

Churches and Religious Communities
in a Constitutional Treaty of the European Union (II)

The Church and Society Commission of the Conference of European Churches (CEC) and the Commission of the Bishops' Conferences of the European Community (COMECE) speak on behalf of Christian churches throughout Europe. They follow closely the work of the Convention. On 27 September 2002, they submitted a first ecumenically agreed joint legislative proposal on “Churches and Religious Communities in a Constitutional Treaty of the European Union” (see annex), to the elements of which the contents of this paper refer.

With the publication of the Preliminary draft Constitutional Treaty (CONV 369/02) by the Convention Secretariat on 28 October 2002, a new working phase has started. In the light of the progress achieved in the work of the Convention, including the reports of the Convention's working groups, we have developed our legislative proposals. The present working document aims at being a “toolbox” suggesting different options as to where and how the churches' legislative proposals could be featured into the Constitutional Treaty.

In full respect of the principle of separation between public power and churches and religious communities, and of the different constitutional traditions of current and future Member States of the EU, these legislative proposals are an expression of the relevance of religion, churches and religious communities for the further development of the European Union.

I. Respect for the status under national law of churches, religious communities and non-confessional organisations in the Member States (Declaration N° 11 annexed to the Treaty of Amsterdam)

CEC and COMECE fully support the recommendations of European Convention Working Group V (Complementary Competences) with regard to a clause assuring the respect for the national identity of Member States and clarifying that this includes, among others, the legal status of churches and religious communitiesⁱ.

Such a provision would confirm that, when exercising its competencies, the European Union respects and does not prejudice the status under national law of churches and religious associations or communities and also non-confessional bodies. It would thus incorporate the whole content of Declaration No. 11 of the Final Act of the Treaty of Amsterdamⁱⁱ.

- We consider that it might best find its place in **Title III** of CONV 369/02, “Union competences and actions”, and be inserted in the context of **Article 8** (“Respect for fundamental principles”). We propose the following formulation:
“[When exercising its competencies,] the Union shall respect the national identities of its Member States, including, among others, their fundamental structures and essential functions notably their political and constitutional structure, (...); legal status of churches, religious communities and non-confessional organisations”.

II. Recognition of the specific contribution of Churches and religious communities in the framework of participatory democracy

We welcome the proposal of the Presidium to integrate a provision on Participatory Democracy (**Art. 34** of CONV 369/02) into the draft Constitutional treaty. In their initial contributions, the churches had underlined the principles of participation and subsidiarity and the need to recognise the importance of intermediate organisations, legitimately anchored in society.

- Such a provision should also take into account the specificity of churches and religious communities and the particular contribution they can make. Therefore the churches propose the following paragraph to be included in **Art. 34**:
“The European Union respects the specific identity and the contribution to public life of churches and religious communities and maintains a structured dialogue with them.”

III. Recognition of the institutional right of the churches and religious communities to freely organise themselves

To organise oneself in community with others according to one’s religious convictions, to decide upon the contents of these convictions as a community and to act in accordance with them is an essential element of religious freedom. This should be explicitly recognised in a future Constitutional Treaty, particularly with a view to the situation in possible future Member States where the churches and religious communities do not enjoy full legal status.

- The following formulation could be inserted **after Art. 34** or in the **final provisions**:
“The European Union recognises and respects the right of the churches and religious communities to freely organise themselves in accordance with national law, their convictions and statutes and to pursue their religious aims in the framework of fundamental rights.”

IV. The values of the Union

We appreciate that the Preliminary Draft Constitutional Treaty foresees articles about values and objectives (**Art. 2 and 3** of CONV 369/02) and support the respective proposals in the summary description, in particular human dignity and fundamental rights. We are convinced that the Convention’s success will largely depend on the perception, by its citizens, of the Union as a community of values and not just an economic community.

- **We should like to point out a number of values and objectives which we feel should be added, in particular the centrality of the human being and the promotion of peace and reconciliation, justice, solidarity, subsidiarity and sustainability. We would also like to see, among the objectives, that the EU aims at playing a role in poverty eradication at a global level.**

The Churches will forward further and more detailed submissions in this context.

V. Preamble

In regard to the preamble, we note in particular the existence of a number of formulations already offered to the Convention by some of its members which are commonly known. We also recall the following formulations as possibly meriting consideration in a search for alternatives:

- from the Draft Charter of Fundamental Rights of the EU (CONVENT 47 of 21/09/2000):
“Taking inspiration from its cultural, humanist and religious heritage, the Union is founded on the indivisible, universal principles of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice”;
- a proposal of some members of the Convention:
[The Member States and the Citizens of the European Union,] “conscious of their history, of the indivisible, universal values of human dignity, freedom, equality and solidarity, and of what Europe owes to its spiritual and moral heritage”;
- and the following formulation:
“Conscious of human responsibility before God and equally conscious of other sources of human responsibility ...”.

ⁱ The final report of Working Group V recommends: “The provisions contained in TEU Article 6(3) that the Union respects the national identity of the Member States should be made more transparent by clarifying that the essential elements of the national identity include, among others, fundamental structures and essential functions of the Member States notably their political and constitutional structure, including (...); legal status of churches and religious societies; (...)” (CONV 375/1/02 REV 1 of 04/11/2002, p. 12).

ⁱⁱ Declaration N° 11 of the Final act of the Treaty of Amsterdam reads: “The European Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States. The European Union equally respects the status of philosophical and non-confessional organisations” (Official Journal C 340, 10/11/1997 P. 133).