

How to get from “Nice” to “Lisbon”?

An initiative from the European civil society addressed to the European Council, the European Commission and the Parliament of the European Union

To the Presidency of the EU Council

To the attention of the President of the French Republic, H.E. Mr Nicolas Sarkozy
Palais de l’Elysée
55 rue du Faubourg Saint-Honoré
75008 Paris / FRANCE
franck.louvrier@elysee.fr

To the President of the EU Commission

Secretariat-General of the EU Commission
Attn.: Mr José Manuel D. Barroso
Av. d’Auderghem/Oudergemlaan 45
1040 Brussels/BELGIUM
sg-info@cec.eu.int

To the President of the EU Parliament

European Parliament
Attn.: Prof. Dr. Hans-Gert Pöttering
Rue Wiertz/Wiertzstraat
1047 Brussels/BELGIUM
hans-gert.poettering@europarl.europa.eu

Dear Excellencies,

- President *Sarkozy*,
- President *Barroso*,
- President *Pöttering*,

With the present initiative we refer to Article 11 of the Lisbon Treaty, the ratification process of which is currently blocked, as we are all aware, while a way out of the crisis – as far as we know – is not yet in sight.

In the proposal we are submitting herewith to you and the institutions of the European Union you represent, we take up a few statements mentioned in said article. For instance, point 1 reads: “The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.” Point 2 assures that: “The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.” Finally, point 3 states that: “The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union’s actions are coherent and transparent.”

With our initiative we wish to bring our opinion concerning an “area of Union action” and “publicly known” to your notice, which we consider to be of substantial importance from a constitutional point of view. We would like to “exchange” our views with you as well as with the Union and, in this context, we expect “the institutions” to “maintain an open and transparent dialogue” with us and “with representative associations and civil society”, as we ourselves have been doing this for quite a while. And we do hope that it is not empty words when point 3 promises the European Commission “shall carry out broad consultations with parties concerned in order to ensure that the Union’s actions are coherent and transparent”; in this case, the “parties concerned” are in the first place the initiators of the present project, but in the end all citizens of the European Union.

Even if up to now it has not been possible for the cited provisions to come into force, we assume that they embody your intentions which you are willing to adhere to, regardless of formal sanction. That is what we expect.

What is our request about?

1 By its majority vote of “No” at the Referendum on 12 June 2008, Ireland has ground to a halt the constitutional reform process of the EU. From the Continent’s point of view it is hard to see what exactly may have tipped the balance for this vote. Irrespective of the specific reasons which may have lead Ireland to such a decision, we - as an initiative of people from various countries who have been engaged for years in the constitutional process of the European Union – have a reserved attitude towards the Lisbon Treaty which is only difficult to access and ideationally uninspired.

We believe that its crucial deficit lies in the fact that it still contains no provision which would allow the Union citizens at last to express their *political sovereignty* not only through elections to the Parliament, but also by taking direct democratic initiatives, so as to exercise their democratic right to self-determination, if necessary up to a *referendum*, for achieving concrete political objectives in individual issues.

We are convinced that this shortcoming is the main reason for the often-deplored European weariness of so many citizens of the Union. This means that even with this “Reform Treaty” the EU remains a community whose *concrete right* does not emanate from the sovereignty of its citizens, but exclusively from its elected representatives – thus the *parliamentary legislative* and with an even bigger dominance from its *executive power*, the Commission and the Conference of the Council. In plain democratically theoretical language: **At present, the EU is not a fully-democratic political system, but – in the concretely political sense – a system that patronizes its citizenship disregarding its collective will.** However, where democratic will is not able to develop, sooner or later the life of democracy will die and there is the risk of danger of populist extremes.

2 Of course, the elected Parliaments both in the member states and in the Union are indispensable and also contemporary, but their foundation also has to be **sovereign citizenship. Only when the latter is in a position to form its political will on its own initiative, will its political self-determination and political freedom be guaranteed, in real fact, constitutionally.**

For the most part, it still has not been realized that the democratic legitimation of the parliaments arises from the process of election primarily only *overall* for its institutional function as such in the respective composition of persons of a legislature, while it is not given, however, at the same time for the concrete decisions during this period. The legitimation for this results only when – in compliance with certain rules - citizens themselves have the right any time to take **initiatives** for alternative objectives and to lead these initiatives in a certain direct democratic process [see below under point 4], if necessary, up to a **referendum**.

3 *The chance to realize now this fundamental civil right in the European Union is given – well understood – by the crisis resulting from the outcome of the Irish Referendum of 12 June in the EU.* We can grab this chance, if we arrange for a **Referendum** to take place at the same time as the elections to the EU Parliament in June 2009, in order to solve the problem of deficit in democracy democratically – in one way or the other. This decision could then provide an opportunity for the Irish voters to review their vote of 12 June 2008 on a new basis, without having to repeat a separate referendum for Ireland or even disregard the will expressed at that time by parliamentary means or other tricks. What would it have to be about?

3.1 The current text of the Treaty contains the afore-mentioned Article 11. This article suggests that in future it would grant more immediate democracy. In fact and truth, however – as is possible to realize if one manages not to get confused over the very convoluted wording of Article 11 – this is not at all the case. According to this article, with at least one million signatures from EU-citizens, it will in future not be possible to launch an own initiative, but only to invite the Commission “within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties.” This procedure does not contain a trace of a free original citizen *initiative* right, not even to mention the democratic

decision right. With respect to modern sovereignty, this construction is nothing else but an *As-If-Democracy*.

3.2 This is now what we as a European Citizen Movement [*“Europäische Bürgerschaftsbewegung” (EBB)*] are opposing with the petition of the so-called “Vienna Appeal” [<http://www.impuls21.net/wiener-appell>] of the Austrian “Initiative – Civil Society” [*“Initiative Zivilgesellschaft”*] dated 15 June 2008, which **aims at replacing the current Article 11 of the Lisbon Treaty by a substantially different wording of a new article and to vote on it – simultaneously with the next elections to the EU Parliament – by an EU-wide referendum. Thus the entire Union citizenship would have the alternative to decide whether it wishes to practice the procedure as foreseen by the current wording of the Treaty or to adhere to the newly proposed rules. The democratic collective will would be established.**

3.3 Our proposal to the EU citizens and to the parliamentary institutions of the EU provides **that the currently foreseen Article 11 has to be replaced by an amended one, which would guarantee to citizens their right to political self-determination that may be activated at any time as set out below.**

4. *The new Article 11 would – according to our proposal – read as follows:*

4.1 The right of the European Union derives from its sovereign citizens. It realizes political self-determination *immediately* by exercising *the extra-parliamentary initiative right, the citizens’ petition, the referendum and by the elections* to parliamentary organs of the legislature and the executive power representing them.

4.2 For *the initiative right, the petition and the referendum* the following rules apply:

(a) At least one million citizens may join together to address a *legislative initiative or a general political concern* to the European Parliament [*extra-parliamentary initiative right*]. The latter has to discuss and decide on it according to its rules of procedure within six months. In case of approval by the majority, it becomes valid.

(b) A ***Petition for a referendum*** may be initiated in case the request is rejected by Parliament. The petition’s objective is to win over, in a *free collection of signatures*, at least ten million politically mature citizens in support of the petition. Once this goal is achieved, the petition can be put again on the agenda of the parliamentary legislative authority within a maximum period of six months.

(c) In case the petition is again dismissed, a ***Referendum*** shall follow within no earlier than six months and no later than 12 months. The same goes for the period after the petition, if the Parliament does not act any more in that respect. Whatever is decided by the majority of those participating in the vote shall become legally binding. Another referendum dealing with the same subject can take place at the earliest two years after this decision.

(d) It is of vital importance for the *exercise of these fundamental rights* within the *democratic three-stage life process*, what role is assigned to the *media* in *forming the citizens’ opinion* on the individual issue [***Media Condition***].

This requires appropriate conditions in order to ensure, at least in the second half of the petition and the period up to the referendum, *free and equal information and discussion* on the *pros and cons* relating to the subject placed on the agenda by an initiative. The *institution of an Ombuds Council* shall make the necessary arrangements with representatives of both sides – the supporters of the initiative on the one hand and the media on the other.

(e) The details are determined by law.

5 If the European Union followed this proposal, the blockade caused by the “No” of the Irish referendum would be no longer an issue. The EU would have the chance to place the community through its own sovereign up to date. From that moment onwards, all further constitutional as well as political developments would have their democratic legitimation – be it by decisions of the parliamentary institutions or *immediately* by those of its citizens. Blockades for any possible reforms would be permanently excluded in future.

We are convinced that this could be the crucial step for *democratic sustainability* of the EU. It would pave the way, so as to grant in future all Europeans united in the Union the right to introduce their ideas, interests and political initiatives as free people into the discourse of democratic agreement on the whole, which means to establish the collective will of the EU.

We very much hope that our suggestions will make you recognize and support the contribution which is now due for a fundamental democratization of the EU for shaping the public welfare of the Community, so that we may grab altogether the chance of the crisis.

For the initiative “Impulse21” [“Initiative Impuls21”], Achberg/Vienna, 27/29 September 2008

Wilfried Heidt, Ines Kanka, Gerhard Schuster

wilfried.heidt@kulturzentrum-achberg.de
gerhard.schuster@ig-eurovision.at

www.impuls21.net