legal Status of Explanations and Preamble of *Charter of Fundamental Rights* (UK, NL)
- Clarification on scope of respective competencies of Union and MS in *asylum and immigration* (III-167, 168) (SW, LV, NL)
- *Social Security* for employed and self-employed migrant workers (III-21): clarification over compatibility with specificities of certain national situations (LUX)
- *Public Health* (III-35): health services: clarification of relation of provisions within freedom to provide services with MS responsibilities for the orga. and delivery of health services (FIN)
- Consumer Policy (III-132): clarification whether Treaty provides sufficient legal basis to implement Consumer Policy Strategy (SW)
- EP: consequences of limiting the *right to vote* in EP elections to EU citizens only (UK)

act4europe activities

Press release: Europe risks losing the constitutional project during ratification if the IGC continues to ignore citizens' concerns (25/11/03)

The following press release has been sent to EU press and many other media lists, as well as to all ex-Convention Members, to MEPs and to NGOs. Please distribute as widely as you can.

Europe risks losing the constitutional project during ratification if the IGC continues to ignore citizens' concerns

25 November 2003

The Intergovernmental Conference (IGC) is entering the final stages of negotiating the new EU Constitution at the Conclave of Naples this week. The Laeken mandate clearly stipulated that bringing the EU closer to its citizens was one of the main goals for this Constitutional Project. Yet NGOs and civil society are becoming increasingly concerned about how governments are conducting the IGC. At the recent European Social Forum in Paris tens of thousand of young citizens voiced their hostility towards the Constitution.

After the relative transparency of the Convention, the IGC is reverting back to the same old days of trading national interest instead of promoting citizens' rights. Civil dialogue is now worse than pre-Laeken, and the Italian Presidency refuses to meet with civil society and yet has managed to have meetings with the Catholic Church about the Constitution twice.

"At this rate, Heads of State and Governments risk losing the whole constitutional project during ratification. Citizens and their elected Parliamentarians will not buy a Constitution that erodes the Convention draft, that is negotiated in secret and with-

out listening to civil society or to the joint positions of MEPs and MPs represented in the Convention”, said Giampiero Alhadeff (SOLIDAR), Chair of the Civil Society Contact Group that brings together the four large NGO sector platforms (environment – Green 8, social – Social Platform, development - CONCORD, human rights – HR NGO network) and the European Trade Union Confederation (ETUC).

“The Convention only just managed not to lose what we had previously achieved in terms of environmental policy. If the IGC now re-introduces Euratom into the Constitution, referenda and ratification processes that involve national Parliaments will most certainly be lost”, added John Hontelez (EEB), representative of the Green 8 in the Civil Society Contact Group.

And Mary McPhail (EWL), representative of the Social Platform, gives a clear warning: “The Convention was already abysmally unrepresentative in terms of diversity and the equal participation of women, but at least it was transparent. Now a Constitution is negotiated behind closed doors by an almost entirely male IGC, whose Presidency refuses to talk to any civil society organisation. It is time for them to get back to discussing how to achieve equality between women and men, fight poverty and discrimination, ensure the protection of the environment, the observance of human rights, and solidarity with people around the world. If they fail in that task, the citizens of Europe will have every reason to say no to this constitution.”

For more information on the joint demands of the largest civil society platform, please contact the office of the EU Civil Society Contact Group, Dr. Nicolas Beger, 0032-2-5111711, coordinator@act4europe.org, www.act4europe.org

Action Call on Non-Institutional Issues (17/11/03)

The IGC has paid almost no attention to non-institutional issues, although many amendments have been tabled. As the Conclave on 28 and 29 November will be the last chance to have our concerns debated, act4europe issued an action call to support positive amendments that have been tabled and oppose those amendments that deteriorate the Convention draft. You can find the full letter on our website under: <http://act4europe.horus.be/module/FileLib/IGCNon-InstitutionalIssues.doc>

Among the proposals to be adopted, we mentioned the insertion of a horizontal clause on social exclusion; the extension of general rules of transparency to all institutions including the European Central Bank and the European Court of Justice; the inclusion of European Court of Justice’s power to review actions of the European Council; the inclusion of European Court of Justice’s power to safeguard rights of individuals; the declaration foreseeing convening of a new conference on Euratom; the inclusion of the protocol on sustainable development; and QMV in social affairs, anti-discrimination, and environment.

We strongly oppose the following proposals: A stronger legal status of the explanation for applicability of the Charter, thus limiting its scope; any deletion of QMV and co-decision of the EP in relation to budgetary powers; the exclusion of trade agreements from the scope of EP consent, the restriction of ECJ jurisdiction to not cover CFSP; the return to unanimity away from QMV for asylum and immigration, social policy, and environment; a merging of legal personality between the future EU and Euratom.

Participation at European Social Forum

The European Social Forum took place from 12 to 15 November in Paris. Many NGOs from the four sectors participated actively either from EU level or national level. The Civil Society Contact Group and act4europe had a stand together with the Social Platform and Eurostep to present the campaign. The toolkit and other publications were received with a lot of interest. In fact, the EU constitution project was one of the hottest topics at the ESF and we, thus, had a lot of opportunities to talk to people about the concerns and involvement of rights and value based NGOs in this project.

BOND has now published the announced ACT4EUROPE TIMES and brought 7000 copies to the ESF for distribution. It was brought to all the venues at which there were events relating to the Constitution and Future of Europe debates. Act4europe also held a workshop on the campaign and the chair of the Contact Group, Giampi Alhadeff (SOLIDAR/CONCORD), spoke in a panel on North-South relations about the Constitution.

One of the common denominators at the ESF was a strong critique and animosity towards the constitutional project and the particular draft drawn up by the Convention. We feel it is not exaggerated to say there was a high amount of hostility towards anybody who spoke in favour of participating in the debate or working around ensuring rights in it. It was also a fact, however, that the amount of misinformation about the contents of the draft Constitution was very high. There has quite obviously not been any effort by governments to promote an understanding of the content of the draft. The experience of the ESF draws to our attention once more how difficult it will be for NGOs on traditionally low budgets to place themselves in ratification debates in which knowledge about the positive and negative developments around our concerns cannot be transported.

Sectors and other campaigns

European Humanist Federation reports success in campaign against article I-51 (21/11/03)

EHF has just received confirmation that as a result of its joint campaign with many other NGOs (such as IPPF, ILGA-Europe, Catholics for a Free Choice, Right to Die Europe etc.) to the national Ministers and with the collaboration of the Belgian Centre d'Action Laïque, the Belgian Government has presented an **amendment** to the draft Constitution aiming at **deleting article 51**. The NGO coalition believes that article 51 establishes inequality in civil dialogue and will in political reality give privileged access to Christian Churches, particularly the Catholic Church.

The campaign has now been successful with one government. Therefore, the NGO coalition urges all organisations concerned with the neutrality of the Institutions and with the separation between Churches and the Union to help gain further support on this in the IGC.

Model of letters in several languages and addresses of Ministers on <http://www.humanism.be/english/04act-europinstitut.htm>

There will be meeting hosted by the European Parliament titled "**Intervention of the Church in European Union affairs**" at the initiative of MEP Olga Zrihen on **Wednesday 3 December from 16.30 to 18.30**. (Spaak Building, Room P1 A 002). Translation will be provided in the main EU languages. Please register with Edith Nagent, Déléguée aux Relations Internationales European Humanist Federation fhe@ulb.ac.be

Development for all developing countries in the Constitution? (21/11/03, Florent Sebban)

Ministers from EU Member States have confirmed that the EU's development policy should provide the principal framework for its co-operation with all developing countries. In response to a *Eurostep* letter urging Member States to clarify the articles in the draft Constitutional Treaty on development, Ministers from Austria, France, Germany, Spain and the UK have stated that development policy applies to all developing countries. This has important implications on the negotiations in the Intergovernmental Conference, which is set to finalise the EU's Constitutional Treaty, as there was an attempt by legal experts from the Council to open a section on "*economic, financial and technical co-operation*" to developing countries. This would have led to EU relations with developing countries without any poverty eradication or policy coherence objective. The positions taken by the Member States in their letters will strengthen *Eurostep's* call to the Intergovernmental Conference to safeguard the proposal made by the European Convention and to firmly establish the section on "*economic, financial and technical co-operation*" only for countries "*other than developing countries*". The letters from Austria, France, Germany, Spain and the UK are available on: <http://www.eurostep.org/strategy/future/index.html>

ACT4EUROPETIMES published

The British Overseas NGOs for Development, BOND, (www.bond.org.uk) has published the first ACT4EUROPE Times – a newspaper style publication with the main title "Another Europe is possible", , critically addressing the complexities of EU policy for social, human right, development, and environment concerns. The newspaper is written in 4 languages (English, French, German, Spanish) at the same time and brings together articles from NGOs and Unions active within the framework of the act4europe campaign. It includes issues such as the consequences of the Treaty in the areas of Development ("How are Europe's relations with developing countries changing in the aftermath of Cancun and the EU Treaty talks?"), the campaign against GMO (Genetically Modified Organisms) and possible drawbacks of WTO (World Trade Organisation) agreements, presents a critical assessment on different Member States' approach to the European project, highlights neoliberal contents of the draft constitution and deals with immigration and social exclusion policies within the EU. Finally, it calls its readers to act4europe through making our voices heard during the IGC and ratification. For the framework of the European Social Forum, this kind of publication hit the right cord in terms of pros and cons of the European project. If you wish to receive copies please contact Howard Mollett (hmollett@bong.org.uk) who edited and distributed the ACT4EUORPE TIMES with amazing skill and dedication.

Commission publishes second European citizens' guide on Constitution

In view of the adoption of the European Constitution by the Intergovernmental Conference, the Commission is planning to publish two brochures each containing 20 pages and explaining in a clear manner the provisions set out in the Constitution. The first brochure will aim to answer the questions like "What is a constitution? Why do we need a Constitution and what are the contents of the Constitution? The second brochure « A Constitution for Europe, a Constitution for the Citizen » will focus on the areas which are of direct interest to the citizen: freedom, security and justice; an effective and well-targeted regional policy, a better protection of the environment. These questions will be dealt within the European project in a general manner. Both will be available in 20 languages.

The Commission considers it to be "extremely important that European citizens are informed of changes and developments in the building of Europe" and therefore asks all organizations and actors interested in the debate to diffuse this guide. The citizens' guide should be available by March 2004, will be delivered free of charge. The order form can be requested at the following address:

Ariane.moret@cec.eu.int