

Opinion of the Committee of the Regions on 'the 2000 Intergovernmental Conference'

(2000/C 156/02)

THE COMMITTEE OF THE REGIONS,

having regard to the presidency conclusions of the European Council in Helsinki of 10 and 11 December 1999;

having regard to the report of the European Commission's group of experts chaired by Mr Dehaene of 18 October 1999;

having regard to the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions 'Adapting the institutions to make a success of enlargement' — Contribution by the European Commission to preparations for the Intergovernmental Conference on institutional issues dated 10 November 1999;

having regard to the Commission Opinion in accordance with Article 48 of the Treaty on European Union on the calling of a Conference of Representatives of the Governments of the Member States to amend the Treaties of 26 January 2000;

having regard to the European Parliament's Resolution on the preparation of the reform of the Treaties and the next Intergovernmental Conference of 18 November 1999;

having regard to the Resolution of the European Parliament on the convening of the Intergovernmental Conference of 3 February 2000;

having regard to its opinions concerning the Principle of subsidiarity (CdR 302/98 fin — CdR 136/95)⁽¹⁾;

having regard to its resolution on the 'Outcome of the Intergovernmental Conference' of 20 November 1997 (CdR 305/97 fin)⁽²⁾;

having regard to its opinion on the institutional aspects of enlargement 'Local and regional Government at the heart of Europe' of 15 September 1999 (CdR 52/99 fin)⁽³⁾;

having regard to its resolutions of 3 June 1999 (CdR 54/99 fin)⁽⁴⁾ and 18 November 1999 on the next Intergovernmental Conference (IGC) (CdR 473/99 fin)⁽⁵⁾;

having regard to its resolution on 'The ongoing EU enlargement process' of 17 November 1999 (CdR 424/99 fin);

having regard to the decisions of the Bureau of 15 July 1998 to draw up, in accordance with the fourth paragraph of Article 198c of the Treaty establishing the European Community, an opinion on the subject, and to instruct the Commission for Institutional Affairs to prepare the Committee's work on the subject;

having regard to the draft opinion adopted on 17 January 2000 by the Commission for Institutional Affairs on the 2000 Intergovernmental Conference (rapporteurs Mr Koivisto (FIN, PSE) and Mr Van den Brande (B, PPE);

whereas a correct juridical definition of 'Subsidiarity' requires the presence of regions in the notion and in the wording of Article 5;

⁽¹⁾ OJ C 198, 14.7.1999, p. 73 — OJ C 100, 2.4.1996, p. 1.

⁽²⁾ OJ C 64, 27.2.1998, p. 98.

⁽³⁾ OJ C 374, 23.12.1999, p. 15.

⁽⁴⁾ OJ C 293, 13.10.1999, p. 74.

⁽⁵⁾ OJ C 57, 29.2.2000, p. 103.

whereas the '2000 Intergovernmental Conference' is to provide a new opportunity to move forward the process of European integration by reforming the Union's institutions based on the three criteria of representativeness, efficiency and closeness to the citizens;

whereas the Committee of the Regions, by virtue of the fact that its members are the political representatives of the local and regional authorities, considers that it can make a legitimate contribution to the reform process to be launched with the aim of preparing the European Union for further enlargement;

whereas enlargement will have consequences for the Committee of the Regions and will necessitate amendments to the Treaty of Amsterdam to make the COR more effective and representative;

whereas some of the regions represented by members of the Committee of the Regions taking into account their constitutional competences that give them special responsibilities in relation to the ratification of the '2000 IGC' (Belgian Regions and Communities, German and Austrian Länder), will be called upon to play an important role on behalf of regionalism;

whereas the EU should also support efforts by the Council of Europe and other bodies to promote democracy in Europe's various states,

adopted the following opinion at its 32nd plenary session on 16 and 17 February 2000 (meeting of 17 February).

1. Introduction

1.1. The importance of the local and regional level has grown in recent years within Europe. Decision-making close to the citizen is necessary to counterbalance and complement the general trend towards globalisation. This being so, the European Union should not consist merely of cooperation between states — the views of local and regional authorities must also be heard. In particular, this means that European integration should no longer be restricted to economic cooperation, but should, increasingly, entail political decision-making which has an impact on every level of government. Local and regional authorities are responsible for implementing EU legislation in many key areas and therefore they want to be well informed so that they can participate fully and take part in the decision-making process. As a matter of fact, EU policies are expected to enhance the capacity of the local and regional level to respond to citizens' needs in different areas.

1.2. From the 1990s onwards, increasing account has indeed been taken of local and regional authorities in EU decision-making. An example of this is the creation of the Committee of the Regions by the Maastricht Treaty. The EU is also now required to make a prior assessment of the economic and administrative implications of its decisions for local government. This is a step in the right direction. However there remains a need for determined action to ensure that local and regional government is given the role which it deserves within the EU.

1.3. For this reason the Committee of the Regions, as the representative of Europe's local and regional authorities, made its own contribution to the previous Intergovernmental Conference (IGC) launched in 1996, by drawing the attention

of Member States to matters of relevance to the local and regional level. The Committee of the Regions submitted resolutions to both the Cologne and Helsinki Summits. In this opinion the Committee of the Regions wishes to present its views on the issues which the Helsinki Summit concluded should be discussed at the IGC.

2. EU enlargement as the starting point for the IGC

2.1. EU enlargement is essential for Europe's future. A common European tradition, cultural diversity and the peace process which began after the Second World War are the determinants of a united Europe. From a historical perspective we are now returning to a normal state of affairs in Europe, in which some of the artificial boundaries of the past have been removed.

2.2. EU enlargement is a demanding process for both the applicant countries and the EU's current Member States. The applicant countries will have to adapt to major legislative, economic and administrative changes, whereas existing Member States must be open to reform some of the EU's structures and procedures. In an enlarged EU it will not be possible to operate in the same way as before, when both the Member States and responsibilities were fewer in number than in the new EU which will encompass most of the countries in Europe.

2.3. Institutional reform is necessary in the run-up to enlargement. The current decision-making structure, which was originally designed for a small number of Member States, will no longer be feasible in an enlarged EU. Various other reforms are also necessary.

The Committee of the Regions is of the opinion that the work of the IGC should not contribute to any delay in the enlargement negotiations.

2.4. The participation of the local and regional authorities of the applicant countries in the enlargement process is essential to ensure that EU membership receives the democratic support of the public in these countries. Cooperation solely between the governments of EU countries and applicant states, which sidelines local and regional authorities and citizens, cannot deliver sustainable results.

2.5. The Committee of the Regions has taken an active part in the EU's enlargement process by presenting its views on enlargement-related issues. Since 1997, the Committee has also conducted a dialogue between its members and the political representatives of the local and regional level in the applicant states.

2.6. The conferences organised by the Committee of the Regions in the applicant countries have demonstrated that the local and regional level is necessary in creating a modern democracy in these countries. The local and regional level also has a significant role to play in the implementation of EU legislation. Furthermore, the importance of local and regional authorities is growing as many countries are transferring power from central government to the local and regional level. Nevertheless, local and regional authorities in the applicant countries do not receive sufficient information on the negotiations between the EU and their own governments, nor are they sufficiently involved in preparations for membership. The Committee of the Regions is of the opinion that the work of the IGC should facilitate such information on the enlargement negotiations.

Moreover, the Committee of the Regions considers that there is a need for specific coherent European programmes for co-operation between the local and regional governments of the present EU states, and our national associations, to work in partnership with our counterparts in the accession states, to assist in developing capacity and in ensuring that local and regional government in the accession countries are well prepared for their future tasks and responsibilities as members of the Union.

3. The objectives of the Intergovernmental Conference

3.1. A democratic and transparent citizens' Europe

3.1.1. Democracy at the local and regional level is one of the most important cornerstones of society. Democracy is a fundamental principle of EU Member States. Nevertheless, there is often talk of a democratic deficit with regard to the EU. The EU is not sufficiently democratic, and because of its

complex working structure, the EU is far-removed from its citizens. It is extremely important to make the EU more democratic to ensure that it retains its legitimacy.

3.1.2. EU enlargement is increasingly highlighting the importance of democracy as a key principle of the EU's Member States. The new EU members will include countries where the perception of democracy and the role of citizens in the political process has been different to that in the existing Member States. It is important that democracy in the Member States is not only played out at state level, but is based on democratic local and regional government.

3.1.3. The principle of transparency is also inherent to a well-functioning democracy. It can be considered to be one of the democratic rights of citizens. In the EU the concept of transparency applies mainly to the right of citizens to access information and documents relating to the EU. It also refers to the need to produce clearer legislative texts. The EU institutions have also been making efforts to improve the transparency of their work and decision-making processes in order to promote a better and broader understanding of European integration. The Committee of the Regions feels it is important for the transparency principle to be applied effectively in practice in all areas of the EU's work.

3.1.4. EU democracy cannot function properly unless the Treaties and the decision making procedures become transparent and intelligible to citizens. A radical rationalization and simplification is called for.

The COR therefore endorses the proposals of the European Parliament regarding the structure of the Treaties. The Treaties are to be unified in a single text, that consists of two sections.

- a) a 'constitutional' or basic section containing the preamble, the objectives of the Union, fundamental rights and the provisions concerning the institutions, decision making procedures and the various competences. This section can only be changed by an IGC.
- b) a section containing the policies of the EU. This section can be changed in the lighter procedure on the basis of qualified majority voting and co-decision.

3.1.5. One of the EU's most important tasks in the near future will be to bring the EU closer to its citizens, in other words, to create a citizens' Europe. It is true that, up till now, there has not been sufficient contact between the EU and its citizens and, as European integration deepens and widens, it will become increasingly difficult to establish this contact. Bringing the EU and citizens closer together will only be possible if the EU manages to apply the transparency principle

in its decision-making and if it pursues general issues which are important to the public, such as employment promotion, cross-border environmental-protection, and the fight against international crime.

3.1.6. A Charter of fundamental rights of the European Union will mark an important stage in the development of relations between the EU and its citizens. Careful thought must be given to the content and legal importance of such a charter.

3.2. *The principle of subsidiarity*

3.2.1. The purpose of the subsidiarity principle is to ensure that decisions are taken as closely as possible to the citizen. In areas which do not fall within its exclusive competence, action should only be taken by the EU if it will be more effective than at the national level. The level of government which is chosen should, as often as possible, be the local or regional one, particularly when the issues in question directly affect citizens. Local and regional authorities have traditionally operated in fields of direct concern to citizens, in which it is particularly important to apply the principle of subsidiarity.

3.2.2. Implementation of European policy and the realisation of an increasing political, social and territorial cohesion in Europe require the EU to give decision-making levels close to citizens as much scope for action as possible. At the same time the EU must be given the opportunity to act effectively in areas where its competences are important to everyone. Member States must be honourable in their dealings with the EU and must apply Community law correctly and transparently observing the subsidiarity principle⁽¹⁾.

3.2.3. Local and regional authorities should be consulted on all Community policies which have a significant impact on them before political strategies are decided and implemented. When examining draft EU legislation, the Committee of the Regions wishes to give its opinion not only on the general impact on local and regional government, but also on whether the subsidiarity principle is being respected. Member States should also negotiate with local and regional authorities when preparing their positions on EU issues which affect these authorities.

4. **The preparation and content of the Intergovernmental Conference**

4.1. The Committee of the Regions welcomes the report on the institutional impact of EU enlargement drafted by a working group under the chairmanship of the former Belgian prime minister, Jean-Luc Dehaene. The Committee of the Regions is particularly pleased that the report considers the contact with citizens to be a priority.

4.2. In its contributions to preparation for the Intergovernmental Conference on institutional issues⁽²⁾, the European Commission states that the accession of several new Member States is the most important political objective for the beginning of the new millennium. Once the IGC is over, the EU will not be able to tackle enlargement and institutional reform at the same time. Sustainable foundations must, therefore, be laid for the Community's institutions. Reform must be carried out now, as after enlargement the EU must be capable of furthering its goals and consolidating European integration together with the new Member States. The Committee of the Regions feels that the Commission has presented a very clear explanation of the purpose and justification for the IGC and this must be retained as the starting point of the IGC. In its Opinion in accordance with Article 48 of the Treaty on European Union on the calling of a Conference of Representatives of the Governments of the Member States to amend the Treaties of 26 January 2000, the Commission has proposed that the size of the Committee of the Regions' membership be reviewed at the IGC. The Committee has examined this issue and drawn up a proposal on the number of new members.

4.3. The Committee of the Regions is pleased to note that, in its Resolution on the convening of the Intergovernmental Conference⁽³⁾ the European Parliament has emphasised the importance of public debate, transparency and democratic accountability. The Committee agrees that these are essential, as is the permanent dialogue with applicant countries which is also stressed in the resolution.

5. **The conclusions of the Committee of the Regions**

5.1. The EU only commands legitimacy if it wins the approval of the public. Bringing the EU and citizens closer together must therefore be the starting point for EU reform. The underlying objective of institutional reform must be to consolidate and democratise the EU's institutions so that they can rise to the challenges posed by enlargement.

5.2. A radical rationalisation and simplification of the Treaties is called for. The COR therefore endorses the proposals of the European Parliament regarding the structure of the Treaties.

5.3. The main themes of the IGC — the composition of the Commission, the weighting of votes in the Council and increasing the use of qualified majority voting — are important to the EU's future. However, other issues must also be included to make a more radical reform. The conclusions of the Helsinki European Council already provide for such a possibility. Solutions acceptable to both current and future Member States

⁽¹⁾ CdR 302/98 fin.

⁽²⁾ Communication of 10 November 1999 and Opinion of 26 January 2000. COM(1999) 592 final — COM(2000) 34 final.

⁽³⁾ A5-0018/2000.

must be found. Special care must be taken to avoid conflicts between small and large Member States. It is similarly important that the IGC considers the possibility of inserting the text of Charter of fundamental rights of the European Union into the new treaty. Rules for enhanced cooperation/flexibility should be established, as suggested by the Dehaene report.

5.4. The Committee calls for Article 5 of the Treaty to be amended so that it will not only take into consideration the levels of the Community and of the national sovereignty of the Member States, but the special status of local and regional government as well. This is the priority position of the Committee of the Regions since it has been outlined in the Committee's opinion on subsidiarity 'Developing a genuine culture of subsidiarity, an appeal by the Committee of the Regions⁽¹⁾'. This full application of the principle of subsidiarity illustrates the role that the regions and local authorities wish to play in the unification process. Transparency and popular support are enhanced by clearly establishing which tier is responsible for which tasks.

The COR reiterates the importance of the declaration signed by Belgium, Germany and Austria that by virtue of the subsidiarity principle, EU action should concern not only the Member States, but also their constituent entities, insofar as these have their own legislative powers recognized under national constitutional law. The Committee also takes the view that, taking account of the respective administrative structures in each Member State it must logically be possible to apply this declaration to regional and local entities in non-federal states; the Committee urges all Member States to endorse the Declaration, beginning with those whose territorial entities have constitutionally enshrined legislative powers.

The COR supports the efforts of those regional parliaments with legislative powers to forge closer institutional links with the European Parliament.

5.5. The Committee of the Regions should be invited to take part in the IGC from the outset as an equal partner to the European Parliament, and it must be allowed to play an active role in the negotiations and decision-making of the IGC.

As the institutional reforms which will emerge from the IGC will profoundly influence the lives of the people of Europe, regional and local authorities ask to be informed and to be able to have a direct impact on the elaboration of the legal instruments which will determine these reforms.

The Committee refers to schemes and arrangements for regional- and local-level involvement in national opinion-forming and policy-making on European integration issues. The Committee calls on Member States to use the experience, knowledge and closeness to the citizen enjoyed by regions, towns and local authorities to increase the level of support for European decisions.

5.6. The regions and local authorities of Europe are a symbol of Europe's great cultural variety. This basic feature of our society will still increase with the enlargement through which many regions from Central and Eastern Europe will reunite with Europe. Local and regional authorities hope that a correct political expression of subsidiarity will be found for this richness of culture which is a part of the competences of local and regional authorities.

5.7. From now on the Committee of the Regions will carefully monitor the IGC in general, taking into account the timetable foreseen by the Helsinki European Council. In particular, the Committee will pay attention to the possibility for the Portuguese Presidency to propose other issues to be added to the agenda of the IGC. A new initiative of the Committee of the Regions, to be elaborated before then, should therefore not be excluded.

The Committee of the Regions, taking note of points 20 and 23 of the Presidency Conclusions of Helsinki and in particular of annex III 'Guidelines for Reform and Operational Recommendations', expresses the wish to be consulted about these matters which are particularly important for regions with legislative powers.

5.8. The principle of local and regional self-government must be added to the principles common to the Member States which are mentioned in the Treaties and upon which the EU is founded, namely liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law.

5.9. The Committee of the Regions proposes that its status as an EU institution be recognised within the meaning of Article 7(1) of the Treaty. The IGC should contribute to the realisation of the goal of the establishment in Europe of a third level of government, namely of local and regional authorities.

5.10. The Committee of the Regions takes this opportunity to underline the importance of its Resolution of 20 November, 1997 concerning the 'outcome of the IGC' of 1997, in particular points 10, 11 and 12 concerning the Committee's views on the shortcomings of the previous IGC: many of those⁽²⁾ are still valid at the eve of the '2000 Intergovernmental Conference'.

⁽²⁾ In particular, the modification of the previous Article 3b (now Article 5 of the Treaty establishing the European Community), the appended Declaration on subsidiarity, the principle of local self-government, institution status for the COR, appeal to the EU Court of Justice and co-decision.

⁽¹⁾ CdR/302/98 fin.

5.11. EU enlargement requires increasing the membership of the Committee of the Regions. Increasing the overall number of members will ensure that local and regional authorities in the new Member States are sufficiently represented in the Committee. The Committee feels that an approximate maximum size of 350 members would be appropriate. This would ensure that the size of the delegations, the representation of local and regional authorities, and the geographical spread of each Member State's representatives are equitable. It is important to ensure that these criteria are also fulfilled when selecting small national delegations⁽¹⁾. For this reason the COR does not support the proposal by the European Commission restricting the number of members to one third of that of the European Parliament, which would mean a maximum of 233 members.

5.12. The principles currently set out in the Treaty upon which the members of the Committee of the Regions are appointed need to be re-assessed. To be appointed, Committee members must hold office as elected representatives in their regions or localities, or be politically responsible to a representative assembly elected by direct universal suffrage⁽²⁾. A committee member who loses such mandate should, after

⁽¹⁾ CdR 52/99 fin.

⁽²⁾ CdR 305/97 fin.

6 months, automatically cease to remain a member. The Member States are required to ensure the timely appointment of a successor.

5.13. The Committee of the Regions must be granted the formal right to bring proceedings before the European Court of Justice in order to defend its rights. The right to institute proceedings must also be granted to regions with legislative powers⁽²⁾.

5.14. An effective institutional arrangement requires contact and negotiations between the institutions. The Committee of the Regions hopes that it will be included in negotiations on matters discussed in informal Council meetings.

5.15. In areas of obligatory consultation, the Commission and Council should be required to explain their reasons for not following the recommendations of the COR, if and when they choose not to do so. The European Parliament should do so on a voluntary basis.

5.16. Finally, the Committee of the Regions wishes to emphasise that it has a key role to play as the representative of local and regional government and of European citizens. The Committee helps to ensure that the European ideal takes root in the everyday life of citizens, helping them to understand the aspirations and objectives of the EU.

Brussels, 17 February 2000.

The President
of the Committee of the Regions
Jos CHABERT
