

CONST/004

Brussels, 18 October 2002

OPINION

of the

Committee of the Regions

of 10 October 2002

on

Towards a constitution for European citizens

The Committee of the Regions

HAVING REGARD TO the Presidency conclusions of the European Council of 14 and 15 December 2001 and, in particular, the Laeken Declaration on the future of the Union;

HAVING REGARD TO the Commission Communication – A project for the European Union (COM(2001) 247 final);

HAVING REGARD TO the European Commission's White Paper on European Governance of 25 July 2001 (COM(2001) 428 final);

HAVING REGARD TO its contribution of 4 July 2002 to the European Convention (CdR 127/2002 fin);

HAVING REGARD TO its resolution of 14 November 2001 on the preparations for the Laeken European Council and the further development of the European Union in the context of the next intergovernmental conference in 2004 (CdR 104/2001 fin)¹;

HAVING REGARD TO its report on proximity of 20 September 2001 (CdR 436/2000 fin) and the Salamanca Declaration of 22 June 2001 (CdR 107/2001 fin);

HAVING REGARD TO its resolution of 4 April 2001 on the outcome of the 2000 Intergovernmental Conference and the discussion on the future of the European Union

(CdR 430/2000 fin)²;

HAVING REGARD TO its opinions of 15 September 1999 and 13 April 2000 on the Commission reports to the Council on better law making 1998 and better law making 1999 (CdR 50/99 fin and CdR 18/2000 fin)³;

HAVING REGARD TO its resolution of 20 September 2000 for a European constitutional framework (CdR 144/2000 fin)⁴;

HAVING REGARD TO its opinions of 14 December 2000 on new forms of governance: Europe, a framework for citizens' initiative (CdR 182/2000 fin)⁵ and of 13 March 2002 on the White Paper on European Governance (CdR 103/2001 fin)⁶;

HAVING REGARD TO its opinion of 13 March 2002 on the draft report of the European Parliament on the division of powers between the European Union and the Member States (CdR 466/2001 fin)⁷;

HAVING REGARD TO the decision of its Bureau of 12 June 2001 to draw up an opinion providing a more detailed analysis of the repercussions of the process of simplifying, unifying and constitutionalising the Treaties, and to instruct the Commission for Constitutional Affairs and European Governance to carry out the preparatory work on the subject;

HAVING REGARD TO the draft opinion adopted by its Commission for Constitutional Affairs and European Governance on 9 July 2002 (rapporteur: **Mrs Bresso** (I-PES), President of the Province of Turin)(CdR 114/2002 rev. 2);

WHEREAS it was given active observer status on the Convention established by the Laeken European Council, which also considered moves towards a Constitution for European citizens to be an issue which must be addressed with a view to achieving a renewed Union;

WHEREAS with a view to mapping out a path towards a European Constitution, in the Laeken Declaration the Heads of State or Government referred on several occasions to the need to simplify the way the Treaties were organised in order to lend the European Union and its decision-making procedures greater transparency, thereby bringing them closer to citizens;

WHEREAS regions and local authorities are, by their nature, closer to citizens than any other decision-making level and day-to-day implement the greatest number of Community decisions, making Europe relevant to the lives of their inhabitants;

WHEREAS concerning the process of constitutionalisation, it has long held the view that there is a vital need for an initiative designed to make the Treaties more transparent and easy to understand for the public;

WHEREAS the European Council has accepted this need, considering it to be among the challenges and reforms required for a renewed Union as set out in the Laeken Declaration;

WHEREAS Europe's local and regional authorities cannot simply watch as passive spectators in the post-Nice debate on the future of the European Union, in preparation for future reform of the Union;

adopted the following opinion at its 46th plenary session of 10 October 2002.

Points of view and recommendations of the Committee of the Regions

1. Simplification of the Treaties

The Committee of the Regions

1. **intends** to examine the methods and motives for simplifying, unifying and constitutionalising the Treaties, which as they stand do not fully meet the need for democracy, transparency and simplification felt by both the public and the local and regional authorities directly involved in applying legislation,
2. **recalls** that the European Union is at present founded on four separate treaties and pursues its various policies by means of procedures which vary in accordance with the subject-matter. Objectives, responsibilities and political instruments are therefore governed separately by these treaties. This situation, which is the result of the way the European integration process has developed over the last fifty years, now gives rise to confusion, and sometimes inconsistency, and means that the Union can no longer act with the necessary efficacy. As the most ambitious enlargement in its history approaches, the Union must address this problem and achieve successful rationalisation,
3. **believes** that the fact that the provisions contained in the Treaties are now extremely difficult to understand cannot be overlooked in a process whose main aim is to bring the Community closer to the citizen. Transparent legislation is, above all, legislation which can be read and understood by everyone,
4. **considers** that this question - which is now urgent if the positive value of the European venture is to be conveyed to its citizens - is accompanied by the need to put Community laws on a more essential footing. They should be pared back to the general and abstract aspects proper to basic law, leaving the task of detailed implementation - in full compliance with Community principles - to regulations drawn up in complete accordance with subsidiarity and the precepts and workings of governance,
5. **notes** in this regard that the distinction between the Union and the Community ought to be looked at afresh, in order to secure working arrangements which facilitate effective action on matters of real importance to citizens,
6. **considers** that such a process would match the shift from the present Treaties to a constitutional treaty, working through a mechanism which not only systematises but abstracts the general principles which should then serve to guide Community legislation. A similar change would pave the way for simplification which, by expressing the European Union's goals in terms of essential principles, would make it easier for citizens to understand why they are being united,
7. **recalls** that the experience of the Treaty of Nice has demonstrated how overall reform of the Treaties should be approached, in response primarily to two requirements: to democratise the institutions and make them more efficient in the run-up to enlargement. The response has not matched up to the challenges faced by Europe, but has at least served to reveal the full limitations of the exclusively intergovernmental approach to revising the Treaties. These limitations were recognised by the governments themselves in Declaration 23, and are the reason behind the Declaration's call for the involvement of a wide range of players who have so far been kept at the margins of

decision-making, but who represent the expression of the wishes of the individual citizens of the Union,

8. **warns** that progress on strengthening the EU's capacity to act and the associated decision-making procedures is necessary, including in the interests of enlargement,
9. **emphasises** that while the essential features of the Community method should be retained, responsibilities must be redefined and fine-tuned, and that any transfer of powers must be flanked by appropriate institutional instruments for effective decision-making,
10. **singles out** the importance of economic, social and territorial cohesion being clearly recognised as one of the European Union's key tasks, responsibility for which is shared between the European Union, the Member States and local and regional authorities,
11. **is convinced** that the establishment of the European Convention has opened the way to a constitution in which citizens must be able to make their voices heard on what future they wish to see for Europe, either directly or through the different types of representation, and that the work of the Convention could culminate in the achievement of a broad consensus on a draft European Union Constitution matching public expectations, and with which citizens can identify,
12. **recalls** that making good the democratic deficit in the European integration process is a long-standing political priority of the CoR,
13. **also points out** that CoR members represent citizens vis-à-vis the European institutions, and vice versa. They are the linchpin between regional and local sensibilities and the European level. The CoR also hopes that legislative simplification, such as that planned, will be accompanied by efforts to disseminate Community information at grassroots level using both traditional and non-traditional communication techniques, concentrating especially on young people, the future generations of EU citizens. The creation and growth of a real sense of belonging can only be ensured by a deep awareness of the EU's guiding principles,
14. **emphasises** that this aspect was discussed in detail during the first conference on proximity in Salamanca and in the preceding preparatory debate. In stating its conviction that the principle of proximity is essential for good governance in the EU, the CoR also showed how the local and regional dimension can make the contribution of regional and local authorities to the EU's democratic functioning more tangible. This can be achieved first of all by active involvement in the debate on the future of the Union which the EU is to pursue between Nice and the 2004 IGC. Local and regional authorities are the best-placed actors to ensure that everyday realities and citizens' aspirations - which are more readily detected in the regional and local sphere - are reflected in EU-level decisions. Only by assuring such a link can the European venture regain its purpose and validity, by restoring the relationship between citizens and the Union.

2. Recasting the Treaties

The Committee of the Regions

1. **recalls** that Annex IV to the Nice Treaty, containing the declaration on the future of

the Union, together with the Laeken conclusions and the proceedings of the Convention, have provided specifically for the promotion of broad discussions with all interested parties. The local and regional authorities are very much concerned by this process and should be given the opportunity to share their views on recasting the Treaties - an issue that concerns them not only as grass-roots representatives of the public but also as actors who are increasingly involved in implementing Community policies and applying Community legislation,

2. **considers** that without any doubt, the chief problem facing the Treaties today is their lack of comprehensibility. The primary task of simplification must be to ensure that the general public in the EU can read them and grasp why the Union exists and what its objectives are. In this regard, local and regional institutions would highlight their natural role as a reference point for all European citizens, and as an ideal forum for information and consultation,
3. **points out** that this is closely followed by the issue of bringing the Community legislative system back into line with the principles of a ranking of sources, of a legislative system starting with general, universal aspects and moving down to specific aspects, ensuring that fundamental principles are respected at every level. While retaining their formal status of international treaties, the Treaties must guarantee the existence of a legal system which represents a unique case, and whose underlying principles must be enshrined in fundamental law. This fundamental law will then be fleshed out with implementing legislation, which may be established at other levels and not necessarily always in exactly the same way, but in line with the characteristics and constitutional arrangements of the Member States,
4. **considers** that implementing a grass-roots policy requires that regional and local authorities have some leeway in how Community decisions are enacted. The effect of guaranteeing a European model based on every detail of legislation safeguarding competition is to lessen the role of such authorities and, in particular, to encroach upon the jurisdiction of regions with legislative powers. Such safeguards should instead take the form of vigorously advocating a number of general principles, subsequently implemented in detail by laws and regulations laid down by Member States, regions and local authorities on a common-sense, self-governing basis. Governance, regardless of the territorial level in question, necessarily involves consultations, especially at local and regional level where representative democracy and its supervisory capacity are most keenly felt,
5. **points out**, in this regard, that under national constitutions, regional and local authorities possess significant and sometimes exclusive powers in numerous key sectors and are therefore ideally placed to act as interpreters, voicing citizens' aspirations concerning the European Union. The rudimentary nature of "political Europe" in recent years has unarguably tarnished its image in the eyes of the general public, weakening their sense of belonging. If this link is to be restored, it is vital for the Union to open up to citizens, adopting a political programme and lines of action. The exclusively intergovernmental method must be replaced with a method for amending the treaties, heralded by the Convention and making it possible to draw up a European constitutional treaty under conditions of transparency: the CoR has already spoken out in support of such an approach. To achieve this, there must be institutional changes which are far-reaching and inclusive in a way that only constitutional reforms can be,
6. **believes** that the distinction between the basic Treaty and the other provisions it now contains should be mirrored by separate procedures for amendment with different types

of qualified majority required for each.

3. **The Charter of Fundamental Rights**

The Committee of the Regions

1. **considers** that the EU must think again about a "pact" with its citizens, giving form to the powerful sense of belonging which is crucial if people are to commit themselves to a shared future. This has been the great achievement of the EU Charter of Fundamental Rights. It has introduced innovations in two essential areas: a new drafting method, through the Convention set up for the purpose, and a focus on topics of immediate concerns to citizens: their rights,
2. **emphasises** that it has repeatedly urged that the charter be made binding and serve as an integral part of a broader European constitutional structure, in order to ensure that the rights set out therein are inalienable; it has also clearly indicated that local and regional authorities are in favour of this new constituent phase, and intend to ensure that they play an active part in it. The rights based on the Member States' shared values should be anchored in the EU Treaty. This is particularly true of human and civil rights, since economic and social rights in many Member States largely come within the local and regional authorities' spheres of responsibility and should therefore remain policy objectives at EU level. It hopes that a solution to the problem of the EU's legal personality will make it possible for it to accede to the European Convention on Human Rights, which has already been signed by all EU Member States,
3. **recalls** that the Nice Summit pointed for the first time to the real prospect of a method for EU institutional reform along the lines of the convention which led to the EU Charter of Fundamental Rights.

4. **Adopting a constitutional text**

The Committee of the Regions

1. **recalls** that it has for some time advocated a European constitutional framework which, while respecting the existing constitutional systems of the various Member States, would seek to remedy the Community's present democratic deficit,
2. **regrets** the marginal role still allotted to regions and local authorities, its representatives not figuring among the full members of the Convention whose task it is to prepare a draft constitutional treaty,
3. **stresses** that instruments, responsibilities and decision-making procedures provided under the present Treaties are incapable of guaranteeing that the Community decision-making process can efficiently meet the challenges of increasingly interdependent circumstances,
4. **urges** that the principles of subsidiarity and proximity be better protected, guaranteed and implemented under the new constitutional framework, and that a better balance be struck between the institutions, and between them and the other spheres of government,

5. **considers** that the future constitutional treaty should be a basic treaty. It should not be limited to recasting the existing version, but rather should strengthen the institutions in order to redress the Union's present democratic deficit; to this end, the role of the European Parliament will have to be upgraded, and the demand for grassroots proximity must be met by more closely involving regional and local authorities either through their representative assembly, the Committee of the Regions, or directly under the powers granted to them by individual national constitutions,
6. **believes** that in the constitutional treaty, explicit reference should be made to the values underpinning the process of European integration and which the Union wishes to promote, meaning the principles governing the system of rules which is to be applied subsequently in the detailed legislation. These principles should include:
- the principle of subsidiarity as a key principle, including at sub-state level in keeping with the provisions of the individual Member State constitutions,
 - the principle of proportionality,
 - the principle of governance and partnership,
 - the principle of flexible implementation at national, regional or sub-regional level,
7. **is of the view** that in drafting the constitutional treaty, work to clarify responsibilities should avoid rigid categorisation, and should focus on reinforced EU-level powers which should extend beyond the current remit of currency to cover joint security and foreign affairs, as these are spheres in which citizens are most aware of the need for a Europe which can speak with a single voice. Other powers regarding major strategic options should be shared between the European and national levels, with direct implementation being left to the national and sub-national levels, in keeping with the different constitutional arrangements in the Member States.

Brussels, 11 October 2002.

The President

The Secretary-General

of the

of the

Committee of the Regions

Committee of the Regions

Albert Bore

Vincenzo Falcone

¹ OJ C 107 of 3.5.2002, p. 36

² OJ C 253 of 12.9.2001, p. 25

³ OJ C 374 of 23.12.1999, p. 11 and OJ C 226 of 8.8.2000, p. 60

⁴ OJ C 22 of 24.1.2001, p. 4

⁵ OJ C 144 of 16.5.2001, p. 1

⁶ OJ C 192 of 12.8.2002, p. 24

⁷ OJ C 192 of 12.8.2002, p. 31

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