

EU Civil Society Contact Group

Civil Society Contact Group answer to the Green Paper on the Transparency Initiative

Part 2: Minimum Standards for Consultation

29.08.2006

The EU Civil Society Contact Group brings together seven of the largest European NGO platforms: Social Platform, Concord (European NGO confederation for relief and development), Human Rights and Democracy Network, Green 10 (environmental organisations), European Women's Lobby, EFAH (European Forum for the Arts and Heritage), EPHA (European Public Health Alliance). www.act4europe.org

1. The need for a comprehensive approach to transparency

Members of the Civil Society Contact Group are committed to a better and more inclusive European Union and we welcome all efforts to promote transparency and accountability of the EU policy process, as key elements to maintain and strengthen the trust of citizens.

To achieve this goal, enhanced transparency has to be rooted in a wider debate on EU governance, including EU institutions' consultation practices, rather than over-focus on financial aspects. We thus welcome the comprehensive approach adopted by the Green Paper and the opportunity to comment on the Commission's *Minimum Standards for consultation of interested parties*.

Yet more consultation is not necessarily better consultation: we regret that overlaps between the consultations on the Green Paper on Transparency and the White Paper on Communication might weaken the impact of both initiatives, by reducing civil society organisations' possibility to efficiently get involved in both processes.

We would also like to recall that the need for transparency and interaction with civil society is pertinent for all three members of the "institutional triangle" and not only the European Commission.

Besides, improving the quality of civil dialogue cannot be only a one-way process. Members of the Civil Society Contact Group have been engaged in advocacy and dialogue with European Union institutions for several decades now and we fully acknowledge our responsibility to organize ourselves and deliver quality input in these processes.

- **Below you will find our contribution to part 2 of the Consultation on the Green Paper (Minimum Standards for Consultation).**

2. Need to enhance ownership and coherence of the Standards

Minimum rather than “maximum” standards: exchanging on good practices - The Minimum Standards should not be “maximum” standards, and are still not respected in a number of cases (in particular in relation to timing issues). The European Commission should thus seek to build upon best practices within its services by ensuring regular exchange between DGs on the way they organise civil dialogue. The recent peer review group set up by DG Health and Consumer Protection could be used as one of the fora for this exchange to take place.

Enhancing knowledge among stakeholders - Three years after their entry into force, the exact content of the Minimum Standards remains largely unknown. This can be explained amongst others by a difficulty to assess their scope and by their lack of enforceability. While the essence of participatory democracy is for citizens to know their right to participate, we believe there is a strong need to enhance awareness and concrete knowledge that will allow NGOs, citizens and other stakeholders to use them as a real participatory tool.

Blurred perception of the standards’ scope - It remains difficult to clearly identify the scope of the Standards, which is partly due to their inconsistency with the Impact Assessment guidelines. Such inconsistency results in a major difficulty for stakeholders to assess whether they are consulted when they should according to the legal framework.

Extending the debate beyond the Commission - Besides, the debate over consultation practices should not be limited to the European Commission. Minimum standards for consultation should also be developed for other EU institutions, in particular the European Parliament and the Council: this was proposed within the White Paper on Governance in 2002, but was not achieved. The role of the European Economic and Social Committee in the general framework for civil dialogue should also be discussed.

Recommendations

- *The European Commission should ensure better exchange between DGs concerning good practices in civil dialogue.*
- *The European Commission should seek to ensure a better understanding of the Minimum Standards and of their potential implementation among stakeholders through the development of tailored tools.*
- *The European Commission should seek to clarify the scope of the Minimum Standards for Consultation of Interested Parties.*
- *The European Commission should advertise, on a permanent basis, the existence of the Minimum Standards to civil society organisations and the general public.*

3. Improving the clarity of the content

Clear content of the consultation process (Standard A): “All communications relating to consultation should be clear and concise, and should include all necessary information to facilitate responses”

More systematic provision of background information – While the completion of this standard can be seen as satisfying for a number of well established EU networks with expert / technical knowledge, this is much less the case for new EU or national networks or for individual citizens.

Increasing clarity over the rationale of the process - Stakeholder consultations are sometimes perceived as a never-ending exercise, lacking momentum.

Avoidance of 'tick box' consultations - A significant number of consultations (e.g. on aviation and climate change, cars and CO₂) are primarily 'tick box' exercises. Such consultations put too heavy an emphasis on the quality and nature of the questions asked and gives too little room for real stakeholder input.

Recommendations

- *The European Commission should seek to provide more systematic and comprehensive information, such as links to key documents and the broader political context of a consultation.*
- *More systematic information on the objectives of a consultation, how contributions will be taken into account and details over the next stages would support civil society to make a full and timely contribution.*

4. More inclusive and balanced consultation

Consultation target groups (Standard B): "When defining the target group(s) in a consultation process, the Commission should ensure that relevant parties have an opportunity to express their opinions".

Discretionary selection of stakeholders - Most of the time, selection criteria are not known by stakeholders. In particular, the CONECCS database appears not to be updated frequently enough to give a relevant overview of an organisation's constituency and expertise, which poses problems in terms of newcomers' access and pluralism. It is also a concrete obstacle to the mainstreaming of specific issues, since it potentially blocks access to stakeholders outside usual circles.

Obstacles to ensure a horizontal approach and consult beyond usual stakeholders circles - The frequent lack of real horizontal approach within the Commission makes it particularly difficult to ensure that all relevant stakeholders are consulted, which often results in imbalances in the consultation of public and private interest groups. This can be explained by a wide range of factors, notably structural obstacles such as institutional fragmentation and lack of entry points for discussion on cross-cutting issues, or a lack of knowledge and trust about relevant stakeholders outside one's direct field of activity.

Ensuring for a balanced access - The lack of horizontal approach often results in an imbalance between NGOs and business, which concerns not only official consultations, but also less formal contacts. *Cars 21*, an expert group that mainly consisted of Commission officials, chief executive officers and lobbyists from the automobile industry, is only one of the numerous examples of such a prioritisation that can be quoted.

Recommendations

- *Reasons for involving stakeholders in a consultation should be made public.*
- *The Commission must ensure that people impacted by European Community policies are included in an efficient and effective dialogue. This should apply to both EU and third countries citizens including the most marginalised ones.*
- *The Commission should ensure that there is better communication and cooperation among Directorate Generals and that consultation is not limited to those*

organisations with whom particular DGs have well-established relations due to their direct link with their field of activity.

- *Each Directorate General should have a unit responsible for relations with civil society, in charge of ensuring good consultation with a wide range of stakeholders and monitoring compliance with the Minimum Standards.*
- *The European Commission should undertake formal and informal consultation processes with all relevant stakeholders, not only business interests.*

5. Improving access of the “hard to reach”

Publication (Standard C): “The Commission should ensure adequate awareness-raising publicity and adapt its communication channels to meet the needs of all target audiences. Without excluding other communication tools, open public consultations should be published on the Internet and announced at the “single access point”.

Language and accessibility - Language and accessibility also remain key obstacles to an increased participation. In particular, we deplore that open consultations too rarely take place in several official languages and build upon consultation channels that are accessible to disabled people.

The need to increase awareness of consultations taking place - *Your Voice in Europe* was tailored to better involve citizens in the EU policy process and has simplified access to electronic consultations. At the same time it should be given a stronger visibility and remains largely unknown beyond Brussels. Besides, consultations are not always announced on the front page, which becomes problematic for organisations that do not have sufficient resources to monitor the different developments of each DG: its front page is thus not a reliable source of information as such. Notably, this was the case in the July 2005 consultation on a *Code of Conduct for Non Profit Organisations to Promote Transparency and Accountability Best Practices*, announced on the Website of DG Justice, Security and Freedom, which many NGOs outside the human rights sector are not familiar with. Press releases are also regularly used to announce the launch of a consultation, but also face difficulties to reach out to a wide audience. Besides, increased awareness should not only concern public consultation, but also other types of more restricted processes.

Lack of clearly identifiable standards - The lack of a common approach, standards and visuals appears detrimental to awareness and understanding of consultation processes. A striking example is that of the White Paper on Communication, which uses specific dissemination channels rather than building upon existing tools.

Recommendations

- *Obstacles to information dissemination could be partly remedied by the setting up of an information list, where organisations would register by field of expertise in order to be regularly informed of consultations taking place. This would contribute to avoid time-consuming monitoring.*

6. Respecting time limits that will allow quality input

Time limits for participation (Standard D): “The Commission should provide sufficient time for planning and responses to invitations and written contributions. The Commission should strive to allow at least 8 weeks for reception of responses to written public consultations and 20 working days notice for meetings”.

The need for better respect of time limits – A recurrent problem appears to be the lack of respect of the time limits, be it for open consultations¹ or meetings, which turn out to have particularly negative effects on the openness, representativity, and the quality of the consultations. Meetings announced less than one week in advance often result in participation being centred around Brussels-based organisations and secretariats, which limits the opportunity of involving organisations and members with more specific expertise and gather quality input.

Right timing - Formal respect for the standard is not in itself sufficient to ensure effective consultation. Consultations organised over major holiday periods are still too frequent and hinder a proper democratic consultation within NGOs, especially their ability to consult with their membership, as was the case of the Consultation on *Draft Recommendations to Member States Regarding a Code of Conduct for Non Profit Organisations to Promote Transparency and Accountability Best Practices* that took place in the Summer 2005. In this specific case, the consultation timeframe was extended after protest from several NGOs but the announcement was too short-noticed to fundamentally increase participation.

Recommendations

- *The European Commission should ensure systematic respect of the time limits for consultation.*
- *Besides, consultation over major holiday periods should be avoided.*

7. Going beyond a window-dressing exercise by providing relevant feedback

Acknowledgement and feedback (Standard E): “Receipt of contributions should be acknowledged. Results of open public consultations should be displayed on websites linked to the single access point on the Internet”.

Need for increased publication of input into the EU policy process - Increased publication of input into the EU policy process would enhance the impact of the transparency initiative vis-à-vis the general public and allow a better assessment of the balance of views that were expressed and considered. This should concern in priority open consultations, where practices within the European Commission have been rather inconsistent so far. Publication of input should be primarily the responsibility of the Commission (in the case of open consultations, the *Your Voice in Europe* website provides a relevant framework) but interest groups should also be encouraged to do so.

Public consultation as only one participation channel – In order to make stakeholder consultation really “matter”, we would like to recall that public online consultations cannot be considered a sufficient consultation channel and have to be completed by more relevant ways to gather qualitative input.

¹ “In June 2005, 9 out of 40 open internet consultations allowed less than eight weeks to respond”, in *Get Connected- effective engagement in the EU – UK Better Regulation Taskforce Report*, September 2005 <http://www.brc.gov.uk/downloads/pdf/getconnected.pdf>

Lack of concrete feedback – The lack of relevant feedback and accountability going beyond receipt acknowledgement might result in stakeholders' disenchantment from a time-consuming process. It is therefore crucial to report on why certain proposals (especially when they were widely supported) were discarded. The consultation on the Fundamental Rights Agency appeared to a number of NGOs as particularly frustrating in this view, since principles supported by a large number of respondents to the public consultation were discarded by the Commission². Conversely, the feedback processes used on the Minimum Standards on Consultation or on the Health Policy Strategy turned out to be positive examples in that they drew an overall assessment of contributions received and explained the reasons behind the Commission's choice in selecting only some of the proposals made.

The need for monitoring and accountability – We believe that a number of monitoring and accountability mechanisms should be put in place, amongst others in case of non-respect of the standards, provided they remain limited in time.

Recommendations

- *Public electronic consultation may generate interesting opinions, but cannot be relied upon as a representative consultation and should not become a substitute to more appropriate manners to gather qualitative input.*
- *Each electronic consultation should publish on the same website the responses received, so that there is more accountability of the process and a real exchange of arguments between the interested organisations and individuals could emerge.*
- *EU institutions should reflect upon the origin of the contributions they receive to open consultations, rather than simply count the number of responses. A response from a large network of organisations, which has broadly consulted amongst its membership, should be treated differently from responses from individual citizens.*
- *Feedback provided in particular to open consultations should be improved: constructive collective feedback on how responses were taken into account and why they were discounted should be provided for all public consultations.*
- *The Commission should explore the development of a complaint procedure for cases of non-compliance with the General principles and minimum standards for consultation, which could involve resort to the European Ombudsman, provided that this procedure is clear and timely.*

² In particular the United Nation Paris principles on national institutions for protection and promotion of human rights, which guarantee the core values of independence and pluralism. For more information, see a common NGO letter: <http://www.socialplatform.org/module/FileLib/VERSIONFINALjointletteronFRA.doc>

About the Civil Society Contact Group

The EU Civil Society Contact Group brings together seven of the largest European NGO platforms: Social Platform, Concord (European NGO confederation for relief and development), Human Rights and Democracy Network, Green 10 (environmental organisations), European Women's Lobby, EFAH (European Forum for the Arts and Heritage), EPHA (European Public Health Alliance).

The European Trade Union Confederation and the European Civil Society Platform on Lifelong Learning, representing NGOs promoting lifelong learning are observers to the Group.

Jointly we aim to represent the views and interests of rights and value based civil society organisations across the European Union on major issues, which affect us across our sectors of activity. Our objective is to encourage and promote a transparent and structured civil dialogue that is accessible, properly facilitated, inclusive, fair, and respectful of the autonomy of NGOs. We promote lasting access to information, access to justice in matters of concern to civil society, consultation, and integration of all levels of civil society in the European project.

The Contact Group has an informal character, and a rotating chairmanship. Since November 2005, it is chaired by Anne-Sophie Parent, Director of AGE, the European Older People's Platform and President of the Platform of European Social NGOs.

Information about CSCG members can be found on:

CONCORD www.concordeurope.org

European Forum for the Arts and Heritage (EFAH) www.efah.org

European Women's lobby www.womenlobby.org

Green 10 - www.act4europe.org/code/en/sect.asp?Page=39&menuPage=39

Human Rights and Democracy Network

www.act4europe.org/code/en/sect.asp?Page=41&menuPage=41

Social Platform www.socialplatform.org

European Public Health Alliance www.ephah.org/

ETUC www.etuc.org

European Civil Society Platform on Lifelong Learning www.eucis.net/about.asp

Contact:

Elodie Fazi

Coordinator

Civil Society Contact Group

c/o Social Platform

18 Square de Meeüs

B-1050 Brussels

T +32 2 511 17 11

F +32 2 511 19 09

coordinator@act4europe.org