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Brussels, 11 December 2002

OPINION

of the Committee of the Regions

of 21 November 2002

on

More democracy, transparency and efficiency in the European Union

The Committee of the Regions

HAVING REGARD TO the decision of its Bureau of 14 May 2002, under the fifth paragraph of Article 265 of the Treaty establishing the European Community, to instruct the Commission for Constitutional Affairs and European Governance to draw up an opinion on this subject;

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

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

HAVING REGARD TO its contribution to the Convention adopted on 4 July 2002, which summarised its main expectations regarding the future of the European Union and deals with a number of points on the Convention's agenda (CdR 127/2002 fin);

HAVING REGARD TO its resolution of 14 November 2001 on the preparation 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 fin¹);

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 14 December 2000 on new forms of governance: Europe, a framework for citizens' initiative (CdR 182/2000 fin)³ and of 13 March 2002 on the White Paper on European Governance (CdR 103/2001 fin)⁴;

HAVING REGARD TO its draft opinion (CdR 120/2002 rev 2) adopted on 4 October 2002 by the Commission for Constitutional Affairs and European Governance (rapporteur: **Mr McConnell** (UK-PES), First Minister of Scotland);

WHEREAS it was given active observer status on the Convention established by the Laeken European Council, which also considered more democracy, transparency and efficiency in the EU to be an issue which must be addressed with a view to achieving a renewed Union;

WHEREAS with a view to creating more democracy, transparency and efficiency in the European Union, in the Laeken Declaration the Heads of State or Government referred on several occasions to the need to reform the workings of the European institutions and the EU's decision-making processes, in order to bring 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 Europe's local and regional authorities wish to participate fully in the post-Nice debate on the future of the European Union, in preparation for future reform of the Union;

adopted unanimously the following opinion at its 47th plenary session held on 20-21 November 2002 (meeting of 21 November).

1. **The Committee of the Regions' views**

The Committee of the Regions

1. **considers** the Future of Europe debate to be of the utmost importance, given the challenges the European Union is due to face;
2. **believes** that, while the European Union has been a success, there are a range of issues which must be addressed to ensure that this success is sustained. This is a fact that has been recognised by the institutions of the EU, the Member States, sub-Member State administrations and local authorities. The low turnouts at European elections suggest that the citizens of the Europe are becoming disengaged from the European Union. There is also a growing perception that the EU becomes involved in matters which might better be the responsibility of Member States, sub-member state administrations or local government;
3. **recognises** that reform is all the more essential given the likely impacts of the imminent enlargement of the European Union;
4. **welcomes** the Convention on the Future of Europe as an innovative and inclusive means of developing proposals for the way forward;
5. **stresses** the need to focus on what citizens really want from the European Union. The EU can and does deliver significant, tangible benefits, such as economic prosperity,

increased security, social justice, a better environment, an improved quality of life and increasing global influence;

6. **emphasises** that there is a need to ensure that the European Union is able to deliver such outcomes as efficiently and effectively as possible and, importantly, is seen and understood by its citizens to deliver them. For the citizens of the EU to recognise the benefits it brings to their everyday lives, there is a need to introduce greater democracy, transparency and efficiency into the way in which the EU operates. There is a need for the EU to involve and engage with individual citizens, so that they feel empowered, rather than detached from it;
7. **believes** that while, on the face of it, measures to promote democracy and transparency may conflict with measures to improve the efficiency of decision-making, it is possible to select measures which will reinforce both - democracy and efficiency. Much of the perceived democratic deficit arises because citizens are not aware of the issues or dossiers being considered/debated in the EU institutions and often cannot clearly see who is responsible for what. As a result of this, the normal democratic process, whereby public/stakeholder opinion is brought to bear on the decision-making process, does not occur. This can have two key impacts:
 1. firstly, the views of all parts of the EU are not reflected, which risks the imposition of inappropriate and costly decisions and the possible need to introduce costly measures to reverse mistakes;
 2. secondly, citizens often first encounter an EU law at a stage when they have no option but to obey it, leading to dissatisfaction and a sense of disempowerment. This creates the risk that legislation does not receive the wholehearted support of those whose support is crucial to its successful implementation;
8. **considers** therefore that the task for the Committee of the Regions is to identify ways of promoting greater transparency in the EU decision-making process and foster greater involvement of local and regional authorities (who are the bodies closest to citizens), while at the same time promoting more efficient decision-making;
9. **is convinced** that the citizens of the European Union need a clearer understanding of the EU's vision and objectives. Citizens need to feel able to influence the actions and decisions the EU takes. Citizens need to feel that the EU is open and accountable, that the decision-making process is clear and transparent. The EU needs to show better that it deals with issues that are relevant to individual citizens, and that it is more concerned with outputs, than with the machinery of government. The EU needs to reaffirm to its citizens that it is ready to introduce new measures in a way that is sympathetic and responsive to the institutional diversity that exists at a Member State, sub-Member State and local level;
10. **believes** that one way of making this happen is to reform the European Union's institutional architecture and its legislative and decision-making processes. There are a large number of potential reforms that should be considered during the works of the Convention on the future of the Union and the 2004 inter-governmental conference. The Laeken Declaration set out a number of questions relating to democracy, transparency and efficiency. This opinion focuses on two areas. It considers the particular way in which sub-Member State administrations, local authorities and the Committee of the Regions can play an important part in realising the objective of closing the democratic gap between the European Union and its citizens. And it sets out reforms that are needed to the EU institutions that would enable them to better address

and reflect the important role of regional and local government;

11. **recalls** the contribution to the Future of Europe Convention adopted by the Committee of the Regions on 4 July 2002 (CdR 127/2002 fin), which called for the CoR to be recognised as an institution of the EU, with all the rights such status would afford, and for a strengthening of its functions;
12. **draws attention** to the opinion adopted on [20-21 November 2002] on *A better division and definition of powers in the European Union*, and welcomes the proposals it makes on setting as key horizontal EU objectives economic, social and territorial cohesion, sustainable development and equal opportunities;
13. **draws attention** to the opinion adopted on [20-21 November 2002] on *Simplification of the Union's instruments*, and welcomes the proposals it makes on regional and local involvement and a greater transparency in the bodies of comitology, the application of the principle of subsidiarity when implementing simplification measures, and the use of preceding impact assessments;
14. **draws attention** to the opinion adopted on [20-21 November 2002] on *Towards a Constitution for European citizens* and welcomes the proposals it makes on better protecting the principles of subsidiarity and proportionality, and for the inclusion in a constitutional treaty of explicit reference to the principle of flexible implementation at the national, regional or sub-regional level;

2. The Committee of the Regions' recommendations

The Committee of the Regions

General principles

1. **proposes** that in framing any reform, which seeks to increase democracy, transparency and efficiency, the European Union should build on the following principles:
2. **considers** that in the interests of greater transparency, there is a need to clarify which body does what in the European Union and to make more explicit the understanding that powers not delegated to the EU remain the preserve of the Member States, sub-Member State administrations and local authorities. Clearer roles and responsibilities mean simpler and more efficient procedures and more effective policies. The European Commission, to enhance democracy in the EU, should act according to the limits of the Treaties, subsidiarity, proportionality, with respect for the national, regional and local cultural identities. The EU must also respect Member States' role in deciding internal allocation of competences;
3. **considers** that if the EU is genuinely to increase its democratic legitimacy, there is also a need for greater direct involvement in the EU's legislative and decision-making processes for sub-Member State administrations and local authorities. Effective governance should facilitate citizens' participation and influence over policymaking, by better engaging regional and local government. Regional and local government implement (and in some cases enact) EU legislation; they are also democratically elected and represent the levels of government that are closest to the citizen. It is this proximity to the citizen that should lead to an enhanced role and involvement within

EU processes;

4. **believes** that in addition to these specific relationships, it should be recognised that debate on democracy, transparency and efficiency should not only focus on what the Laeken Declaration describes as the “present institutions”, but also on the role and functions of the Committee of the Regions, given its role in coordinating and representing the views of regional and local government and on the CoR's future place in the institutional framework;
5. **believes** that if the EU is to set its objectives and priorities more effectively, there is a need to clarify medium and long-term goals and to demonstrate a clear link between EU legislation and the priorities agreed by Heads of State and Government within the European Council. This process would be assisted by providing for a greater openness in all forms of EU governance, including measures that would provide further scope for local and regional input. The workings of the Council should be more transparent and accessible to all citizens, by building on the good progress made at the Seville Council, including agreement to make various stages in the codecision process more open to the public;
6. **considers** that there is a need for more flexible means of implementation, to take into account local and regional circumstances, with greater collaboration between the Commission and implementing authorities. Although the Committee is to produce a separate opinion on this matter, any discussion of enhancing the authority and efficiency of the Commission must also refer to this issue. Unless implementing authorities have sufficient scope to put EU measures into practice in a way that is appropriate to their own particular circumstances, or have the opportunity to work in closer partnership with the Commission on these matters, there remains a greater possibility that implementation may be slow or incomplete and that the authority of the Commission will be called into question;

Specific measures

7. **welcomes** the commitment shown by all the institutions of the European Union to improving democracy, transparency and efficiency in the EU. This opinion has set out a number of principles which the Committee of the Regions consider to be of critical importance to delivering such improvements. The Laeken Declaration sought views on a number of specific measures and suggestions. Some of these concern issues which are not of direct relevance to the CoR and its member authorities. This opinion therefore focuses on measures which can address particular issues set out in the Laeken Declaration by delivering the aspirations expressed in the principles set out above, through the role of the CoR, sub-Member State administrations and local authorities;
8. **calls** upon the Convention on the Future of Europe to acknowledge the importance of these principles and to consider the following specific measures as means of reforming the European Union in accordance with them.

1. Transparency of functions, roles and responsibilities

- The production of an expanded Statement of Subsidiarity Principles preferably enshrined in the EU Treaties, which will enhance and clarify the transparency of the Union.

- The establishment of an effective system of policing subsidiarity. A number of models – ranging from the use of the ECJ to creating a body similar to the Conseil Constitutionnel in France - have been proposed by contributors to the debate. It would not be appropriate in this opinion to set out final, detailed views. Nevertheless, such a system should have both an ex-ante and ex-post component. It should be able to act quickly and should not add burdensome extra layers of bureaucracy to the EU's operating processes. To be effective, the system must involve substate government, given the role of regions with legislative powers in adopting legislation, and the role of regional and local authorities in the implementation and enactment of much EU legislation. However, this should not obscure the fact that a clearer allocation of tasks between the EU and Member States would contribute to the effective enforcement of the subsidiarity principle.

2. Regional and local involvement in the decision-making process

- The early implementation of the Action Plan for Better Regulation as a means of improving the EU's effectiveness. In implementing such measures, the Commission is called upon to recognise the input that regional and local government can make.
- Greater use of information technology would help to speed up some of the EU's processes, such as consultation, and improve the accessibility of information.
- Those involved in the attainment of targets, including regional and local government, should be involved in setting them.
- The introduction of a Code of Practice on consultation, now proposed by the Commission. This should allow for systematic, early dialogue between the Commission and sub-Member State administrations or local authorities, and should allow sufficient time for effective consultation, if it is to achieve its objectives.

3. Role of the Committee of the Regions

- On the grounds of increasing both transparency and democracy, in cases where institutions adopt a measure without taking account of the Committee's opinion, there should be a minimum obligation to explain to the CoR why it has been decided to do so.
- Just as individual sub-Member States and local authorities would wish to be consulted on all matters which affect their competences, the list of subjects on which consultation of the Committee of the Regions is mandatory should be extended to all areas relating to the powers of its member authorities, such as, for example, agriculture and research and technological development.

- The Committee of the Regions should have the right to address written and oral questions to the European Commission.
- The Committee of the Regions recognises that, in the context of these reforms, it should aim to secure legitimacy and maximise the benefits, by considering how it can best ensure that its activity bears the strongest possible relevance to the concerns of the regional and local authorities of Europe.
- The Committee of the Regions should play a full part in any mechanism established to enforce the principle of subsidiarity.

4. **EU strategic objectives and priorities**

- The periodic production of a statement of the objectives of the European Union.
- The Council should meet in public when in its legislative role.
- A review of the way in which education and the media contribute to an understanding of the objectives and processes of the European Union.

5. **More flexible means of implementation**

- As a general rule, greater use should be made of short, strategic laws.
- Where possible, greater use should be made of non-legal instruments.
- An interpretation of what the implementation of EU directives means should be agreed at the outset by all parties involved in their delivery, including regional and local government. One way of achieving this would be through the use of “tri-partite contracts”, as proposed in the Commission’s White Paper on Governance, and now being piloted in the environmental field. Such contracts (between the Commission, Member States and sub-Member State administrations), should aim to implement EU policies in a way that is most appropriate to local circumstances.
- Where there has been a failure in good faith on the part of an implementing or enacting

authority to deliver an objective the Commission should consider constructive alternatives before resorting to infractions proceedings.

- Where possible, reduce the number of procedures and adopt terminology corresponding to words commonly used in the Member States and more easily known to the citizens, namely laws and framework laws.

9. **Instructs** its President to forward this opinion to the European Convention, the EU Presidency, the Council, the European Parliament and the European Commission.

Brussels, 21 November 2002

The President

of the

Committee of the Regions

The Secretary-General

of the

Committee of the Regions

Albert Bore

Vincenzo Falcone

¹ OJ C 107, 3.5.2002, p. 36

² OJ C 253, 12.9.2001, p. 25

³ OJ C 144, 16.5.2001, p. 1

⁴ OJ C 192, 12.8.2002, p. 24

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CdR 120/2002 fin

CdR 120/2002 fin