

CONST/017

Brussels, 13 October 2003

OPINION
of the
Committee of the Regions

of
9 October 2003
on the

CoR proposals for the Intergovernmental Conference

THE COMMITTEE OF THE REGIONS,

Having regard to the decision of its Bureau of 1 July 2003, under the fifth paragraph of Article 265 of the Treaty establishing the European Community, to instruct its Commission for Constitutional Affairs and European Governance to draw up an opinion on this subject,

Having regard to the draft treaty establishing a Constitution for Europe presented to the President of the European Council in Rome on 18 July 2003 (CONV 850/03),

Having regard to the Declaration on the future of the Union adopted by the Nice European Council,

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 European

Union,

Having regard to the Presidency Conclusions of the Thessalonica European Council of 19 and 20 June 2003,

Having regard to the European Parliament resolution on the Draft Treaty establishing a Constitution for Europe and the European Parliament's opinion on the convocation of the Intergovernmental Conference IGC (A5-0299/2003),

Having regard to the opinion of the Commission, pursuant to Article 48 of the Treaty on European Union, on the Conference of representatives of the Member States' governments convened to revise the Treaties (COM(2003) 548 final)

Having regard to the CoR Resolution of 3 July 2003 on the Recommendations of the European Convention (CdR 198/2003 fin) (CONV 827/03);

Having regard to the proposals of the CoR submitted to the European Convention during the course of its work and not included in the draft Constitution (see Appendix) ;

Having regard to its draft opinion (CdR 169/2003 rev. 1) adopted on 26 September 2003 by its Commission for Constitutional Affairs and European Governance (rapporteurs: Sir Albert Bore, President of the Committee of the Regions, Leader of Birmingham City Council (UK-PES) and Reinhold Bocklet, 1st Vice President of the Committee of the Regions, Bavarian Minister for Federal and European Affairs (DE-EPP),

Whereas:

1) the Declaration on the future of the Union of the Nice European Council established the guidelines of the process we are now reaching the final stage of on the eve of the IGC. It gave the process the following four questions: How to establish and monitor a more precise delimitation of powers between the EU and the Member States, reflecting the principle of subsidiarity; the status of the charter of fundamental Rights of the EU, proclaimed in Nice, in accordance with the conclusions of the European Council in Cologne; a simplification of the treaties with a view to making them clearer and better understood without changing their meaning; the role of national parliaments in the European architecture,

2) the Laeken declaration of December 2001 instructed a Convention on the Future of Europe to pave the way for this IGC as broadly and openly as possible and address the following questions: A better division and definition of competence in the European Union; simplification of the Union's instruments; more democracy, transparency and efficiency in the European Union; a Constitution for European citizens,

3) the fuller recognition of the local and regional dimension within the new architecture of the EU will both improve its effectiveness and its linkages with citizens,

4) the draft Constitution submitted by the European Convention to the Heads of State and Government provides the foundations for a future treaty establishing a Constitution for Europe, which should be finalised by the Intergovernmental Conference,

adopted unanimously the following opinion at its 51st plenary session, held on 9 October 2003

The Committee of the Regions' views

The overall context

The Committee of the Regions

views decision-making close to the citizen as the necessary counterbalance and complement to the general trend of globalisation;

deems that in an enlarged Union, European integration should no longer be restricted to economic cooperation, but should, increasingly, entail political decision-making where account is taken of the views of local and regional authorities, because this process generally has an impact on every sphere of government;

believes that for local and regional authorities to participate fully in the European decision-making process for which they have responsibility for implementation, they need to be well informed of current developments and adequate prior consultation is essential;

views positively the general trend since the early 1990s of taking account of the local and regional dimension in the EU decision-making process, manifested by the creation of the CoR as well as the parallel development of increased responsibilities and competences of the subnational tiers of government reflecting devolutionary trends within a number of Member States;

regards the European Commission's White Paper on European governance as the acknowledgement that the EU has moved into a system of multi-level governance and that consequently there must be an enhanced role for and greater respect for the powers of the local and regional spheres of government;

underlines the need for a regular dialogue between the European Commission and local and regional authorities and the associations that represent them and considers that the CoR is in a position to facilitate an effective dialogue on key policy issues;

considers the cooperation protocol signed between the European Commission and the CoR as an important basis for closer cooperation, and that it is now appropriate to deepen this cooperation to reflect the role of the CoR in representing the common interest of Europe's local authorities and regions;

views positively the increased involvement of the CoR in informal Council meetings;

repeats its call for the financial and administrative evaluations of the main European Commission proposals to retain an evaluation of the impact on local and regional government.

The Convention process and consultations

welcomes the recognition by the European Convention of the role and place of local and regional authorities in the process of European integration as shown in particular through the organisation of a full session on this subject;

welcomes the good cooperation that has developed between the CoR and the associations of local and regional government within the context of the Convention;

welcomes the good relations that were also built up with the European Parliament in the preparation of their report on the role of regional and local authorities in European integration and looks forward to strengthening further the relations with the European Parliament;

estimates that it is now the time to expand the role of the local and regional dimension within European governance and the institutional architecture of the EU as agreed by consensus at the Convention session of 7 February 2003.

New Constitution assessed

welcomes the consensus which has emerged in favour of a Constitution for the citizens of Europe, which represents a historic step forward in the process of European integration;

is pleased at the significant progress made by the members of the Convention towards guaranteeing a clearer definition and distribution of powers within the Union, to ensuring simplification of its instruments and to strengthening the democratic legitimacy, transparency and efficiency of its institutions; nevertheless points out that it is necessary for the further development of the EU to maintain a process of review to decide which tasks can be performed jointly by a considerably enlarged Union;

welcomes the constitutional recognition of the role of local and regional authorities in the Union as established in the draft Constitution, in particular by means of:

- the importance attached to fundamental rights and values,
- the respect shown to local and regional self-government,
- the recognition given to cultural and linguistic diversity,
- the inclusion of territorial cohesion among the objectives of the Union,

the acknowledgement of the importance of grassroots democracy in the Union,
the new definition of the principle of subsidiarity,
the earlier consultation of representative associations and civil society on the introduction of draft legislation,
the involvement of the Committee of the Regions in the process of ex-post monitoring of the application of the principles of subsidiarity and proportionality,
the granting to the Committee of the Regions of the right to institute proceedings before the Court of Justice to defend its prerogatives,
the lengthening of its members' term of office from four to five years in line with the European Commission and Parliament;

welcomes its future responsibilities and rights as outlined in the draft Constitution, such as those set out in the subsidiarity protocol. The CoR is prepared to make the necessary internal reorganisation to have the capacity to respond to its enhanced responsibilities adequately;

acknowledges the need to strengthen its internal mechanisms to produce opinions on referrals coming from the expected new areas of obligatory consultations, to respond to requests from the European Commission to engage in impact and outlook reports, and to be able to engage in a meaningful manner with the European Court of Justice whenever necessary;

underlines that, should the CoR gain widened areas of obligatory consultation along with the already extended powers of co-decision of the European Parliament as indicated in the draft Constitution, it is appropriate that relations are deepened in order to heighten understanding of the local and regional dimension by the European Parliament. It is also appropriate in this regard that the European Parliament take further advantage of the possibility of consulting the CoR as enshrined currently in the Treaties;

looks forward to participating in a regular manner at appropriate meetings of the Council of Ministers and informal Council meetings to present the local and regional case.

The Committee of the Regions' recommendations

The Committee of the Regions

calls upon the Heads of States and governments to accept the draft Treaty establishing a European Constitution as the basis for negotiations at the IGC as the draft Treaty reflects the carefully negotiated institutional balances reached by the European Convention;

requests however that small, but significant changes as specified in this opinion be made which would correct inconsistencies between the different part of the Treaty without disrupting the inter-institutional balance;

recommends therefore in line with the development of the role of the CoR in part I and in the subsidiarity protocol, that in part III the CoR's areas of mandatory consultation be extended to policies which have a direct local and regional impact to include agriculture, State aids and services of general interest, research and development, industry and immigration, social protection, security and justice;

requests that its current consultative role be strengthened by means of a horizontal clause stipulating that the CoR shall be consulted in areas of shared competence, for measures to coordinate economic and employment policies, and in areas of supporting, coordinating or

complementary action;

shares the view of the European Commission that there is a lack of coherence in the draft constitutional treaty between the objectives of the Union and certain policies that have not been reviewed and calls upon the Intergovernmental Conference to make all the provisions of the Constitution consistent;

recommends furthermore that, in addition to the European Parliament, the Council and the national parliaments, the CoR be referred to in Title VI democratic life of the union, Article 45 on the principle of representative democracy, given that its members represent the democratic principle of proximity at the heart of the Union;

calls for the right of regional ministers to take part in Council meetings, in accordance with Article 203 of the EC Treaty, and also to ensure this in the future;

demands that account be taken of the proposal put forward by both the CoR's representatives on the Convention and by many representatives of the States, the European Parliament and national parliaments to include cross-border and inter-regional cooperation in Part III as the regions of both the Member States and the acceding states consider this to be of particular importance in the process of European integration and calls on the IGC to ensure that the Constitution provides a clear framework for such financial support to town twinning;

calls for it to be clearly stated in the Constitutional Treaty that the EU must ensure that the competences of local, regional and national authorities as regard to services of general interest are maintained;

repeats the call by the chairman of the European Convention, Valéry Giscard d'Estaing, that the forthcoming IGC operates in a transparent manner, as did the European Convention, and demands therefore the amendments be made public if any substantial changes are to be made to the Draft Constitution in order to allow the citizens to be informed and, if necessary, react;

supports the proposal to put the open method of the Convention on a more permanent footing as part of the procedure of reviewing the Treaty establishing the European Constitution, and considers that it would be enhanced by the full participation of representatives of the Committee of the Regions and greater feedback on discussions for and from national parliaments.

Brussels, 9 October 2003

The President
of the
Committee of the Regions

Albert Bore
The Acting Secretary-General
of the
Committee of the Regions

Gerhard Stahl

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N.B.

Appendix overleaf.

CdR 169/2003 fin Appendix EN/o

APPENDIX

Summary of the major proposals of the Committee of the Regions submitted to the European Convention during the course of its work not included in the draft Constitution (CONV 850/03 from 18 July 2003).

Status in the new constitutional architecture:

In part 1 of the draft Constitution, the CoR has requested to be included among the list of Institutions at Article 18 paragraph 2 and also submitted the following amendments:

Article 31: The Union's Advisory Bodies The Committee of the Regions

1. The European Parliament, the Council of Ministers and the Commission shall be assisted by a Committee of the Regions in order to guarantee that the local, regional and territorial dimension as well as the diversity of the cultures and traditions of the people of Europe are taken into account in the elaboration, the establishment and the evaluation of Union policies. It also contributes in the control of the application of the respect of the principles of subsidiarity, proximity and proportionality.

2. The Committee of the Regions shall consist of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly. The members of the Committee of the Regions must not be bound by any mandatory instructions. They shall be completely independent, in the performance of their duties, in the Union's general interest.

3. The Committee of the Regions shall be consulted by the European Parliament, by the Council or by the Commission in the areas referred to in Articles 13, 14 and 16 and under the conditions provided in Part III. As an observer, it monitors the legislative procedure for these areas [footnote1: See CONV 618/03 contribution of the CoR to the Convention.].

4. The Committee of the Regions may be consulted by the European Parliament, by the Council or by the Commission in all other cases in particular those which concern cross-border cooperation, where one of these two three institutions considers it appropriate.

5. The Committee of the Regions may issue an opinion on its own initiative in cases where it

considers such actions appropriate.

6. Rules governing the composition of this Committee, the designation of its members, its powers and its operations, are set out in Articles 268,269,270 III 292 to III 294 of Part II III of the Constitution. The rules governing its composition shall be reviewed at regular intervals by the Council, on the basis of a Commission proposal following the opinion of the European Parliament and the Committee of the Regions in the light of economic, social and demographic developments within the Union.

In part III the CoR has proposed the following changes to Article III-294:

The Committee of the Regions shall be consulted by the European Parliament, by the Council of Ministers or by the Commission where the Constitution so provides and in areas referred to in Articles 13, 14 and 16 all other cases, in particular those which concern cross-border cooperation, in which one of these Institutions considers it appropriate.

In cases where the Committee must be consulted under this Constitution, the institution that has consulted the Committee shall give its reasons in the event that it does not implement the Committee's recommendations.

The Committee of the Regions has the right to submit written and oral questions to the Commission.

EXTENSION OF THE AREAS OF CONSULTATION OF THE CoR

Description of the CoR amendments introduced at the European Convention on Part III of the Draft Constitution

New priority areas where the CoR requests to be consulted:

Arrangements for voting and eligibility in municipal elections III-10

Report of the Commission on citizenship III-13

Liberalisation of services III-32

Harmonisation of legislation on indirect taxation III-62

Approximation of legislation in the area of the internal market III-64, III-65

State aids III-56, III-57, III-58

Cooperation in the area of social protection III-116

Agriculture III-127

Research and technological development III-149, III-150, III-151, III-152, III-154

Priority areas where the CoR requests the inclusion of a reference to local and regional authorities; for the following Union policies

Services of general interest III-6

State aids III-56, 57

Internal security (area of freedom, security and justice) III-158-178

Approximation of legislation in the area of the internal market, III-64, III-65

COMPOSITION OF THE CoR

The CoR introduced an amendment on this point on the necessity to be consulted but did not put forward a proposal on its future composition.

Article III-292

The number of members of the Committee of the Regions shall not exceed 350. The Council of Ministers shall after consultation of the Committee of the Regions unanimously adopt a European decision determining the Committee's composition.

DRAFT PROTOCOL ON THE APPLICATION OF SUBSIDIARITY AND PROPORTIONALITY

The CoR proposed a series of amendments to the draft protocol which now is significantly changed from its original form. The key CoR proposals include a request for wide consultation of the CoR by the European Commission and for the CoR to receive all official texts as the EU institutions and national parliaments.

In particular the CoR wishes for involvement in the defence of the principle of subsidiarity alongside national parliaments in the six-week early warning period and to have the right to produce a reasoned opinion if the proposal does not comply with the principle of subsidiarity.

Finally the CoR also requests that it receive the report of the Commission on the application of Article 9 of the Constitution alongside the other institutions and the national Parliament of the Member States.

THE DEMOCRATIC LIFE OF THE UNION

Article 45 paragraph 2

Citizens are directly represented at Union level in the European Parliament, Member States are represented in the European Council and in the Council of Ministers by their governments, themselves accountable to national parliaments, elected by their citizens. Local and regional authorities are represented at the Committee of the Regions whose members are elected by the citizens or are politically responsible to an elected assembly.

CROSS-BORDER AND INTER-REGIONAL COOPERATION

There is a long tradition of cross-border and inter-regional cooperation in Europe. It is one of the socio-cultural foundations of European integration. A legal base is therefore indispensable in order to give the Union the means to enable such cooperation.

Article 3

3. It shall promote economic, social and territorial cohesion, interregional and cross-border cooperation, and solidarity among Member States.

Article 13

Addition to the principal areas of shared competences "transfrontier and inter-regional cooperation".

Article 56

Cross-border and inter-regional cooperation can constitute an important element of good

neighbourliness.

Article III-116

In order to promote its overall harmonious development, the Union shall develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion. In particular, the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions or islands, including rural areas. It shall facilitate cross-border and inter-regional cooperation.

REVISION OF THE TREATY

Finally the CoR has requested inclusion in any future revision procedure of the Treaty establishing a Constitution as a full member in Article IV-7.