

**Swiss Society of Legislation (SSL)**

In collaboration with the Federal Office of Justice  
and the Federal Chancellery and with the support of the  
Law Faculty of the University of Bern

**Programme**

*The participation of civil society in  
the legislative process*

**Bern, 13 – 14 May 2004  
City Hall (Rathaus)**

## Presentation of the Congress

The 6th Congress of the *European Association of Legislation* (EAL) will take place in Bern in 2004. It is being organised by the Swiss Society of Legislation (SSL), in collaboration with the Federal Office of Justice (FOJ) and the Federal Chancellery (FCh) and with the support of the Institute of Public Law of the University of Bern. The Congress will also include the Scientific Day of the SSL, and be devoted to the topical issue of the participation of civil society in the legislative process.

The term civil society (*Zivilgesellschaft*, *société civile*, *sociedad civil*) has become widespread over the past fifteen years not only in the field of politics, but also in the fields of legal research and sociology. This notion refers to a vague concept which incorporates civic action as well as opposition force, participative democracy, the *civil sector*, the *non-profit sector* and above all, good governance. The trend towards recognition of civil society extends beyond state borders and has spread to the vocabulary of the European Union (UE) — in particular, through the *White Paper on European Governance*— and within the international organisations (UN, World Bank and WTO). Although civil society is often deemed to stand in opposition to the government or the political community, western democracies tend to develop a dialogue with it and even seek to institutionalise it.

The participation of civil society in the legislative process can be analysed from two standpoints; namely the processes, on the one hand, and the players, on the other. It is precisely around these two standpoints that the 6<sup>th</sup> Congress of the EAL will structure its four sessions.

The first session will be devoted to the furthest reaching process, namely participation on the part of citizens through the institutions of direct democracy. As host of the congress, Switzerland will present the latest developments regarding the instruments of direct democracy, which distinguish it both on a federal and on a cantonal level. The same subject will be dealt with in the context of other countries as well as at EU level, where it drew renewed interest within the framework of the drafting of the Convention.

The second session will focus on the role of experts in the legislative process, which can occur in very variable forms. It is not unusual for experts from outside the Federal Administration to spontaneously present a bill or constitutional amendment. In most cases, however, experts are mandated by the Federal Administration in *ad hoc* or standing committees (advisory council). Finally, a new form of involving experts is being phased in within the context of public forums or other forms of people's panels, where experts act as direct negotiators for public and no longer administrative representatives.

The important issue of the role of non-governmental organisations (NGOs) will be debated during the third session. We will discuss the various interventions by players such as professional organisations and unions, ideal-based national organisations, international NGOs (such as Greenpeace, Amnesty International and Doctors Without Borders) and spontaneous popular movements (following the example of the "Marche blanche" (Belgian association against paedocriminality), Mothers of May Square and the Gay Pride) based on their most characteristic aspects.

The fourth session will be dedicated to an already proven participative process, namely the consultation procedure. This procedure aims to include different partners (in particular the federal states, political parties and interested circles) in defining the government's position and in elaborating its decisions. The procedure is not exclusive to Switzerland, even though Switzerland has been using it for a long time and is actually in the process of making improvements. There are comparable models in other countries and the comparison between these processes will undoubtedly lead us to interesting conclusions.

## Thursday, 13 May 2004

### Opening Session

- From 8.45 Reception of participants and registration
- 9.30 Welcoming addresses by:
- Mrs. ANNEMARIE HUBER-HOTZ, Federal Chancellor
- Mr. URS GASCHE, President of the government of the canton of Bern
- Prof. ULRICH KARPEN, President of the *European Association of Legislation* (EAL)
- Prof. LUZIUS MADER, President of the Swiss Society of Legislation (SSL)
- 10.00-10.45 *Prof. JÖRG PAUL MÜLLER (CH), The Spirit of the Laws in 2004*
- 10.45-11.15 COFFEE

### First Session

#### ***Civic participation through the institutions of direct democracy***

- Chair:** Prof. RENÉ RHINOW, University of Basel
- 11.15-12.30 *Prof. ANDREAS AUER (CH), The institutions of direct democracy in Switzerland, new developments*
- Prof. DAVID MARCELLO (USA), Direct democracy in the USA*
- Mr. ANDREAS GROSS, National Councillor (CH), The European Union and direct democracy: eternally incompatible or a dream union*
- Prof. KLAUS ARMINGEON (CH), Direct democracy and democracy in Europe*
- Prof. PATRICIA POPELIER (B), Do instruments of direct democracy meet standards of democratic and proper law making?*
- 12.30-13.00 *Discussion*
- 13.00-14.00 LUNCH (entrance hall of the city hall)

**Second session**  
***The role of experts in the legislative process***

**Chair:** Prof. PIERRE WIDMER, former director of the Swiss Institute of Comparative Law (ISDC)

- 14.00-15.20 *Prof. ST JOHN BATES (UK), Experts in the legislative process in the British Isles*
- Mr. VASIL MRATCHKOV (BG), The role of the consultative council on legislation at the Bulgarian National Assembly – experiences of a country in transition*
- Dr. SERGIO BELLUCCI (TA-SWISS, CH), PubliForums: Giving the people a say*
- Prof. JEAN-PIERRE DUPRAT (F), The marginalisation of referendums in France and alternative solutions for the participation of civil society in the legislative process*
- 15.20-16.00 *Discussion*
- 16.00 *Session end*
- 16.30-18.00 *Participants may choose between a guided tour of the Federal Palace or a viewing of the film "Mais im Bundeshaus – Le génie helvétique" (Swiss film on parliament's debates on GMOs), by director Jean-Stéphane Bron*
- 19.00 *DINNER (Restaurant zum Äusseren Stand)*

**Friday, 14 May 2004**

**Third session**  
***The role of non-governmental organisations (NGOs) in the legislative process***

**Chair:** Dr. MARTA TAVARES DE ALMEIDA, Universidade Nova de Lisbonne

- 8.00-8.45 *Statutory meeting of the SSL*
- 8.45-9.00 *Address by MR. FRITZ SCHIESSER, President of the Council of States*
- 9.00-9.50 *Dr. CAROLINE KLEIN (CH), The role of associations for the disabled in the framework of developing the new law on equal rights for people with disabilities*
- Mr. FELIX WIRZ, Ecopolitics (CH), Distracting or useful? The role of NGOs in the legislative process*
- Mrs. ANITA CHAABAN (CH), Citizen participation in the legislative process : the example of the "life-long custody initiative for high risk criminals"*
- 9.50-10.15 *Discussion*
- 10.15-10.40 *COFFEE*

- 10.40-11.30 *Mr. ALAIN BOVARD (CH), International NGOs and their influence on international norms with regard to human rights: the example of Amnesty International*  
*Dr. MARTINS PRIEDITIS (COE), Promoting involvement of civil society in legislative reform*  
*Mr. ANDRES SIPLANE (EE), Spontaneous movements in Estonia*
- 11.30-12.00 *Discussion*
- 12.00-13.15 LUNCH (entrance hall of the city hall)

**Fourth session**  
***The consultation procedure in Switzerland  
and equivalent procedures in other countries***

**Chair:** Mr. CANISIUS BRAUN, Secretary-General of the Conference of Cantonal Governments

- 13.15-15.00 *Dr. THOMAS SÄGESSER (CH), The consultation process in Switzerland*  
*Prof. HEINZ SCHÄFFER (A), The consultation mechanism in Austria and its practical application*  
*Mrs. NADYIA SEMENOVA (UA), Mirage v. reality: the problem of nurturing the capacity to legislate in a developing civil society*  
*Prof. ULRICH KARPEN, The Consultation Procedure concerning Draft Laws in the Federal State and in the "Länder" in Germany*
- 15.00-15.40 *Discussion*
- 15.40 *Closing address by Mr. LUZIUS MADER and Mr. ULRICH KARPEN*
- 16.00 *Closure of the congress*
- 16:00 *Statutory meeting of the EAL*

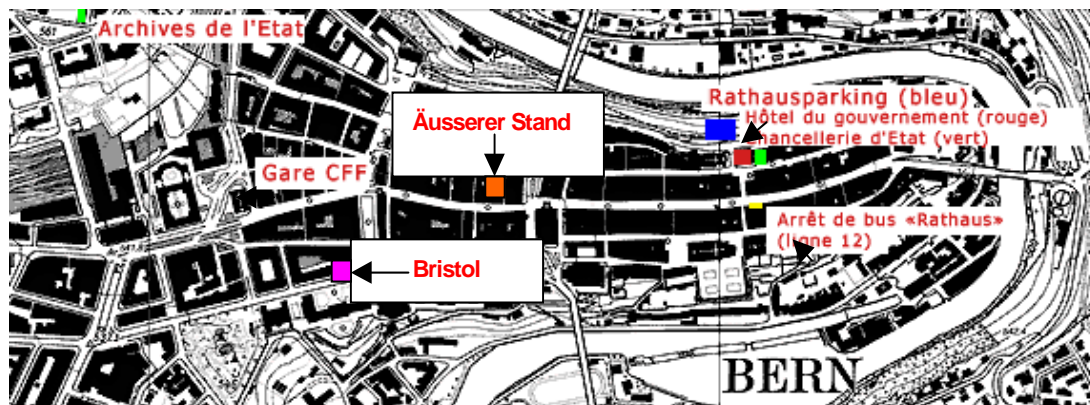
## Practical information

### Transport from the airports

Zurich-Bern return	1 <sup>st</sup> class:	CHF 144.-
	2 <sup>nd</sup> class	CHF 87.-
Geneva-Bern return	1 <sup>st</sup> class:	CHF 156.-
	2 <sup>nd</sup> class:	CHF 95.-
Belp-Bern return (bus to the train station in Bern)		CHF 28.-

### Directions

The congress is held at the town hall (Rathaus) of Bern, Rathausplatz 2, 3000 Bern 8.



The map shows how to get to the city hall (Rathaus). You can walk there from the station (about 10 minutes) or take the no. 12 bus towards "Schosshalde" getting out at the "Rathaus" stop. Turn right into the Kreuzgasse. The city hall will be in front of you.

### Working languages

The presentations are given in English, German or French. Simultaneous translation will be provided at all times.

### Congress secretariat

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**Emergency number to contact congress organisers (in case of illness, need directions, etc.) during the congress: +41 (0)79 345 09 67**