

Brussels, 12 December 2003

**OPINION**

of the Committee of the Regions

of 20 November 2003

on

**The local and regional dimension of the Area of Freedom, Security and Justice**

**The Committee of the Regions,**

**HAVING REGARD TO** the decision by its Bureau on 1 July 2003 to instruct the Commission for Constitutional Affairs and European Governance, in accordance with Article 256(5) of the Treaty establishing the European Community, to draw up an opinion on "The local and regional dimension of the Area of Freedom, Security and Justice";

**HAVING REGARD TO** the conclusions of the Tampere, Laeken, Seville and Thessaloniki European Councils;

**HAVING REGARD TO** the Communication from the Commission to the Council and the European Parliament: Biannual update of the scoreboard to review progress on the creation of an area of "freedom, security and justice" in the European Union (first half 2003), COM(2003) 291 of 22 May 2003;

**HAVING REGARD TO** the Communication from the Commission to the Council and the European Parliament: Biannual update of the scoreboard to review progress on the creation of an area of "freedom, security and justice" in the European Union (second half 2002), COM(2002) 738 of 16 December 2002;

**HAVING REGARD TO** the European Parliament resolution on progress in 2002 in implementing an area of freedom, security and justice (Rapporteur: **Baroness Sarah Ludford**) (B5-0193/2003);

**HAVING REGARD TO** the draft Treaty establishing a Constitution for Europe by the European Convention (CONV 850/03), especially:

- the enshrinement of AFSJ in Part I (Article 41) and Part III (Articles 158-178);

**HAVING REGARD TO** CoR opinions on individual items of AFSJ legislation, especially in the field of the immigration, status and integration of third-country nationals;

**HAVING REGARD TO** its draft opinion (CdR 61/2003 rev. 2) adopted on 26 September 2003 by the Commission for Constitutional Affairs and European Governance (rapporteur: **Mr Peter Winter**, Leader of Saarlouis District Council (D-PES));

**HAVING REGARD TO** the discussions conducted by the Commission for Constitutional Affairs and European Governance at the seminar entitled "The local and regional dimension of the Area of Freedom, Security and Justice" held in Caserta (I) on 7 November 2003 which highlighted the need to promote complementarity between the different levels of government, on the one hand, and to develop inter-institutional cooperation at European level on the other;

**adopted the following opinion unanimously at its 52nd plenary session on 19-20 November 2003 (meeting of 20 November).**

#### **1. Views of the Committee of the Regions**

##### **The Committee of the Regions**

1. **points out** that it has already issued opinions on the Commission's individual proposals for legislation, especially on the subject of the immigration, status and integration of third-country nationals;
2. in view of the major importance of the legislative programme decided on by the European Council in Tampere (October 1999) comprising legislative and operational measures to implement AFSJ, and the follow-up decisions taken by the Laeken (December 2001), Seville (June 2002) and Thessaloniki (July 2003) European Councils;
3. and in the light of the Convention's draft for a future EU constitution, **feels** it is necessary to draw up an opinion on AFSJ and the Tampere process as a whole;
4. and **notes** that, since legislation on the regulatory instruments of AFSJ will shortly be completed, the implementation of AFSJ must be addressed as a matter of priority in this opinion, particularly in the areas of crime prevention and the social and economic integration of legally resident third-country nationals in the EU;

5. and notes that, since the Convention's draft Constitution does not provide for the regional and local level to be involved in a way which is commensurate with the existing division of powers in a number of Member States, this opinion must also address the institutional aspects.

## 2. The recommendations of the Committee of the Regions

### The Committee of the Regions

1. **notes** that policy to implement AFSJ is of great importance to both citizens and local and regional authorities, referring in this respect to the following passages in the conclusions of the Tampere European Council, where the dimension of citizenship is clearly expressed: "The European Union has already put in place for its citizens the major ingredients of a shared area of prosperity and peace: a single market, economic and monetary union, and the capacity to take on global political and economic challenges. The challenge of the Amsterdam Treaty is now to ensure that freedom, which includes the right to move freely throughout the Union, can be enjoyed in conditions of security and justice accessible to all. It is a project which responds to the frequently expressed concerns of citizens and has a direct bearing on their daily lives"<sup>1</sup>.

"The area of freedom, security and justice should be based on the principles of transparency and democratic control. We must develop an open dialogue with civil society on the aims and principles of this area in order to strengthen citizens' acceptance and support. In order to maintain confidence in authorities, common standards on the integrity of authorities should be developed"<sup>2</sup>.

2. **endorses this view and notes** that citizens of the Union are entitled to expect the EU to counteract the threat to their freedom and legal rights posed by serious crime. This requires joint efforts to prevent and combat crime and criminal organisations throughout the EU. Police and judicial resources must be pooled in order to ensure that there are no havens for criminals or the proceeds of criminal acts in the EU;
3. **highlights** the vertical dimension of AFSJ, which stems from the differing conditions for AFSJ implementation pertaining in different parts of the territory, proximity to the citizens and the responsibilities of regional and local authorities; **draws attention to** the need to improve the day-to-day security of European citizens within the EU, especially in urban areas;
4. **points out that**
  - in a number of Member States, decentralised authorities have responsibility in the areas of justice, the police and home affairs, both for legislation and implementation;

- local authorities are responsible for risk management under their local security and public order powers, or act on behalf of the State, depending on the particular Member State's division of powers;
  - regional and local authorities provide a range of services of general interest which help to prevent crime and to promote social and economic integration.
5. also **points out** that AFSJ is not being implemented in an abstract legal area, but in the concrete context of each particular region and locality, with its own particular characteristics, which may consist of a high concentration of third-country nationals, social and economic exclusion and marginalisation, above-average crime rates or its location on the EU's external or internal borders. The social, cultural and economic development of areas with these characteristics is often severely hampered, in addition to the considerable extra administrative and financial burdens they have to bear;
  6. **expects** the EU to respect the competences of the local and regional level and to collaborate with the relevant authorities in all matters connected with those competences;
  7. **highlights** the particular problems faced by regions and localities on the external borders of the accession countries, which in a very short time will have to take on important tasks to secure these external borders;
  8. also **notes** that special efforts continue to be required on the present EU's internal and external borders and on the internal borders of the future Member States to maintain a high level of security;
  9. **points out** that it is such action to defend freedom and protect against crime in particular which caters to people's most basic needs. Such issues are a very clear demonstration to the EU's citizens of the benefit of Europe working together. Guaranteeing domestic security is in many cases the task of the regional and local level;
  10. and in this connection **recommends** measures to maintain the level of security through cross-border cooperation (promoting multilingualism, opening border crossings, cooperation between local police authorities, chambers of commerce and general and vocational schools and youth work);
  11. and **recommends** creating the legal conditions at the level of the particular Member States concerned for regional and local authorities and other public bodies in border regions to enter into cooperation agreements.

## **Implementation of the Tampere programme**

12. In creating an area of freedom, security and justice, the principles of transparency and democratic control must be the key pillars. We must develop an open dialogue with civil society on the objectives and principles of this area in order to achieve greater acceptance and more support from the citizens;
13. therefore **shares** the view of the European Parliament that, in the sensitive policy area of AFSJ in particular, democratic accountability is essential;
14. is pleased to **note** that, according to the latest Scoreboard for the first half of 2003, the Commission concludes that it has been possible to make up some of the backlog in implementing the Tampere programme and that the Greek and Italian presidencies have made it a priority of their programmes to keep to the schedule;
15. nevertheless **notes** with concern that the Commission's assessment of the Tampere programme concludes that there is a risk that the instruments agreed upon will ultimately be less effective than expected in terms of the ambitions of Tampere and that the policy followed with various legislative projects is that of "the lowest common denominator", thereby undermining the additional benefit of joint European action;
16. **calls for** a new EU programme (Tampere II) to be put forward to continue the Community fight against crime and terrorism after completion of the measures to establish an area of freedom, security and justice commissioned by the Tampere summit;
17. **calls for** account to be taken of the following aspects in proposed AFSJ legislation and when drawing up operational measures insofar as they are relevant to the specific case:
  - an assessment of the impact, effectiveness and practicality, as well as the cost,
  - subsidiarity,
  - examining the possibility of risk management through prevention,
  - compatibility with the issues and institutional conditions resulting from specific regional and local circumstances and
  - information, coordination and evaluation.

### **Operational measures to implement AFSJ**

18. **welcomes** the conclusions of the Thessaloniki European Council, which not only pressed for completion on schedule of the Tampere programme (May 2004), especially in the field of asylum and immigration, but also addressed the question of the Community financial resources needed to implement AFSJ and mechanisms for sharing the burden as part of a policy for integrating third-party nationals who are legally resident in EU territory;

19. particularly **welcomes** the fact that it seems the financial conditions are to be created for implementing AFSJ with regard to integration measures of this kind, which are of particular importance from the local and regional point of view;
20. **is pleased** to see pilot projects to integrate third-country nationals being implemented and hopes that some generally applicable findings on how best to proceed at regional and local level can be extrapolated from these and made available in the form of reports or manuals where necessary;
21. **recommends** supplementary studies to examine the requirements and instruments for a combination of Community, regional and local policies, using case studies, for example;
22. **endorses** the intention to continue beyond 2004 the European Refugee Fund, which is used to resource 15% of projects at regional and local level, and to increase its size;
23. **notes** with interest that the Commission services are currently looking into using the Structural Funds, including the URBAN and INTERREG Community initiatives, to support and develop instruments to implement AFSJ with a regional and local focus;
24. **calls for** indicators such as "location on internal or external borders of EU accession countries" and "areas with a high rate of immigration" to be brought to bear when determining the extent of European structural policy measures;
25. **welcomes** the Commission's intention to submit a communication on crime prevention before year end mapping out the priorities for EU action.

### **Involvement of regional and local authorities and the Committee of the Regions in implementing AFSJ**

26. **insists** that local and regional authorities be involved in the forums on existing and future programmes aimed at exchanges of experience on AFSJ;
27. **notes** that, in the process of enshrining the creation of the AFSJ as a matter of Community policy, the Maastricht and Amsterdam Treaties failed to take adequate account of the input of the regions and localities and their European body, the Committee of the Regions, pointing out that in a number of Member States it is not central government, but regional authorities who are responsible for justice and home affairs and that they must therefore be involved in drawing up legislative and operational measures as part of the process of implementing AFSJ, and thus calls for the draft constitution to be modified accordingly;
28. **insists** that the amendments tabled by the CoR observers at the Convention be taken on board, particularly those referring to the following articles:

## Part I of the Constitution

- Article 41 (Implementation of the Area of Freedom, Security and Justice)

## Part III of the Constitution

- Article 160 (Role of state parliaments)
- Article 161 (Evaluation mechanisms)
- Article 162 (Operational cooperation)
- Article 164 (Cooperation between the relevant departments)
- Article 283 (Judicial control)
- Article 167 (Asylum)
- Article 170 (Judicial cooperation in civil matters)
- Article 171 (Criminal procedure)
- Article 173 (Crime prevention)
- Article 177 (Europol),

as this will ensure that the distribution of competences in a number of Member States is taken into account;

29. calls for the Committee of the Regions to be adequately involved in the legislative processes and on the committees envisaged for the implementation of AFSJ.

Brussels, 20 November 2003.

The President  
of the

Committee of the Regions

**Albert Bore**

The Acting Secretary-General  
of the

Committee of the Regions

**Gehard Stahl**

<sup>1</sup> Tampere European Council – Presidency Conclusions, 15-16.10.1999, Towards a Union of freedom, security and justice: The Tampere milestones, point 2.

<sup>2</sup> Tampere European Council – Presidency Conclusions, October 15-16 1999, Towards a Union of freedom, security and justice: The Tampere milestones, point 7.

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